

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, December 11, 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, Alternate and Voting Members J. D'Entremont and M. Frankel

Absent: Chairman R. Blessey, J. Cordisco, E. Kukk

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

- a. Review Minutes of Previous Meetings: 9/25/14 – Not a sufficient quorum.
11/13/14 – Commissioner D'Entremont moved to approve the Minutes of the 11/13/14 Meeting. Secretary Lollie seconded the motion, and it carried unanimously.
11/20/14 – Secretary Lollie moved to approve the Minutes of the 11/20/14 Meeting. Commissioner Frankel seconded the motion, and it carried, 3-0-1, with Commissioner D'Entremont abstaining.**

Secretary Lollie moved to go to Agenda Item 6.k. and 6.j. Commissioner D'Entremont seconded the motion, and it carried unanimously.

6. New Business:

- k. 101, 103 & 105 Laurel Hill Rd #201401132: Design Review for a mixed use with 98 Residential Units and 8,600 square foot Commercial buildings (earliest ph date 1/22/15)**
1. **"Site Engineering Report"** prepared by J.F.M. Engineering, Inc. dated 11/20/14 updated 12/2/14
 2. **Map Cover Sheet titled "Proposed Multi-Family Mixed Use Development, 101-103 Laurel Hill Road" prepared by Environmental Land Solutions [Landscape Architect & Environmental Consultant], LLC; MacMillan Architects [Architect]; John Farnsworth Assoc. [Surveyor]; and J.F.M. Engineering, Inc. [Site Engineer] – dated 12/2/14**
 - **"Existing Conditions & Demolition Plan"** dated 11/20/14 revised 12/4/14 – sheet EX1
 - **"Site Development Layout Plan"** dated 11/20/14 revised 12/4/14 – sheet SD1
 - **"Site Development – North Grading Plan (Sheet 1 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD2N
 - **"Site Development – South Grading Plan (Sheet 2 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD2S
 - **"Site Development – North Utility, Sewer & Drainage Plan (Sheet 1 of 2)"** – dated 11/20/14 revised 12/4/14 – sheet SD3N
 - **"Site Development – South Utility, Sewer, & Drainage Plan (Sheet 2 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD3S
 - **"Sanitary Sewer Extension Plan & Profile – North End (Sheet 1 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD4N
 - **"Sanitary Sewer Extension Plan & Profile – South End (Sheet 2 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD4S
 - **"Site Development Details (Sheets 1 thru 3)"** dated 11/20/14 revised 12/4/14 – sheet SD5A, SD5B and SD5C
 - **"S&E Control Plan (Sheet 1 of 2)"** dated 11/20/14 revised 12/4/14 – sheet SD6A
 - **"S&E Control Details (Sheet 1 of 1)"** dated 11/20/14 revised 12/4/14 – sheet SD6B
 - **"Landscape and Lighting Plan, 20 Scale Site – North End (Sheet 1 of 2)"** dated 11/20/14 – sheet LP1
 - **"Landscape and Lighting Plan 20 Scale Site – South End (Sheet 2 of 2)"** dated 11/20/14 – sheet LP2
 - **"Landscape Details"** dated 11/20/14 – sheet LP3
 - **"Wetland Mitigation Plan"** dated 11/20/14 – sheet LP4

- “Footcandle Plan” dated 11/20/14 – sheet LP5

Architectural Plans prepared by Macmillan Architect:

- “Floor Plans – Building A” dated 11/20/14 – sheet A-100
- “Elevations – Building A” dated 11/20/14 – sheet A-200
- “Floor Plans – Building B” dated 11/20/14 – sheet B-100
- “Elevations – Building B” dated 11/20/14 – sheet B-200
- “Floor Plans – Building C” dated 11/20/14 – sheet C-100
- “Elevations – Building C” dated 11/20/14 – sheet C-200
- “Floor Plans – Building D” dated 11/20/14 – sheet D-100
- “Elevations – Building D” dated 11/20/14 – sheet D-200
- “Floor Plans – Building E” dated 11/20/14 – sheet E-100
- “Elevations – Building E” dated 11/20/14 – sheet E-200

Acting and Vice Chairman Grimes moved to set a Public Hearing for Thursday, January 22, 2015, at 7:30 p.m. for #201401132, 101, 103, 105 Laurel Hill Road. Secretary Lollie seconded the motion, and it carried unanimously.

- j. Proposed Zone Change: Town Center District: Incentive Housing District Overlay; Central Core sub-zone (earliest ph date 1/22/15).**

Commissioner Frankel moved to set a Public Hearing for the Proposed Zone Change for the Town Center District: Incentive Housing District Overlay; Central Core sub-zone, for January 22, 2015, at 7:30 p.m., as the second Public Hearing. Secretary Lollie 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 – 65 extension days available)**
- 1. Incentive Housing Restriction Document** (distributed at meeting on 11/20)

Commissioner Frankel recused herself from this matter.

M. Roberts, 9 West Broad St., Stamford, CT, was present on behalf of Brookfield Development.

Secretary Lollie and Mr. Roberts advised that there were typographical errors in the incentive housing document. The revised document was received on November 14, 2014. The number of units has been corrected to 20. Secretary Lollie noted that Attorney Beecher has not yet reviewed the document. Acting and Vice Chairman Grimes was hesitant to approve the application contingent upon Town Attorney review. ZEO Dew indicated that the Town Attorney review was related to median income and family size language, specifically, Schedule C(c), Step 2.

Secretary Lollie moved to approve # 201400966, Site Plan Modification, for 857-857A Federal Rd., Building elevation, windows, Fenestration, trim and architectural features, contingent upon review of Schedule C, Item c.2., in the Incentive Housing Description, received November 14, 2014, by the Town Attorney. Acting and Vice Chairman Grimes seconded the motion, and it carried unanimously, 3-0.

The above-mentioned language will be sent to the Town Attorney for his review, and the application will not be signed until then. Mr. Roberts was advised that if there are any issues, they will be discussed at the January 8, 2015 meeting.

- b. 215 Federal Road (Rite Aid) #201401062: **Illuminated roadside sign with reader board****

E. Merliss, Opening Hill Rd., Madison, CT, was present. He indicated that the store would be adding a double-sided, manual reader board. Additionally, the existing sign will be re-faced. Secretary Lollie confirmed that the proposed sign meets the regulation.

Commissioner Frankel moved to approve #201401062, 215 Federal Road, Illuminated roadside sign with reader board. Secretary Lollie seconded the motion, and it carried unanimously.

c. 57 Laurel Hill Road: Incentive Housing Restriction Document – *E. Tarlton, 25 Plumtree’s Rd., was present.* He explained that this incentive housing management proposal was approved with the initial application approval. Mr. Tarlton purchased the project from Dakota Partners. His management consultant, M. Nolan Enterprises, has proposed changes to the management agreement that are related to compensation for the person selling the unit, and the person managing the unit. As the document was originally created, it did not have a transfer/brokerage fee, or a management fee. Commissioner Frankel inquired why the property owner of an incentive housing unit cannot make a profit on a unit if it has increased in value. Mr. Tarlton explained that the incentive housing plan is very restrictive, with a graduated plan that allows only a certain percentage above the set sale price. It was noted that Attorney Collins has reviewed this language that was not in the document previously.

Secretary Lollie moved to amend the Agenda to reflect 57 Laurel Hill Road, the Incentive Housing Restriction Document, #201200636. Commissioner Frankel seconded the motion. Acting and Vice Chairman Grimes noted that there is no application in the file. Commissioner Frankel and Secretary Lollie noted that it is an amendment to the document. Motion to amend the Agenda carried unanimously.

c. 57 Laurel Hill Road: Incentive Housing Restriction Document, #201200636 – Commissioner Frankel moved to approve the Revised Incentive Housing Restriction Document for 57 Laurel Hill Road, for original application #201200636, for the reasons so stated by Mr. Tarlton and reviewed by Attorney Collins. Commissioner D’Entremont seconded the motion.

6. New Business:

a. 419 Federal Road #201401076: Caretakers Apartment

1. Map titled “Proposed Caretaker’s Apt” prepared by Kevin Kenney, P.E. dated 10/9/14 – drawing no FP2-2

P. DiScala, 419 Federal Rd., was present. He advised he is seeking approval for a caretaker’s apartment upstairs, at the back of the building. Commissioner Frankel suggested that the application for the dormers be reviewed first. After some discussion, the Commission agreed that Item 6.b. should be handled first.

b. 419 Federal Road #201401078: Site Plan Modification for the addition of two (2) dormers on the East side of the building (dec date 2/14/15)

1. Map titled “Proposed Rear Elevation” prepared by Kevin Kenney, P.E. dated 10/9/14 – drawing no RE-1

Secretary Lollie moved to approve Item 6.b., #201401078, 419 Federal Rd., Site Plan Modification for the addition of two (2) dormers on the East side of the building. Commissioner D’Entremont seconded the motion, and it carried unanimously.

Commissioner Frankel inquired which zone this property is, and ZEO Dew advised that it is in the IRC80/40, and the caretaker’s apartment is an approved use.

a. 419 Federal Road #201401076: Caretakers Apartment

1. Map titled “Proposed Caretaker’s Apt” prepared by Kevin Kenney, P.E. dated 10/9/14 – drawing no FP2-2

Acting and Vice Chairman Grimes moved to approve #201401076, Caretaker’s Apartment, 419 Federal Rd. Secretary Lollie seconded the motion, and it carried unanimously.

c. 227 Federal Road (Dinette Depot) #201401089: 2 Illuminated Building Signs

M. Fichandler, 227 Federal Rd., was present. He explained that the business is moving to a new location and is looking for approval for a lit sign. The lumens and wattage have been provided and they comply with the regulation per ZEO A. Dew.

Acting and Vice Chairman Grimes moved to approve #201401089, 2 Illuminated Building Signs, 227 Federal Rd., Dinette Depot, #201401089. Secretary Lollie seconded the motion, and it carried unanimously.

A four minute recess was taken at 7:26 p.m.

4. Public Hearing 7:30 p.m.

a. Proposed Regulation Change #201401012: Section 242-405 A-G – Apartment Units within Single Family Dwellings

1. Response memo from Planning Commission to Zoning Commission dated 11/21/14
2. Response memo from HVCEO dated 12/2/14

Acting and Vice Chairman Grimes opened the Public Hearing and introduced the Commission members. Secretary Lollie read the legal notice which was published in the PennySaver on November 27, 2014 and December 4, 2014. Acting and Vice Chairman Grimes noted that the application was received on November 13, 2014. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie read a letter from the Planning Commission to the Zoning Commission, dated November 14, 2014. He also read a letter from HVCEO dated November 21, 2014. Acting and Vice Chairman inquired if HVCEO is part of a new organization, and Secretary Lollie indicated it is.

Acting and Vice Chairman Grimes noted that a number of applications are received each year for this arrangement. He explained that the proposed regulation change is not seeking to change the process, but rather clarify it and allow neighbors potentially affected by single-family dwellings in homes to be informed and allow them the opportunity to speak at the review of the application. The change, on page 4, was read by Acting and Vice Chairman Grimes. He also reviewed the affidavit requirements.

Secretary Lollie and Commissioner D’Entremont had no comments. Commissioner Frankel noted that the previous regulation required applicants to apply for a special permit that required a public hearing. In 2010, the Commission changed the regulation to delete that requirement. She believes that special permits should require public hearings, and noted that single-family conversion applications should require a public hearing because they changes the face of the structure.

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.

Acting and Vice Chairman Grimes disagreed that a public hearing is necessary. He noted that the applications usually involve elderly parents, and a public hearing could delay construction, cost time and money, and be inconvenient for applicants. He stated that Attorney Beecher’s clarification was beneficial. Lastly, he pointed out that the Zoning Commission still has the authority to call a public

hearing if it deems necessary. Commissioner D’Entremont and Secretary Lollie agreed with this rationale.

There was discussion regarding the fact that the requirement of notifying abutting property owner does include those who live across the street. Commissioner Frankel opined that the Commission’s authority to request a public hearing on certain applications is arbitrary. Acting and Vice Chairman Grimes stated that the Commission will accept input on any application prior to it being reviewed by the Commission. He added that the intent of the Commission is to make the regulations as minimally prohibitive as possible.

Secretary Lollie moved to close the Public Hearing for Proposed Regulation Change, #201401012: Section 242-405 A-G – Apartment Unites within Single Family Dwellings. Commissioner Frankel seconded the motion, and it carried unanimously.

Secretary Lollie moved to approve #201401012, Section 242-405 A-G – Apartment Units within a Single Family Dwelling. Commissioner D’Entremont seconded the motion. Acting and Vice Chairman Grimes stated that he would like for the Commission to review the definition of “abutting property owner”, and requested that this be put on the agenda for the January 8, 2015 meeitng. Motion carried, 3-1, with Commissioner Franke opposing. The effective date of the regulation change is December 15, 2014.

6. New Business (continued)

d. 140 Federal Road (Chick-fil-A) #201300192: Request for bond release/reduction (total bond amount is \$75,000)

D. Scanlon, 140 Federal Rd., Owner/Operator, Chick-fil-A, was present. Zoning Enforcement Officer Dew noted that this matter should be removed from the agenda for now, and will be taken up on January 8, 2015. **Acting and Vice Chairman Grimes moved to go to Item 6.g., Secretary Lollie seconded the motion, and it carried unanimously.** D. Scanlon acknowledged her understanding of this.

g. 140 Federal Road (Chick-fil-A) #201401117: Site Plan Modification for addition of fire lane striping, fire lane signage, and four additional parking stalls in the main drive aisle (dec date 02/14/15)

1. Letter from D. Pedersen of the Lauro Group dated 11/21/14
2. Map titled “Parking Plan” prepared by the Lauro Group, dated 11/11/14, Sheet P-1
3. Response e-mail from Police Dept. to A. Dew dated 12/3/14

D. Scanlon, 140 Federal Rd., was present. Ms. Scanlon pointed out where customers have been parking illegally. She indicated that she is requesting four additional parking spots on the access road. ZEO Dew noted that the landowner of record is S & W. There was discussion regarding whether there is an easement for the parking and access road. ZEO Dew stated that the proposal has been reviewed with the Police and Fire Departments. It was noted that this will prevent patrons from parking in the fire lane. Commissioner D’Entremont pointed out the four spots for Commissioner Frankel.

Secretary Lollie moved to approve #201401117, Site Plan Modification for the addition of fire lane striping, fire lane signage, and four additional parking stalls in the main drive aisle. Commissioner D’Entremont seconded the motion, and it carried unanimously.

e. 7 Granite Drive (Brookfield Heights – Lot 4) #201300163: Request for final bond release \$1,056.00

ZEO Dew has inspected this site. **Acting and Vice Chairman Grimes moved to recommend to the Board of Selectmen the final release of the bond in the amount of \$1,056.00 for 7 Granite Drive, #201300163. Secretary Lollie seconded the motion, and it carried unanimously.**

- f. 200 Federal Road (Costco) #201200055: Request for second bond release of \$210,000.00 (leaving a balance of \$40,000.00)**

ZEO Dew noted that this bond release request does not include the plantings, which will leave a balance of \$40,000.00. **Commissioner D’Entremont moved to recommend to the Board of Selectmen the second bond release of \$210,000.00, leaving a remaining balance of \$40,000.00, for 200 Federal Rd., #201200055. Secretary Lollie seconded the motion, and it carried unanimously.**

- h. 901 Federal Road (Newbury Village) #200200697: Request for bond release of \$110,000 (leaving balance of \$20,000)**

ZEO Dew noted that this bond release request does not include plantings, which will leave a balance of \$20,000.00. **Acting and Vice Chairman Grimes moved to recommend to the Board of Selectmen, the release of \$110,000.00, of the bond, leaving a remaining balance of \$20,000.00, for 901 Federal Rd., #200200697. Secretary Lollie seconded the motion, and it carried unanimously.**

- i. 2 Huckleberry Hill Rd #201401125: Site Plan Modification to install a Cogeneration Unit plus mechanical / electrical upgrades (dec date 02/14/15)**

1. Cover Sheet titled “Site Plan with Revisions” prepared by Controlled Air Inc. dated 12/2/14
 - “Site Plan” dated 11/21/14 – drawing S-1
 - “Second Floor, Roof HVAC Plan” – drawing M-2
 - “Proposed Location of New Cogen”
 - “Proposed Location of new Rooftop Heating Units” – South side of Huckleberry Hill looking North-North West at building
 - “Proposed Location of new Rooftop Heating Units” from South side of Huckleberry Hill Rd looking North-North East at building.

B. Powell, Controlled Air, was present, for 2 Huckleberry Hill Rd. He advised that the property owner is proposing a cogeneration unit that will allow the YMCA to produce its own domestic water, heating and power. It will be located around the corner from where current transformer is, and will sit on an approximately 5’ X 10’ pad. The YMCA will be able to heat the pool with it. ZEO Dew confirmed that the proposal meets the setbacks. Mr. Powell noted that for noise purposes, the unit is rated to be in a residential neighborhood.

Mr. Powell stated that the second part of the application relates to removing heating units from the attic and the ground, and putting new heating units on the roof. He reviewed the proposed locations and square footage. Commissioner Frankel inquired if there would be any building height issue and ZEO Dew advised that there would not be.

Secretary Lollie moved to approve #201400125, 2 Huckleberry Hill Rd., Regional YMCA, Site Plan Modification to install the Cogeneration unit and the rooftop units. Commissioner D’Entremont seconded the motion, and it carried unanimously.

2. Land Use Enforcement

a. Enforcement Officer’s Report:

Secretary Lollie left the room from 8:07 p.m. to 8:09 p.m.

Requests for Voluntary Compliance

840 Federal Rd., #20141154 – This violation relates to the presence of commercial trailers, and other vehicles. A Request for Voluntary Compliance was sent on 12/8/14, and the property owner has until 1/8/15 to comply.

51 Berkshire Rd., #201401153 – This violation relates to an unpermitted apartment. The property owner has until 1/8/15 to comply.

33 White Pine Dr., #201400991 – This violation relates to an accessory apartment without a permit. The tenant is being evicted, and the owner will complete the paperwork upon eviction on 12/31/14.

Town Counsel Action

101 Laurel Hill Rd., #201300758 - Mr. Hebert removed the pump truck and parts of other vehicles, and will complete the removal by 12/31/14. ZEO inquired if the Commission would still like the Citation to be pursued, and Acting and Vice Chairman Grimes advised that it would.

34 Stony Hill Rd., #201000274 - ZEO Dew noted that the pool cabana size has been reduced so that it meets the setbacks, and the fine has been paid. **Secretary Lollie moved to remove 34 Stony Hill Rd., #201000274, from the Enforcement Report. Commissioner D’Entremont seconded the motion, and it carried unanimously.**

51 Junction Rd., #201400580 – ZEO Dew indicated that she has emailed Attorney Beecher about this recently. The Commission would like to pursue the Citation and have Attorney Beecher send a letter to the property owner.

44 Old Middle Rd., #201301041 – This matter has been filed in Superior Court

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

14 Oak Grove Rd., #20131115 – The property owner has until February 2015, as the case was held over.

148 North Lakeshore, #20131115 – ZEO Dew reported that the work is not complete, and there is a large boat on a trailer, and jet skis on a trailer, on the lawn. She explained that the Citation will have to be reissued. Secretary Lollie reported that the paving contract has not been signed. Commissioner Frankel inquired regarding the difference between a Cease and Desist Order and Citation. Acting and Vice Chairman Grimes and ZEO Dew explained that a Citation can only be issued by the Commission. Secretary Lollie noted that the property owner had begun re-grading his driveway and ruptured the septic. The property owner came to the Commission and advised the driveway would be paved, but Secretary Lollie reiterated there has been no signed agreement to do so. Acting and Vice Chairman Grimes reviewed the progress that had been made this past September and October. There was discussion regarding what further enforcement action should be made. **Secretary Lollie moved to send 148 North Lakeshore #20131115 to Town Counsel and request that Attorney Beecher send the property owner a letter. Acting and Vice Chairman Grimes seconded the motion, and it carried unanimously.**

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 11/10/14; Zoning Board of Appeals 12/1/14; Planning Commission; Aquifer Protection Agency 11/20/14**
- b. **Approved Zoning Meeting Date Calendar for the 2015 year**

No discussion/no motions.

7. Tabled Items: None.

8. Informal Discussion:

- a. **Vertical expansion of pre-existing, non-conforming structures:** Requested by A. Dew. She would also like to extend an invitation to Attorney Beecher to attend the next Zoning Meeting on 12/18/14. – ZEO Dew advised that there is a difference in interpretation between current and previous Town Counsels regarding this issue. He will come in and speak to next meeting. Commissioner Frankel also asked if Attorney Beecher can do a workshop on

different forms of applications. Acting and Vice Chairman Grimes requested that Attorney Beecher be requested to come for a Special Meeting at 6 p.m. on January 8, 2015, and that the Planning Commission be invited.

b. Work Hours for Construction: - ZEO Dew advised that there are sections to the Zoning Regulations that relate to woodcutting and natural resource removal, and she read the hours listed in the regulations. She explained that a resident was doing work on Thanksgiving, and the First Selectman was called. Commissioner Frankel indicated that she believes the language regarding the limitations should be in a Town Ordinance. ZEO Dew suggested that the language fall under “general provisions” rather than woodcutting, and that a regulation be drafted referencing the Town Ordinance. Commissioner Frankel inquired if the State statute allows zoning commissions to regulate hours of work. In the meantime, ZEO Dew will refer to the current regulations if issues arise.

There was discussion regarding whether or not the next regular meeting on December 18, 2014 will be canceled. Acting and Vice Chairman Grimes indicated it is the Chairman’s prerogative to do this. Commissioner Frankel disagreed, and advised she would not be present.

Secretary Lollie moved to add to the Agenda as Item 8.c., Rod Moore/First Assembly of God. Acting and Vice Chairman Grimes seconded the motion, and it carried unanimously.

c. Rod Moore/First Assembly of God – R. Moore, First Assembly of God, was present. He advised he was following up previous discussion from this past January 9, 2014, when he inquired if there was a process for allowing exceptions for LED lighting. He believes that a message board sign is no more intrusive when it is well-designed than any other type of signage. He inquired if there was any interest in changing the regulation. Mr. Moore shared proposals of what the church wishes to do for a message board sign, and an LED-type message board sign. Commissioner Frankel noted that the Commission could not regulate content of a sign. She also noted the importance of following designs that would not change the character of Brookfield. Mr. Moore stated he felt the source of light should not make a difference if the sign meets the regulation.

9. Comments of Commissioners: None.

10. Adjourn: Commissioner Frankel moved to adjourn the meeting at 8:35 p.m. Commissioner D’Entremont seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for December 18, 2014****