

**APPROVED MINUTES  
BROOKFIELD ZONING COMMISSION  
Thursday, June 27, 2013 – 7:00 p.m.  
MEETING ROOM #135 – TOWN HALL, 100 POCONO ROAD**

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**1. Convene Meeting**

Chairman Blessey convened the meeting at 7:00 p.m. and established a quorum of members.

**Present:** Chairman R. Blessey, Vice Chairman M. Grimes (arrived at 7:03 p.m.), Secretary F. Lollie, C. Lynch, L. Miller, Alternate and Voting Member where indicated M. Frankel

**Absent:** Alternate J. Cordisco, Alternate J. Varda

**Also Present:** Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

- a. **Review Minutes of Previous Meetings: 6/13/13** – Chairman Blessey moved to approve the Minutes of the June 13, 2013 meeting. Commissioner Miller seconded the motion. Motion carried unanimously, 4-0-1, with Commissioner Lynch abstaining. *Alternate M. Frankel was a Voting Member for this item.*

**2. Land Use Enforcement**

a. **Enforcement Officer's Report:**

*ZEO A. Dew reported on the following:*

**15 Federal Road,** – ZEO Dew advised that she removed this item from the report, but will verify that the banner has not returned.

**Requests for Voluntary Compliance**

**26 Meadowbrook Road, #201300483** – This matter is on the agenda for the 7/1/13 Zoning Board of Appeals meeting

**148 North Lakeshore Dr., #201300507** – The vehicle in the side yard, and the dumpster are still present. Chairman Blessey moved to issue a Cease and Desist Order to 148 North Lakeshore Drive, #201300507. Vice Chairman Miller seconded the motion, and it carried unanimously. *Alternate M. Frankel was a Voting Member for this item.*

*Vice Chairman Grimes arrived at 7:03 p.m., at which time Commissioner Frankel was no longer a Voting Member.*

**Cease and Desist Orders**

**594 Federal Road, #201200948** – ZEO Dew will re-inspect the sign being held down by four-by-fours.

**12 Pocono Ridge Road, #201200893** – The property owners have not filed for a variance yet. Vice Chairman Grimes moved to issue a Citation to 12 Pocono Ridge Road, #201200893. Commissioner Lynch seconded the motion, and it carried unanimously.

**99 Federal Road, #201300467** – The A-frames continue to be present in first 3 parking spaces. They were not part of site plan. Secretary Lollie spoke with the business and a representative advised that they would be removed. Chairman Blessey suggested that the Cease and Desist be sent to the property owner.

**44 Old Middle Road, #201300069** – Commissioner Lynch moved to issue a Citation to 44 Old Middle Road, #201300069, if no response by July 3, 2013. Commissioner Miller seconded the motion, and it carried unanimously. The boat is still present.

**70 Ironworks Hill Road, #201300482** – ZEO Dew issued a Cease and Desist for the unpermitted pool. Vice Chairman Grimes moved to issue a Citation to 70 Ironworks Hill Road, #201300482, if not in compliance by July 10, 2013. Commissioner Lynch seconded the motion. Motion carried unanimously. Commissioner Lynch inquired if the Building Department has been notified, and ZEO Dew advised it has been.

**Citations**

**178 Federal Road, #201300477** – ZEO Dew advised that the banner has been removed. **Vice Chairman Grimes moved to remove 178 Federal Road, #201300477, from the Enforcement Report. Commissioner Lynch seconded the motion, and it carried unanimously.**

**Town Counsel Action**

**1 High Ridge Road, #201000315** – The letter from Special Town Counsel P. Olson was noted. This item will be removed after the Order has been entered.

**9 Stoney Farm Lane, #201100095** – The shed is still present. ZEO Dew will contact P. Olson and request update on this item and the others on the “Town Counsel Action” list.

**54 Ironworks Road, #201100755** – ZEO Dew advised that Bank of America is getting bids to remove garbage. The Health Department is also involved.

**34 Stony Hill Road, #201200874** – The lot line revision came in but was not signed. The property owner has to complete this, with a Mylar, and submit it to the Town Clerk. ZEO Dew will ask Town Counsel to pursue this matter.

**3. Review Correspondence**

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 6/10/13; Zoning Board of Appeals; Planning Commission 6/6/13; Zoning Sub-Committee**
- b. Legal Briefings for Building Inspectors: June 2013
- c. Letter and report from Erik Bernard, P.E. of Aquarion Water Company to Cheryl Chase, Director at DEEP dated 6/11/13 Re: Request for Authorization Under the General Permit for Diversion of Water for Consumptive Use – Candlewood Acres Wells No. 1 and 2 (entire report on cart)

**No discussion/no motions.**

**Vice Chairman Grimes moved to go to Agenda Item 6.b. Commissioner Lynch seconded the motion, and it carried unanimously.**

**6. Old Business**

- b. **200 Federal Road (Costco):** Discussion on Bond and To Be Determined Release Amount:
  1. Letter/Report from Joseph Schold and Wayne Tucker (Geotechnical Engineers), Cardno ATC to George Runne dated 5/30/13 Re: Site Slope Evaluation Costco Warehouse.

*Chairman Blessey and Commissioner Lynch recused themselves from this item and left the room at 7:10 p.m. Vice Chairman Grimes became Acting Chairman for this item. Alternate M. Frankel was a Voting Member for this item.*

*R. Gradwell, P.E., BL Companies, and M. Marchisano, Director of Development, Costco, were present. Mr. Gradwell advised that the parties visited the site, and they have prepared recommendations regarding the slope. Costco is looking to reduce the bond. It contends that the issue is an aesthetic problem, not a stability or structural problem. Secretary Lollie has been to the site. Mr. Marchisano advised that rip rap and mesh will be installed at the top, around the planting area, and that Director of Public Works R. Tedesco reviewed the proposed work today. Commissioner Frankel inquired regarding the cost, and Mr. Marchisano estimated it would be less than \$50,000. The comments of Mr. Tedesco will be incorporated into the proposed work.*

**Commissioner Miller moved to reduce the bond for 200 Federal Road (Costco), #201100583, to \$250, 000. Secretary Lollie seconded the motion.** Commissioner Frankel requested assurance that dying trees be replaced. ZEO Dew advised that the trees are not at “25% of the crown”, and that she will continue inspections over the summer. Additionally, Mr. Gradwell will send a landscape architect to inspect the trees. **Motion carried unanimously.**

Chairman Blessey and Commissioner Lynch returned to the room at 7:15 p.m.

Chairman Blessey moved to go to Agenda Item 6.a. Secretary Lollie seconded the motion, and it carried unanimously.

**6. Old Business:**

**a. Proposed Regulation Change #201300511: Section 242-404 K(7) – Incentive Housing Permitted Uses**

Vice Chairman Grimes moved to set a Public Hearing for #201300511, Proposed Regulation Change, Section 242-404K(7) – Incentive Housing Permitted Uses, for July 25, 2013, at 7:30 p.m. Secretary Lollie seconded the motion, and it carried unanimously.

**c. 4 & 16 Elbow Hill Road #201300512(DR): Design Review for a 20,413 sq. ft. Boat Storage Facility including an Application for Natural Resources Removal (#201300512-NRR) – (public hearing scheduled for 7/11/13)**

1. Letter of Transmittal for Revised Plans dated 6/19/13
2. Letter from Russell Posthauer, Jr., CCA, LLC to Alice Dew dated 6/19/13 Re: 4 Elbow Hill Road – revised parking plans.
3. Map Cover Sheet titled “Proposed Boat Storage” prepared by CCA, LLC dated 5/28/13 revised 6/18/13
  - “Echo Bay Marina Boat Storage Site Plan” dated 5/24/13 revised 6/18/13 – sheet S1
  - “Landscape Plan” dated 5/24/13 revised 6/18/13 – sheet LS 1
  - “General Legend, Notes And Abbreviations” dated 5/24/13 – sheet N1
  - “Notes & Details” dated 5/24/13 revised 6/18/13 – sheet N2
  - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet ER01
  - “Exist. Conditions” dated 5/24/13 – sheet EX1
  - “Topographic Property Survey” dated 12/12/12 revised thru 6/4/13 – sheet 1 of 1

**Public Hearing scheduled for July 11, 2013.**

Vice Chairman Grimes moved to go to Agenda Item 7.f. Commissioner Miller seconded the motion, and it carried unanimously.

**7. New Business**

**f. Proposed Regulation Change #201300581: Section 242-505 F(2) – Town Center District / Design Review pre-application review**

Vice Chairman Grimes moved to set a Public Hearing for July 25, 2013, at 7:30 p.m. for #201300581, Proposed Regulation Change: Section 242-505F(2) – Town Center District/Design Review pre-application review. Secretary Lollie seconded the motion, and it carried unanimously.

Chairman Blessey moved to add to the Agenda as Item 7.g., Moratorium on Lighted Signs. Vice Chairman Grimes seconded the motion, and it carried unanimously.

**g. Moratorium on Lighted Signs -**

Chairman Blessey explained that the current regulations are outdated and do not address LED signs. A change to the technical standards is being proposed. S. Kelly will provide lighting information to the Commission. In the interim, the Commission must establish a moratorium until the regulation is drafted, presented and decided upon. Town Counsel J. Buchsbaum has drafted language for the

establishment of the moratorium. The estimated timeframe for completion of this process is one hundred and twenty days.

**Chairman Blessey moved to adopt the Resolution to Establish a Moratorium Concerning LED Lighting in Signs, as attached hereto. Commissioner Miller seconded the motion, and it carried unanimously.**

**RESOLUTION TO ESTABLISH A MORATORIUM  
CONCERNING LED LIGHTING IN SIGNS**

**Whereas**, Section 242-306C(7) of the Brookfield Zoning Regulations addresses requirements for illuminated signs in the Town of Brookfield; and

**Whereas**, Section 242-306C(7) includes wattage requirements for illuminated signs, but does not include any criteria or other discussion with respect to LED signs; and

**Whereas**, the Brookfield Zoning Regulations may require updating to address LED signs; and

**Whereas**, the Brookfield Zoning Commission requires a brief moratorium with respect to illuminated signs so that it can draft and enact regulations concerning sign illumination.

**Now, therefore**, The Brookfield Zoning Commission, in accordance with Connecticut General Statutes 8-2 and 8-3, establishes a 120 day Moratorium during which the Zoning Commission will not accept or act on any new applications for illuminated signs for the purpose of allowing the Commission a reasonable period of time to draft and enact regulations concerning sign illumination in Brookfield. The Brookfield Zoning Regulation #242-306C(7) states that the Zoning Commission may permit illuminated signs . The commission shall hold a public hearing on the adoption of the Moratorium on July 11, 2013 and cause notice to be published in accordance with statute. The Moratorium shall go into effect immediately upon its adoption by vote of the Commission.

**9. Informal Discussion:**

- a. **537 Federal Road (RW's Barbeque):** Outdoor Dining – *No one present.*
- b. **Discussion of Permitted Uses:** Hookah Bars – requested by Sammy Moghal – *No one present.*

*A recess was taken from 7:22 p.m. to 7:30 p.m.*

**4. Public Hearing 7:30 p.m.**

- a. **857-857A Federal Road (Green Acres Luxury Apartments) #201200887: Public Hearing on a stipulation to settle pursuant to C.G.S. Section 8-8(n) based on proposed modifications to the Site Plan and conditions pertaining thereto (ph close date 7/31/13)**

Chairman Blessey opened the Public Hearing and introduced the Commission members. Secretary Lollie read the legal notice, which was published in the News Times on June 14, 2013, and June 24, 2013. Chairman Blessey noted that the application was received on October 11, 2012. He then reviewed the policies and procedures that govern public hearings.

*Alternate Commissioner Frankel recused herself and left the table at 7:34 p.m.*

*Attorney N. Marcus, Cohen & Wolf, was present.* Vice Chairman Grimes noted a point of order, in that any comments made must relate only to the stipulation adopted on May 23, 2013.

Secretary Lollie read the correspondence related to the stipulation: 1) from T. Ray to Land Use Office, email, 8 Coach Drive, Brookfield dated June 24, 2013.

Attorney Marcus discussed the history of this application, including the administrative appeal. He noted that the procedure for this Public Hearing is different. Attorney Marcus advised that the applicant approached the Commission to make changes, and met in Executive Session to come up with a plan that met the objectives of the Commission. He cited Section 8-8n of the Connecticut General Statutes, which sets forth the hearing process in Superior Court, noting that the Commission chose to hold the Public Hearing prior to presenting it in Superior Court.

Attorney Marcus reviewed the Stipulation, noting a typographical error in the date for the denial (March 14, 2013). He further explained that if the Stipulation is approved, the denial of the application will be vacated, and the application for the incentive housing development would be approved. Attorney Marcus noted the publication of the legal notice, and reviewed Attachments A and B of the stipulations. He pointed out Sheet C9, a Truck Maneuvering Plan, as well as new elevations. Lastly, because access and egress in the plan were areas of concern, there is a certification that the application meets building code safety requirements in the event of fire.

Attorney Marcus reiterated that tonight's presentation will deal only with issues related to the denial and the settlement. He added that any comments or questions from the public must be related to the same.

*M. Lillis, P.E., CCA, 40 Old New Milford Rd., was present.* He advised that the plans were revised within the terms of the settlement, based upon feedback from the Commissioners. He indicated that the applicant agreed to a commercial use on the bottom floor of Building 4. Additionally, building façades on Federal Road were reduced. Building 3 has additional building length and was turned ninety degrees. This necessitated the re-arranging of driveways and parking, that was explained in detail by Mr. Lillis. He discussed the use of stamped concrete to accommodate handicapped accessibility, as well as the incorporation of Belgian block curbing and walkway. The pool, green space, grading, and stormwater management, remain "substantially the same" per Mr. Lillis. Mr. Lillis noted revisions to sewer, water and landscaping. He gave additional details regarding the truck maneuvering discussed earlier by Attorney Marcus, and the landscaping plan.

*J. Frye, a partner with the developer, was present.* He reviewed further details of the architectural changes, including the façade, vertical plank siding, a change in the color of the material, and increased parking ratio of 1.61 spaces per unit.

Commissioner Miller inquired regarding the setback, and Mr. Lillis indicated it was 27 feet.

*M. Propper, 54 Great Heron Lane, was present.* He inquired how many commercial units were included. Mr. Frye indicated that the commercial use is measured in square footage.

*R. Saluga, 32 Great Heron Lane was present.* He inquired regarding the number of units, and Mr. Frye advised that the total is 100 units. Chairman Blessey indicated that the first application included 92 units.

*M. Steel, 33 Great Heron Lane, was present.* He inquired if with the new parking configuration would cause vehicles to park in the circular driveway, interfering with the maneuvering configuration. Chairman Blessey pointed out that it is assumed that the parking spaces will be utilized in the manner in which they were intended; if they are not it will become an enforcement issue.

*J. Salame, 148 Whisconier Rd., was present. She noted the need to correct the spelling for “Green Acres” to “Greene Acres”. The applicant agreed to make this correction.*

*No one was present to speak in favor of the acceptance of the stipulations, nor was anyone present to speak in opposition.*

**Chairman Blessey moved to close the Public Hearing re: 857-857A Federal Road (Greene Acres Luxury Apartments), #201200887: Public Hearing on a stipulation to settle pursuant to C.G.S. Section 8-8(n) based on proposed modifications to the Site Plan and conditions pertaining thereto. Vice Chairman Grimes seconded the motion, and it carried unanimously.**

**Chairman Blessey moved to accept the Stipulation Agreement re: 857-857A Federal Road, #201200887. Commissioner Lynch seconded the motion, and it carried unanimously.**

**5. Continued Public Hearing:**

- a. 419 Federal Road (Sunburst Landscaping) #201300362: Design Review for a 3,752 square foot addition & site improvements (ph close date 7/17/13)**
1. “Elevation Map” for sand and salt building prepared by Elephant Structures, LLC dated 6/19/13

Chairman Blessey noted that the same introduction for this Public Hearing would be utilized, and there were no objections.

*M. Kornhaas, Artel Engineering, and P. DiScala, Applicant, were present. Mr. Kornhaas reviewed the colors and materials of the 30’ X 20’ pre-fabricated, metal structure, noting that it will not contain any combustible materials.*

The Pollution Prevention Plan was submitted. Chairman Blessey noted that the fully enclosed salt storage was approved, and the Town has similar salt storage. Commissioner Frankel indicated that she does not feel the proposal fits into Route 7. Mr. DiScala indicated that the use is not a contractor’s yard, and pointed out that there are several similar uses on Federal Road. Mr. Kornhaas also noted some landscaping material that could serve as a natural buffer.

*There were no questions of clarification.*

*No one was present to speak in favor of the application, nor was anyone present to speak in opposition.*

**Commissioner Miller moved to close the Public Hearing re: 419 (Sunburst Landscaping), #201300362: Design Review for a 3,752 square foot addition & site improvements. Vice Chairman Grimes seconded the motion, and it carried unanimously.**

There was additional discussion regarding landscape buffering.

**Commissioner Lynch moved to approve 419 Federal Road (Sunburst Landscaping), #201300362: Design Review for a 3752 square foot addition & site improvements, with the following stipulations: 1) on the south and east portion to lessen the visual impact of the salt and mulch storage, with green giant arborvitae per the site plan dated 2/22/13. Commissioner Miller seconded the motion.** There was discussion regarding the parking and potential use of the building. The applicant was advised to contact the ZEO when the use is determined, and further advised that potentially, a site plan modification would be necessary. **Motion carried unanimously.**

*Commissioner Lynch left the meeting at 8:21 p.m., at which time Alternate M. Frankel became a Voting Member.*

**b. 20 Elbow Hill Road – Proposed Zone Change #201300338: Proposed Zone change for 20 Elbow Hill Road to go from an R-40 Zone to an IRC 80/40 Zone.**

**Application submitted by Marc Rogg** (*ph close date 7/17/13*)

Chairman Blessey noted that the same introduction for this Public Hearing would be utilized, and there were no objections.

*M. Rogg, 227 Candlewood Lake Road, was present.* Chairman Blessey indicated that the application is to change the R40 zone to an IRC 80/40 zone. He noted there was no additional correspondence since the initial public hearing. Mr. Rogg denoted on a map where the zone line would change, and discussed the proposed potential future use. He indicated the plan would still maintain the 100' buffer.

There was brief discussion regarding two buildings on the plan that have not been approved, and it was requested that they be removed from the map.

Upon inquiry from Commissioner Frankel, Mr. Rogg acknowledged that he does not own the property, but that he does have a letter of authorization from the property owner. Additionally, the abutting property owners have been notified. Chairman Blessey read the letter of authorization from Jerome Kovacs, 20 Elbow Hill, LLC. The copies of the receipts of certified notification to the abutters were also noted.

Vice Chairman Grimes inquired what Mr. Rogg would do if the zone change was not approved. Mr. Rogg indicated that it would not change his plans.

*No one was present to speak in favor of the application, not was anyone present to speak in opposition.*

Commissioner Miller noted that the lot in question is an isolated property.

**Vice Chairman Grimes moved to close the Public Hearing for 20 Elbow Hill Road, #201300338: Proposed Zone Change for 20 Elbow Hill Road to go from an R-40 Zone to an IRC 80/40 Zone. Secretary Lollie seconded the motion, and it carried unanimously.**

**Commissioner Miller moved to approve the Zone Change for #201300338, Proposed Zone Change for 20 Elbow Hill Road. Secretary Lollie seconded the motion.** Chairman Blessey expressed his disagreement with the rationale for the zone change (not wanting to build a house on the site). Vice Chairman Grimes agreed. Chairman Blessey did acknowledge that he also did not understand why the property was not included in the abutting IRC zone. Commissioner Frankel stated she felt it was the best use for the property, but expressed her concern regarding mining at the site. Chairman Blessey noted that a neighbor of the site advised that the incline of the site is a natural buffer to the industrial zone. **Motion carried unanimously.**

*Vice Chairman Grimes left the meeting at 8:38 p.m.*

**7. New Business (continued)**

**a. 143 Federal Road #201300541: Illuminated Building Sign for new “Hand & Stone” massage and facial spa business (*dec date 8/30/13*)**

*S. Chester, 1205 Half Moon Bay, Croton-on-Hudson, NY, was present.* Chairman Blessey advised Mr. Chester of the moratorium and the Commission’s intent to set forth technical requirements for lighting, and address brightness requirements in lumens. Mr. Chester advised that he is proposing an LED that is shielded.

Commissioner Frankel inquired how far out the proposed sign would come, and Mr. Chester indicated it would be a total of 10 inches. She further asked if the applicant would be amenable to obtaining a temporary permit, and Mr. Chester indicated he would be. Commissioner Frankel asked the Zoning Enforcement Officer and the Chairman what would be allowed on a temporary basis, and Chairman Blessey indicated that the light could be put up, but not lighted. Two other options include: installing a similar-looking, less-expensive sign; or to withdraw the application and wait until the moratorium is over.

**Chairman Blessey moved to approve the sign application #201300541, for the sign at 143 Federal Road, with the stipulation that it will not be electrified. Commissioner Miller seconded the motion.** Chairman Blessey noted that when another application for this site comes in, the fees may be waived. Commissioner Frankel expressed her concern that the applicant has spent money on a sign that may not meet the regulations when they are adopted. Chairman Blessey pointed out that the applicant was advised of his options. **Motion carried unanimously.**

**b. 28 Old Route 7 #201300572: Site Plan Modification to add two parking spaces to site (dec date 8/30/13)**

1. Site Plan showing proposed added parking handed into Land Use 6/19/13

*Mr. A. DaCunha, Riverford Road, was present.* The plans were reviewed. **Secretary Lollie moved to approve #201300572, 28 Old Route 7. Chairman Blessey seconded the motion. Commissioner Frankel suggested that the motion be amended to include the relocating of the tree. Secretary Lollie amended his motion to include that the tree will be relocated. Chairman Blessey seconded the amendment. Motion carried unanimously.**

**c. 133 Junction Road (First Assembly Of God) #201300576: Illuminated Roadside sign for Church (dec date 8/30/13)**

*R. Moore and P. Morgan, Sr. Pastor, First Assembly of God, were present.* A photograph of the proposed sign was reviewed. Chairman Blessey briefly reviewed the discussion regarding the moratorium on lighting applications until there is technical clarification.

Mr. Moore noted that the color of the lighting on the proposed sign is red, with a photosensitive dimmer for different shades of brightness.

Commissioner Frankel requested a copy of the survey so that the Commission is able to determine where the sign will be going.

*Application withdrawn.*

Chairman Blessey encouraged Mr. Moore to go to website to look for what needs to be submitted for a regular roadside sign, and to speak with ZEO Dew.

**d. 14 Candlewood Lake Road (Cherry Berry Self-Serve Yogurt) #201300575: Illuminated Building Sign (dec date 8/30/13)**

*Lou Blanco, The Ultimate Sign, South Windsor CT, was present.* He indicated that he wants to build the sign, but not light it until the moratorium is over. Mr. Blanco indicated that there is the ability to add a film to the back of letters on a sign to diffuse the brightness.

Commissioner Frankel inquired how far from the building the sign is, and Mr. Blanco indicated that it is 8 or 9 inches.

Chairman Blessey moved to approve #201300575, for the sign application at 14 Candlewood Lake Road, with the stipulation that the sign not be illuminated. Commissioner Miller seconded the motion, and it carried unanimously.

Mr. Blanco was advised to contact the Land Use Office to determine the status of the moratorium, and that the Public Hearing will be held on July 11, 2013.

- e. **39 Federal Road (Porch & Patio) #201300578: New Illuminated building sign and reface of a pre-existing illuminated roadside sign** (*dec date 8/30/13*)

*Jeff Heitman, Porch & Patio, was present.* He advised that in light of the discussion with the other sign applications, he will wait until the regulation language is approved. This particular sign is pre-existing. Commissioner Frankel noted if there is a nonconformity, there is a duty of the Commission to make it conforming if the use changes. Mr. Heitman indicated that the application is for three signs: Porch and Patio, and two other businesses. Chairman Blessey indicated it could also be looked at a three signs, and if the revision involves only a re-face, ZEO Dew can approve it.

*Application withdrawn.*

8. **Tabled Items:**           None.

10. **Comments of Commissioners:**       None.

11. **Adjourn:**       Commissioner Miller moved to adjourn the meeting at 9:03 p.m. Commissioner Frankel seconded the motion, and it carried unanimously.

**\*\*Next Regular Meeting Scheduled for July 11, 2013\*\***