

**REVISED DRAFT MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, November 13, 2014 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting

Present: Acting and Vice Chairman M. Grimes, Secretary Lollie, J. Cordisco, E. Kukk (arrived at 7:05 p.m.), Alternate and Voting Members where indicated J. D'Entremont and M. Frankel

Absent: Chairman R. Blessey

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

a. Review Minutes of Previous Meetings: 9/25/14 – Commissioner Cordisco moved to accept the Minutes of the September 25, 2014 Meeting. Secretary Lollie seconded the motion. Motion carried unanimously. It was noted that there was not a sufficient quorum to vote on these Minutes. The motion was withdrawn.

10/23/14 – Commissioner Cordisco moved to accept the Minutes of the October 23, 2014 Meeting. Secretary Lollie seconded the motion, and it carried, 4-0-1, with Commissioner D'Entremont abstaining.

2. Land Use Enforcement

a. Enforcement Officer's Report:

ZEO Dew reported on the following:

Requests for Voluntary Compliance

131 Tower Road, No Activity # – ZEO Dew advised that there are no public events scheduled for the remainder of the year at this site. She suggested removal of this item from the Report. Acting and Vice Chairman Grimes stated that the property owner would be requested to come to the Commission in the Spring before any more events occur.

30 Pocono Rd., No Activity # – The property owner has applied for a permit, that the ZEO can approve. This matter can be removed.

91 Commerce Dr., #201400957 – ZEO Dew advised that the storage containers in the parking area have been cleaned off, so that they can be moved. The property owner has until November 15, 2014 to comply. Acting and Vice Chairman Grimes advised ZEO Dew to issue a Cease and Desist if compliance did not happen by that date.

33 White Pine Dr., #201400991 – This violation relates to a complaint by an evicted tenant regarding an unpermitted apartment. ZEO Dew has not had a response from the property owners yet, but they have until November 27, 2014 to respond.

Town Counsel Action

101 Laurel Hill Rd., #201300758 – ZEO Dew advised she has not yet spoken with Attorney Beecher regarding this matter.

31 Stony Hill Rd., #201000274 – ZEO Dew indicated that the property owner had done a “slight property swap” to meet setbacks. When the abutting neighbor filed the map, it was labeled as “proposed”, and the wording on the deed was not changed. The neighbor no longer wants to do the swap. ZEO Dew spoke with Attorney Beecher tonight about this. She stated that if the property owner at 38 Stony Hill Rd. files the A2 survey, it will supersede what is currently on file.

51 Junction Rd., #201400580 – ZEO Dew is waiting to hear from Attorney Beecher.

44 Old Middle Rd., #201301041 – ZEO Dew received the paperwork from Hearing Officer Sullivan, and it will be sent to the Superior Court.

1 High Ridge Rd., #201000315 – The judgment lien has been filed.

14 Oak Grove Rd., #201300832– The property was under foreclosure, but the property owner is still listed as Schwab, and the house is once again occupied. ZEO Dew will speak with Attorney Beecher.

148 North Lakeshore, #20131115 – ZEO Dew advised that the property owner has until December 5, 2014 to complete the work, or come before the Commission prior to that date.

Commissioner Kukk arrived at 7:05 p.m., at which time Alternate Frankel was no longer a Voting Member.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 10/27/14; Zoning Board of Appeals 11/3/14; Planning Commission; Aquifer Protection Agency 10/23/14**
- b. **Ct. Federation of Planning & Zoning Agencies Quarterly Newsletter: Fall 2014**

No discussion/no motion.

5. Old Business:

- a. **857 – 857A Federal Road (Green Acres Luxury Apartments) #201400966: Site Plan Modification for proposed changes to building elevations, windows, Fenestration, trim and architectural features (dec date 12/26/14)**
 - 1. Response memo from Water Source dated 11/5/14
 - 2. Memo from A. Dew, ZEO to Zoning Commission Dated 11/6/14 Re: 857 Federal Rd

Commissioner Frankel recused herself from this matter.

Ms. A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., was present, however, her client was not. She requested that this matter be addressed later in the meeting. She filed two full size copies of the revisions.

Acting and Vice Chairman Grimes moved to go to Item 6.a., Proposed Regulation Change, #201401012. Secretary Lollie seconded the motion, and it carried unanimously.

6. New Business:

a. **Proposed Regulation Change #201401012: Section 242-405A-G – Apartment Units within Single Family Dwellings (earliest PH set date is 12/11/14) - Secretary Lollie moved to set a Public Hearing for Proposed Regulation Change #201401012: Section 242-405A-G – Apartment Units within Single Family Dwellings for December 11, 2014, at 7:30 p.m. Commissioner Cordisco seconded the motion, and it carried unanimously.**

- b. **182 Whisconier Road (Brookfield Library) #201400998: Site Plan Modification to remove and replace six existing lamps & light poles, plus add three (3) additional lamps and light poles to the site (dec date 1/15/15)**
 - 1. Response memo from Water Source dated 11/5/14

Secretary Lollie recused himself from this matter and Commissioner Frankel was a Voting Alternate.

S. Conn, Facility Mgr. Town of Brookfield, was present. He indicated that the application proposes to add lighting as well as change the existing lighting. Three new lights that have been approved by the Historical Commission will be added: two on the north end, and one on the south end. The wattage will be changed to a 52-watt LED. Upon inquiry from Commissioner Frankel, Mr. Conn advised that the lighting will be contained to the site. Commissioner Kukk suggested that the application be changed to reflect the change in wattage. Mr. Conn initialed this change.

Commissioner Kukk moved to accept #201400998 as amended, 182 Whisconier Road (Brookfield Library), Site Plan Modification to remove and replace six existing lamps and light poles, plus three additional lamps and light poles. Commissioner Cordisco seconded the motion.

Commissioner Frankel suggested that the motion be to *approve* the application. Commissioner Kukuk agreed, and the motion carried unanimously.

c. 2015 DRAFT Land Use Commission Meeting Schedule:

Acting and Vice Chairman Grimes noted that any of the meetings near the holidays can be canceled by the Chairman. Commissioner Frankel suggested that only one meeting be held during the summer months of July and August. Acting and Vice Chairman Grimes indicated he would leave the meetings on, and if the situation arises that there is a shortage of Commissioners due to vacations, or a lack of activity, the Chairman can cancel the meeting.

Acting and Vice Chairman Grimes noted the large amount of time between the last December 2015 meeting and the first one in January 2016. He suggested that a meeting on December 17, 2015, be added to the calendar, and it can be cancelled if it is not needed.

Secretary Lollie moved to file the Zoning Commission Meeting Schedule with the Town Clerk, as amended. Commissioner Kukuk seconded the motion, and it carried unanimously.

d. 20 Orchard Street: Permanent Maintenance Agreement Bond

1. Memo from A. Dew to Zoning Commission dated 10/30/14 Re: Permanent Maintenance Bond Agreement for 20 Orchard Place

- List of agreements from July 2004 between 20 Orchard St, LLC (“The Company”) and the Brookfield Zoning Commission
- “Permanent Maintenance Agreement” Document (*on cart*)

ZEO Dew summarized the history of the agreements related to this site. She indicated that the Commission can continue with existing agreement, modify the existing, or remove the agreement and not set a bond. The property owner will be responsible if the septic fails. ZEO Dew explained there are three separate septic on this site, one for each building. She advised that the property owner had anticipated tying into the sewer, but that did not happen. It was noted that the bond has been in place and a new passbook will be submitted by 20 Orchard Street, LLC. The Commission will need an amended agreement that requests that the bond be removed. **No motion.**

e. 2 Summer Pasture Lane #201301193: Request for final bond release of \$1,500.00 - ZEO Dew advised that the property is in satisfactory condition. **Secretary Lollie moved to recommend to the Board of Selectmen the final bond release of \$1,500.00 for 2 Summer Pasture Lane, #201301193. Commissioner Kukuk seconded the motion, and it carried unanimously.**

f. Zoning Regulation Revision: Memo from K. Daniel to Zoning Commission dated 10/16/14 Re: Zoning Regulation Revision

No discussion/no motion.

g. 540 Federal Road (Oak Meadows) #201401044: Site Plan Modification to revise construction phasing. Switch Phase III and IV (dec date 1/16/15)

1. “Phasing Plan” prepared by CCA, LLC dated 8/14/08 – revised thru 11/6/14 – sheet PH1

ZEO Dew explained that the modification is to switch Phase III and IV of the construction to avoid having the construction equipment travel by the existing buildings. **Commissioner D’Entremont moved to approve #201401044, Revised Construction Phasing, switching Phase III with Phase IV. Secretary Lollie seconded the motion, and it carried unanimously.**

h. 143 Federal Road (ShopRite) #201401046: Site Plan Modification to add a recycling dumpster for organic compost in order to comply with new State Regulations (dec date 1/16/15)

1. “Site Plan” Handed into Land Use 11/6/14 showing location of new dumpster

E. Dinino, Construction Manager, ShopRite, was present. He indicated that the application is to add a loading dock, to fulfill a State requirement for composting. A sealed, thirty-yard container will be used. Upon inquiry from Commissioner Frankel, Mr. Dinino advised that Wakefarm inspects for Shoprite regularly.

Commissioner D’Entremont moved to approve #201401046, add a recycling dumpster for organic compost for Shoprite, 143 Federal Road. Commissioner Kukuk seconded the motion, and it carried unanimously.

A short recess was taken from 7:27 p.m. until 7:30 p.m.

4. Public Hearing 7:30 p.m.

a. Proposed Regulation Change #201400956: Section 242-404K(7)(b)[1] – Incentive Housing Permitted Uses

1. Response note from HVCEO dated 11/04/14
2. Response memo from Planning Commission dated 11/7/14

Acting and Vice Chairman Grimes opened the Public Hearing and introduced the Commission members. He noted that the application was received on October 23, 2014. Acting and Vice Chairman Grimes then reviewed the policies and procedures that govern public hearings. Secretary Lollie read the legal notice for this Public Hearing, which was published in the PennySaver on October 30, 2014 and November 6, 2014. He then read the two items of correspondence listed above. There was discussion regarding recent change in structure of HVCEO. Additionally, with regard to the second piece of correspondence, he read a response from Attorney T. Beecher, with the clarification requested by the Planning Commission that the first floor referred to in the regulation language is indeed the ground floor.

Secretary Lollie presented the application on behalf of the Commission. He advised that the Commission requested clarification from Fitzgerald & Halliday regarding its vision for the Town Center District. Secretary Lollie then read Community Development Director K. Daniel’s email that includes a response from C. Gould of Fitzgerald & Halliday. He reviewed the Commission’s proposed change, as well as the existing regulation. He then read Attorney Beecher’s comments related to the revised regulation. Secretary Lollie indicated that the revision will accomplish the Commission’s intent to have mixed-use fronting Federal Road, improve parking, and add incentive for developers.

Commissioner Kukuk inquired regarding Subsection (b)[1], noting the language is not clear. Acting and Chairman Grimes indicated the intent is to not have residents exit directly onto Federal Road. He offered language that will express the intent of the regulation.

Acting and Vice Chairman Grimes inquired if there were any questions of clarification. *Mr. R. Saluga, 32 Great Heron Lane, was present.* He inquired if the regulation is changed, if it will change the development of Brookfield Village LLC. The Commission advised him it would not, as the approval for that project took place before the proposed change.

H. Kurfehs, 42 Obtuse Road North, was present. He thanked the Commission for its efforts with this regulation, and spoke in favor of the application.

No one was present to speak in opposition to the application.

Commissioner Kukk clarified that the Commission’s intent with the proposed regulation change is to state that in any building that fronts a public road, that only forty (40) percent of the ground floor can be residential, and specifically, that none of those residential portions can be entered, or have a porch or windows, on the portion of the structure that fronts the front road. Secretary Lollie and Commissioner Frankel agreed that is the intent. Commissioner Kukk suggested that the “bullet point” be removed, so that the language reads, “Non-residential uses on the first floor may front on a public road. No more than forty (40) percent ground floor square footage may be devoted to residential uses AND none shall front on the public road.” It was noted that this change does not alter the content or the intent of the proposed regulation change.

Secretary Lollie moved to close the Public Hearing re: Proposed Regulation Change, #201400956: Section 242-404K(7)(b)[1] – Incentive Housing Permitted Uses. Commissioner Cordisco seconded the motion, and it carried unanimously.

Secretary Lollie moved to approve #201400956: Proposed Regulation Change, Section 242-404K(7)(b)[1] – Incentive Housing Permitted Uses Section 240-404, as revised above by Commissioner Kukk, to remove the bullet point, as stated, effective the first day after publication. Commissioner Kukk seconded the motion, and it carried unanimously.

Secretary Lollie moved to return to Item 5.a., 857 Federal Road. Commissioner D’Entremont seconded the motion, and it carried unanimously.

5. Old Business:

a. 857 – 857A Federal Road (Green Acres Luxury Apartments) #201400966: Site Plan Modification for proposed changes to building elevations, windows, Fenestration, trim and architectural features (dec date 12/26/14)

1. Response memo from Water Source dated 11/5/14
2. Memo from A. Dew, ZEO to Zoning Commission Dated 11/6/14 Re: 857 Federal Rd

Alternate Commissioner Frankel recused herself from this matter.

Ms. A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., and Mr. Mike Roberts, representing JCS Corporation, were present. Mr. Roberts noted that the application was previously approved on 6/29/12. More recently, the applicant appeared and expressed its intent to improve the property. Mr. Roberts indicated that he met with the Development Services Team on 10/22/14 and received comments that are represented in the proposed modifications. He pointed out that the lofts, which complied with the International Building Code, but not with height regulations, have been removed. Additionally, there are minor revisions to the exterior, a new photometric plan, and an Incentive Housing Deed.

Mr. Roberts advised that the by-pass lane is being reviewed by the Department of Transportation.

Mr. Chung, Architect, Stamford, CT, was present. He discussed the improvements to façade that were presented to the Commission at the end of June that included minor changes to the unit plan. Copies of the colored rendering of the typical building elevation were submitted for the record. The building elevation reflects a New England/colonial look. Mr. Chung advised that the loft and sky lights were eliminated. Additionally, the ground floor corridor is counted as a means of egress. He added that there are only minor changes in the footprint, related to staircases.

M. Roberts expressed to the Commission that the applicant is seeking approval before filing Town building permits. Ms. Adams discussed the bypass lane, as well as a 4-foot wide grass strip and a 6-foot wide sidewalk. She added that a revised photometric plan was also submitted.

Secretary Lollie inquired what elevations are being changed. Mr. Roberts replied that they are the horizontal band, and the columns. He noted that the buildings are the same size and height, with a small change for stair access to comply with fire code. Commissioner Kukk inquired how many units are in the development, and how many of them will fall under incentive housing. Mr. Roberts stated that there are 100 units, and 20 of them will be incentive housing. Commissioner Kukk indicated that during his review, he only found 19 units, and Mr. Roberts advised he would correct that document.

Acting and Vice Chairman Grimes encouraged audience members to submit questions to Land Use Office, ATTN: Mrs. Mack, and the Commission will attempt to obtain answers prior to discussion this application at next week's meeting. Mr. Roberts will provide the corrected document on Friday, November 14, 2014.

Additionally, ZEO Dew summarized her memo to the Commission on this item. She noted the exterior staircases on Building 1, 2, and 4; the removal of the sky lights, and the lofts; the addition of new grills on the front façade covering, updated photometric, incentive housing restrictions, and the performance bond.

It was noted that the Water Source Committee does not require comment on this application.

No motion.

7. Tabled Items: None.

8. Informal Discussion:

a. Loss of Part Time Zoning Enforcement Officer:

1. Memo from A. Dew, ZEO to Zoning Commission dated 11/6/14 Re: Loss of Asst. ZEO - There was discussion regarding the need for this position. It was noted that four or five Commission members are designated as Deputy ZEO's, and Acting and Vice Chairman Grimes suggested they offer assistance if possible. Acting and Vice Chairman Grimes recommended that if the Commission feels the enforcement needs for the Commission are not being met, that Commissioners communicate this to the Boards of Selectmen and Finance. It was noted that the part-time position was not in the budget, but was added in response to an increase in volume in enforcement issues. Commissioner Frankel suggested having a Town Planner on staff.

There was discussion regarding the fluctuation in the volume of applications and enforcement matters. Secretary Lollie offered to assist the ZEO going forward.

Commissioner Frankel suggested that the Commission write a letter to First Selectmen's Office to express disappointment in losing position. It was recommended that all of the Land Use Commissions review the Land Use budget being presented to the Selectmen each year.

It was requested that an item regarding the 2015-2016 Land Use Budget be added to the agenda for the December 11, 2014 meeting.

Acting and Vice Chairman Grimes inquired if other towns combine enforcement positions, and it was noted that it often depends on the size of the town.

No motion.

9. Comments of Commissioners: It was requested that an item regarding the Medical Marijuana Moratorium be added to the agenda for the November 20, 2014 meeting.

10. Adjourn: Secretary Lollie moved to adjourn the meeting at 8:24 p.m. Commissioner D'Entremont seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for November 20, 2014****