

APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, November 14, 2013 – 6:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD

1. Convene Meeting

Chairman R. Blessey convened the meeting at 6:07 p.m. and established a quorum of members.

Present: Chairman R. Blessey, Vice Chairman Grimes (arrived at 7:22 p.m.), Secretary F. Lollie, L. Miller, C. Lynch (arrived at 7:03 p.m.) Alternate and Voting Member M. Frankel

Absent: Alternates J. Cordisco and J. Varda

Also Present: Community Development Director K. Daniel, Zoning Enforcement Officer A. Dew, C. Gould and F. Gomes, Fitzgerald & Halliday, J. Salame, Historic Commission

a. Design Guidelines: 6:00 pm Work Session –

C. Gould advised that the following would be discussed during this evening's work session: 1) a mapping exercise; 2) a preview of the survey; 3) solicit feedback on the draft outline; and 4) discuss plans for the public workshop.

CDD Daniel distributed photographs of existing buildings in the Four Corners District. Ms. Gould requested that the Commissioners review them and check off those structures that are appealing and/or appropriate for the zone. She inquired if the Commissioners had an opportunity to review the Design Guidelines Manual Draft. Most of the Commissioners indicated they had not received the document or needed additional time.

F. Gomes previewed the survey, and noted that some images have been revised since last week's meeting in response to comments made at that time. The online survey will allow individuals to vote on each image on a scale of -2 to +2. There are fifty images covering various aspects of design, with the goal being to find out what people think is the appropriate type of development in the Four Corners area. The categories of building design that will be rated include: building mass; building style; roof types; signs; and public space. Chairman Blessey suggested that some "modern" examples be included, and J. Salame referenced a new building in front of the former Border's Bookstore/current P.C. Richards & Sons. The Commission further recommended that examples of the roof types be included in the survey for informational purposes. After several Commissioners commented on various roof styles, Mr. Gomes indicated that language explaining the different roof styles could be included in the design guidelines. He advised that when the survey responses are received, they will be interpreted into the regulation language. Signage examples will include variations of traditional signage (on glass and awnings) illuminated by exterior light, as well as pedestrian-level and sandwich boards. With regard to signage, Commissioner Frankel indicated a preference for a smaller scale.

Mr. Gomes advised that he hopes that the survey will go out to approximately 1,000 people. CDD Daniel and Chairman Blessey suggested that the current residents of Four Corners be notified by mail of the availability of the online survey.

Mr. Gomes then reviewed examples of public space design guidelines. Commissioner Miller suggested that a certain percentage of usable open space be required. Mr. Gomes further indicated that with regard to lighting, the questions on the survey will be framed so that the respondents focus on the lighting.

Chairman Blessey discussed the importance of considering the validity of the responses. The target date for launching the survey is the first half of next week, through December 4, 2013

Commissioner Frankel encouraged CDD Daniel to contact the News Times regarding the survey.

CDD Daniel is hopeful that all residents will be notified. There was discussion regarding the cost of such notification. Chairman Blessey noted that it is important that the design guidelines reflect the preferences of Town residents.

Ms. Gould reviewed the agenda, presenters and format for the public workshop that will be held on December 5, 2013, per the “Draft Public Workshop Plan”.

C. Lynch arrived at 7:03 p.m.

There was discussion regarding the duration of time between the survey, the workshop, and the preparation of visuals for the workshop.

At this time, the regular portion of the Commission meeting began, and C. Gould, F. Gomes and J. Salame left the meeting.

No motions.

b. Review Minutes of Previous Meetings:

11/7/13 – Not a sufficient quorum.

10/24/13 – Commissioner Lynch moved to approve the Minutes of the October 24, 2013 meeting. Commissioner Miller seconded the motion, and it carried unanimously.

9/26/13 – Chairman Blessey moved to approve the Minutes of the September 26, 2013 meeting. Commissioner Lynch seconded the motion, and it carried, 4-0-1, with Secretary Lollie abstaining.

9/12/13 – Not a sufficient quorum.

2. Land Use Enforcement

a. Enforcement Officer’s Report:

This matter will be handled later in the meeting.

3. Review Correspondence

a. Minutes of other Boards and Commissions: Inland Wetlands Commission 10/7/13, 10/28/13; Zoning Board of Appeals 11/4/13; Planning Commission 10/17/13

No discussion/no motions.

Chairman Blessey moved to add 117 Whisconier Road, to the Agenda as Item 6.b.

Commissioner Miller seconded the motion, and it carried unanimously.

Chairman Blessey moved to go to Agenda Item 6.b. Commissioner Miller seconded the motion, and it carried unanimously.

6. New Business

b. 117 Whisconier Road – M. Struna, Advantage Realty, 39 Katrina Circle, Bethel, CT; and K. Krepil, 5 New Preston Hill Rd., New Milford, CT, were present.

Mr. Struna explained that the Krepils are planning to purchase this site, which was previously occupied by Saugatuck Tree and Logging. Photographs of site were reviewed. The proposed use will be landscaping and wood-cutting for firewood.

Chairman Blessey reviewed the past history at the site. He read a memo to the file, dated October 11, 2012, from Alice Dew, to the file, citing several stipulations that would have to be included with any

approval at the property. The stipulations include that no marshaling of logs (collecting the logs) take place on the site, and that there be no expansion of any pre-existing, non-conforming use.

Vice Chairman Grimes arrived at 7:22 p.m.

Google and e-map photos of the site were reviewed.

Mr. Struna advised that the site had been previously used as a transfer station. Chairman Blessey indicated that because of the nature of the stipulations and the previous violations at the site, the Commission would be closely observing any proposed future use there. Mr. Krepil is proposing to perform a landscaping operation with the additional use of firewood processing.

Mr. Struna produced a copy of his client's current business in New Milford.

Chairman Blessey reviewed that the site is in a residential zone and is pre-existing and non-conforming. He reiterated the Town Attorney's recommendations of following the stipulations that were read above.

Mr. Struna indicated that from conversation with the Town Attorney, his interpretation of the stipulations is that they were a result of trucks coming from Canada to get the logs.

Commissioner Miller advised that the proposal would first have to go through the Inland Wetlands Commission due to the existence of the perennial watercourse,

At this time (7:30 p.m.), the Commission moved on to the Public Hearing.

4. Public Hearing 7:30 p.m.

a. Proposed Moratorium #201300956: Proposed Moratorium on Medical Marijuana

1. Response letter from HVCEO dated 11/5/13

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 November 1 and 11, 2013. Chairman Blessey noted that the application was received on October 24, 2013. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie noted the receipt of the following correspondence: 1) response from HVCEO, dated November 5, 2013; and 2) to the Zoning Commission from E. Cole-Prescott, dated November 8, 2013, re: Planning Commission motion.

Vice Chairman Grimes read the proposed change, and indicated that the rationale for the change relates to the State's recent adoption of regulations related to medical marijuana. The State will only issue ten licenses, and has asked Towns to consider adopting regulations at the local level with various health, safety and welfare considerations. Vice Chairman Grimes indicated that the moratorium is justified to allow the Town to adopt regulations related to medical marijuana, and the moratorium will be for a limited time, to be determined and listed under Section 242-501B(3)(d). Chairman Blessey added that Brookfield is one of many municipalities considering moratoriums.

The following member of the audience had questions of clarification: *P. Rothstein, 4 Arapaho Rd., was present.* He advised that many communities have welcomed marijuana manufacturing facilities because they generate taxes. Additionally, he opined that the State regulations are not "all that complicated." Mr. Rothstein pointed out that there would be bonding, licensing and inspection requirements, similar to "light industrial" requirements. He inquired why the Town is proposing a year-long moratorium. Vice Chairman Grimes noted the time that is required for the Town to implement regulations per the State recommendations, so that there is enforceability to govern any proposed facilities. Mr. Rothstein inquired if the State requested that towns implement moratoriums

and Mr. Grimes advised it is “sort of a guideline”. Chairman Blessey reiterated that the moratorium will allow the Commission members time to review the State statute and propose implementation. He likened this moratorium to that recently imposed regarding LED lighting. Mr. Rothstein then inquired if it is the Commission’s charge to encourage development and growth of the tax base. Commission members noted that growth of the tax base is not a valid criterion for approval. Commissioner Frankel likened this moratorium to those imposed at the beginning of regulations related to cell towers. Mr. Rothstein disagreed; indicating that medical manufacturing of marijuana is already being done and is “fairly routine”.

There were no additional questions of clarification.

No one was present to speak in favor of the application. P. Rothstein, was present and spoke in opposition to the application. He indicated that there are vacant buildings on Federal Road that could accommodate this use, with adequate security and utility resources. He added it would contribute to the local economy with taxes and employment. Mr. Rothstein acknowledged that any concerns related to zoning and management of facilities are not greater than that for a liquor warehouse or a tobacco farm. Lastly, interested applicants would be required to produce a bond, and the manufacturing would be heavily monitored by the State.

Vice Chairman Grimes moved to close the Public Hearing for Application #201300956: Proposed Moratorium on Medical Marijuana. Commissioner Miller seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to approve Application #201300956, Moratorium on Medical Marijuana. Commissioner Miller seconded the motion. Commissioner Lynch acknowledged Mr. Rothstein’s statements, however, he also noted the novelty of the issue. He pointed out that a safeguard of a high bonding amount would be required, and that other industries would not be subject to the same scrutiny. Commissioner Lynch also noted the benefit that would be derived through occupation of empty real estate and tax revenue derived from a business. Vice Chairman Grimes reiterated that this is a new area of regulation and until the Commission has more guidance from the State, he would prefer the moratorium. Commissioner Lynch expressed his concern that by the time the moratorium is lifted, interested individuals may have started business in other towns. There was discussion regarding the heavy regulation of pharmaceuticals and alcohol, the potential for abuse, and the difficulty of enforcement without detailed regulations. Commissioner Miller suggested a moratorium for a shorter duration.

Vice Chairman Grimes amended the above motion to approve the moratorium with the dates: beginning November 15, 2013, and ending November 15, 2014. Commissioner Miller seconded the motion. Secretary Lollie advised he attended a class in Hartford about this issue and agrees that a moratorium is necessary. Commissioner Frankel agreed. Vice Chairman Grimes indicated that if the State provides guidance, he would be in favor of lifting the moratorium. Chairman Blessey agreed, but noted that the tax revenue brought in by the business is not a valid factor in the Commission’s decision. Motion carried, 4-1, with Commissioner Lynch opposing.

b. Proposed Regulation Change #201300993: Section 242-306 C – LED Lighting

1. Response letter from HVCEO dated 11/5/13
2. Response memo from Planning Commission dated 11/8/13 Re: Illumination of Signs
 - Minutes of 11/7/13 Planning Commission meeting attached

The same introduction was used for this Public Hearing as the previous hearing and there were no objections.

Chairman Blessey indicated this matter is also an application by the Zoning Commission. Secretary Lollie read the legal notice which was published in the News Times on November 1 and 11, 2013. He then noted receipt of the following correspondence: 1) dated November 14, 2013, to R. Blessey, Chairman, from R. Moore.

Chairman Blessey indicated that the moratorium was in place to allow the Zoning Commission to become knowledgeable on new lighting specifications, and draft new regulations. The current regulation was read, as well as “Attachment B” which outlines the proposed changes. Commissioner Frankel advised that she did not receive a copy of this attachment. Chairman Blessey noted that the most significant change is addition of photometric plan.

K. Luis, 9 Hopbrook Rd., was present. She manages “Hand & Stone” at 143 Federal Road, and noted she would like to illuminate her sign.

R. Moore, First Assembly of God, 133 Junction Rd., was present. He inquired how often LED signs could be changed. Chairman Blessey indicated that the proposal is to not allow that they be changed. Mr. Moore also asked if a photograph of a sign would meet the requirement of a drawing, especially in the case where a sign is already in place. Chairman Blessey advised that the Commission would require something that shows what the sign will look like from the road. Mr. Moore inquired regarding the plot plan extending to adjoining property owners, and Chairman Blessey and ZEO Dew explained that a photometric plan showing the intensity of the light is what is required. There was discussion regarding the comparison of watts and lumens. Additionally, it was clarified that a shield be placed over the light so that the bulb is not visible. Chairman Blessey indicated that “backlit” lights are permissible.

There were no other questions of clarification.

Chairman Blessey stated that he believes the previous regulation should remain, with the addition of “or equivalent” after “15 watts of power”; and that subsection #13 remain.

Commissioner Frankel suggested that a shut off time should be included in the regulation. She also pointed out that the definition of “halo lit” sign is not included in the definitions.

No one was present to speak in favor of the application. R. Moore was present, and spoke in opposition. He noted that lighting technology allows for automatic dimming, and that the signs should be able to be changed periodically.

Chairman Blessey proposed that the following be put back into the proposed regulation change, before the Public Hearing is closed: “internally illuminated or backward signs should not exceed 15 watts of power or equivalent”; and “for every square foot of signage, light sources shall be shielded so as to not directly be visible from any public right-of-way or from outside the lot lines” (as #3). Additionally, he recommended another change in the subsection that reads, “the light source bulb (of light fixtures) shall not be visible from adjacent signs, streets, roads or properties except in the case where there is a message board which could make up not more than **thirty** percent of allowable sign”.

The proposed edits will be added to the draft and reviewed at the next meeting.

Chairman Blessey moved to continue the Public Hearing for Application #201300993: Proposed Regulation Change Section 242-306 C – LED Lighting. Commissioner Miller seconded the motion, and it carried unanimously.

6. New Business

b. 117 Whisconier Road – *Mr. Struna was present.* Chairman Blessey reiterated the stipulations, and noted that the firewood space outlined within them is small. Mr. Struna advised that Saugatuck is still operating at the site.

Chairman Blessey suggested that the Commission discuss the proposal with the Town Attorney. Commissioner Miller reiterated that any application would have to go before the IWC. Commissioner Frankel indicated that she does not agree with paying the Town Attorney to write regulations for a commercial property. Further, she believes it is the applicant's burden to consult its counsel about whether its application complies with the regulations. Commission members agreed.

Chairman Blessey reiterated that the Commission would not look favorably on any application that goes outside of the stipulations related to this property.

Mr. Struna was advised to go to the Land Use Office and discuss the possibility of getting on the Inland Wetlands Commission's agenda

Chairman Blessey moved to go to Agenda Item 5.b. Secretary Lollie seconded the motion, and it carried unanimously.

5. Old Business:

b. 258 Whisconier Road #201300951: Certificate of Zoning Compliance for a craftsman shop to store Landscaping Equipment on the property (*dec date 12/27/13*) – Chairman Blessey advised that there are four approved landscape businesses in the Town Center District. He added that signage for this site was approved, and the zone line for the Town Center District line runs through this property. Commissioner Frankel advised that the property owner has not filed any plans. There was discussion regarding the approval of the other landscaping businesses. ZEO Dew indicated that she had been advised by previous Town Counsel that if a lot is split between two uses, you can extend one use 30 feet across the zone line. There was discussion on where the line that splits the property is located.

Chairman Blessey indicated that the application is for a Certificate of Zoning Compliance. There was discussion regarding whether the property owner needs a site plan. Vice Chairman Grimes stated that the applicant is aware of what he would like for the property, but has been unable to articulate it.

ZEO Dew will speak with the applicant and ask him to come in for the next meeting, and to consider a new road cut.

Commissioner Miller moved to continue 258 Whisconier Rd., #201300951, to the next regularly scheduled meeting. Chairman Blessey seconded the motion, and it carried unanimously.

c. 460 & 501 Candlewood Lake Road #201300952 (Design Review) & #201300952 (NRR): Design Review and Natural Resources Removal Applications for “Brookfield Parks Revitalization Project” to add: basketball court, artificial playing fields, and a building (*PH scheduled for 11/21/13 @ 7:30*)

*Revised Plans and Drainage Report handed into Land Use 10/28/13

1. Letter from Abigail Adams, RLA to Zoning Commission dated 10/28/13 Re: “Brookfield Parks Revitalization Project – 460 & 501 Candlewood Lake Road
2. “Drainage Report” prepared by CCA, LLC dated 10/28/13

3. Map Cover Sheet titled “Brookfield Parks Revitalization Project” prepared by CCA, LLC dated 10/17/13 revised thru 10/28/13
 - “General Legend, Notes And Abbreviations” dated June 2012 – sheet N1
 - “Property & Topographic Survey” dated 1/26/10 revised thru 10/22/13 – sheet 1 of 1
 - “Cadigan Park Layout & Materials Plan” dated 10/17/13 revised thru 10/28/13 – sheet C1
 - “Cadigan Park Grading & Drainage Plan” dated 10/17/13 revised thru 10/28/13 – sheet C2
 - “Cadigan Park Utilities Plan” dated 10/17/13 revised thru 10/28/13 – sheet C3
 - “Town Park Demolition Plan” dated 10/17/13 – revised 10/24/13 – sheet C4
 - “Town Park Layout & Materials Plan” dated 10/17/13 – revised 10/24/13 – sheet C5
 - “Town Park Grading & Drainage Plan” dated 10/17/13 – revised 10/24/13 – sheet C6
 - “Town Park Utilities Plan” dated 10/17/13 – revised 10/24/13 – sheet C7
 - “Town Park Landscape Plan” dated 1/30/13 revised 10/24/13 – sheet C8
 - “Notes & Details Plan” dated 10/17/13 revised 10/24/13 – sheet C9
 - “Notes & Details Plan” dated 10/17/13 revised thru 10/28/13 – sheet C10
 - “Notes & Details Plan” dated 10/17/13 revised 10/24/13 – sheet C11
 - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet E1

2. Land Use Enforcement

a. Enforcement Officer’s Report:

Secretary Lollie recused himself from the Enforcement Report at 8:53 p.m.

Chairman Blessey left the meeting at this time, and Vice Chairman Grimes became Acting Chair and Alternate Commissioner Frankel became a Voting Member.

Requests for Voluntary Compliance

800 Federal Road, #201300957 – The violation related to the kitchen area, and that has been removed. The landlord wishes to begin eviction proceedings. **Acting and Vice Chairman Grimes moved to issue a Cease and Desist to 800 Federal Rd., #201300957. Commissioner Miller seconded the motion, and it carried unanimously.** ZEO Dew advised that there is currently no violation at the property. **Acting and Vice Chairman Grimes withdrew his motion. This matter will be removed from the Report.**

101 Laurel Hill Road, #201300959. – A Request for Voluntary Compliance by November 22, 2013 was sent. **Acting and Vice Chairman Grimes moved to issue a Cease and Desist to 101 Laurel Hill Rd., #201300758, if no compliance by November 22, 2013. Commissioner Lynch seconded the motion, and it carried unanimously.** The violation relates to a commercial firewood operation. ZEO Dew noted that there is a 6 or 7 trucks, a boom truck, and 10 truckloads of wood at the site.

4 Pine Street, #201301067 – This matter has been resolved and should be removed.

153 Pocono Road, #201301054 – This violation relates to commercial vehicles, unpermitted landscaping business, and vehicles in undesignated drives. The RVC was just sent.

270 Federal Road, #201301048 – This violation relates to commercial vehicle parked in the front. An RVC was sent on November 12, 2013, requesting compliance in ten days.

Cease and Desist

14 Oak Grove Road, #201300832 –The property owner has been cooperating and has kept the Land Use Office updated on the eviction proceedings.

439 Candlewood Lake Road, #201300886 – The violation has been cleared up. This matter can be removed.

777 Federal Road, #201300963 – All of the safety issues have been addressed at this site. This matter can be removed.

616 Federal Road, #201300949 – The property owner has applied for the roadside sign, and the other sign is gone.

36 Kellogg Street, #201301003 – The property owner has been working on cleaning up the site.

115 Federal Road, #2013001029 – No violation is present. This matter can be removed.

44 Old Middle Road, #201301041 – The Cease and Desist was sent but has not yet been accepted.

Acting and Vice Chairman Grimes moved to issue a Citation to 44 Old Middle Road, #201301041, if no compliance by November 18, 2013. Commissioner Lynch seconded the motion, and it carried unanimously. Commissioner Lynch advised that there are abandoned cars on the site and that this should be investigated. Additionally, there is debris on the site.

Citation

849 Federal Road, #201300875 – It has been alleged that there are two apartments there. A Cease and Desist Order and Citation have been issued. The property owner's son has been into the Land Use Office and indicated he would clean up. Both apartments have kitchens, bathrooms and living areas. The property owner has that he will be applying for a retail approval. The Commission will grant one more week.

39 Deer Run Road, #201300758 – ZEO Dew reported no change at this site. The property management company, Altisource, knows what the fine is. **Acting and Vice Chairman Grimes moved to refer 39 Deer Run Road, #201300758, to Town Counsel if no compliance by December 1, 2013. Commissioner Lynch seconded the motion, and it carried unanimously.**

Miscellaneous

594 Federal Road, #201300777 - The landowner is attempting to find a place to put the storage container, and has to begin the eviction process. **Commissioner Frankel moved to issue a Cease and Desist to 594 Federal Road, #201300777. Commissioner Miller seconded the motion, and it carried unanimously.**

Secretary Lollie returned as a Voting Member.

5. Old Business

- a. **594 Federal Road #201300777: Site Plan Modification for additional parking for a Landscaping business (dec date 11/15/13)**

Commissioner Frankel moved to deny the Site Plan Modification for additional parking for a Landscaping Business, #201300777, because there is a violation on the property. Commissioner Miller seconded the motion. Acting and Vice Chairman Grimes noted that the property owner has made “no overt effort”. Motion carried unanimously.

6. New Business:

- a. **Draft – 2014 Land Use Commission Regular Meeting Schedule:** Acting and Vice Chairman Grimes moved to approve the Land Use Commission Regular Meeting Calendar for 2014. Commissioner Miller seconded the motion. There was discussion regarding the November and December meetings. Commissioner Frankel noted that there no application deadlines listed on this calendar and ZEO Dew advised that they are kept on a separate calendar. Motion carried unanimously.

7. **Tabled Items:** None.

8. Informal Discussion:

- a. None.

9. Comments of Commissioners: None.

10. Adjourn: Secretary Lollie moved to adjourn the meeting at 9:07 p.m. Commissioner Lynch seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for November 21, 2013****