

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
BROOKFIELD PLANNING COMMISSION
SPECIAL MEETING
THURSDAY – JANUARY 8, 2015 – 6:00 P.M.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting:

The meeting was convened at 6:00 p.m.

Present: For the Zoning Commission: Chairman R. Blessey, Vice Chairman M. Grimes (arrived at 6:45 p.m.), Secretary F. Lollie, M. Frankel

For the Planning Commission: J. VanHise, D. Frankel

Also Present: Community Development Director K. Daniel, Zoning Enforcement Officer A. Dew, Town Counsel T. Beecher

- 2. Informational Session: to include the topic of Vertical Expansion of pre-existing, non-conforming structures.** *Attorney T. Beecher was present.* He stated that he was requested to provide his interpretation of Section 242-309C as it relates to vertical expansions of non-conforming structures. Attorney Beecher advised that, contrary to previous Town Counsel, his opinion is that such an expansion increases the non-conformity and violates the regulation. He noted that this opinion is supported by case law.

There was discussion regarding how to make the regulation more clear. It was noted that the property owner could apply for a variance if there is a hardship. Attorney Beecher indicated that the language could be made more specific by adding, “any portion of that non-conforming structure, which does not increase the non-conformity, or causes the non-conformity.” Chairman Blessey suggested that this topic be added to the agenda at tonight’s regular meeting.

Attorney Beecher then addressed the question of whether the Commission can regulate hours of operation. He opined that it can if there is a health, safety, welfare, or property value reason, it may be acceptable for the Commission to do so. ZEO Dew noted that hours of operation are specified under Natural Resources and Woodcutting. Upon inquiry from Chairman Blessey, ZEO Dew advised that there have been complaints due to noise on certain sites. Attorney Beecher indicated that language could be added to special permit approval applications that, “in consideration of health, safety, welfare and property value considerations, pursuant to 8-2 of the Connecticut General Statutes, the Commission may impose reasonable restrictions on hours of operation.” It was suggested that this language be moved from Natural Resources to be listed as a general provision. This regulation will also be reviewed.

The definition of what defines an “abutter” was then reviewed. Attorney Beecher noted that the Zoning Board of Appeals application utilizes the terms: “abutting”, “adjacent” and “facing” property owners. He stated that the single-family conversion application references “adjoining” neighbors. Property owners that live across the street, or within 100 feet, are not mentioned. Chairman Blessey suggested that the regulation be changed to reflect current Land Use Office practice, as the ZBA and the Planning Commission do notify those property owners across the street and/or within 100 feet. It was noted that single-family conversions “may” require a public hearing, but generally are reviewed and approved by the Zoning Enforcement Officer.

ZEO Dew inquired what the powers of the deputy zoning enforcement officers are. Attorney Beecher advised that under the regulations and the General Statutes, the Zoning Commission defines how the zoning regulations are enforced, and that power can be delegated by the Commission. It was noted that designated deputies must use great care ensuring that the regulations are enforced properly. Attorney Beecher further cautioned that Commissioners be wary of being put in the position where there could be a claim of bias or prejudice. He also noted that deputies could be empowered only to do specific tasks (i.e., only enforcement). Commissioner Frankel pointed out that the ZEO is responsible to the Commission for his/her enforcement of the regulations, and responsible to the Selectmen for his/her conduct, absenteeism, etc.

There was discussion regarding the progression of enforcement actions. Attorney Beecher explained that cease and desist orders and citations are appealable. He added that a violation is not resolved after the issuance of a citation, then a property owner will receive a letter from Town Counsel, and if not responded to or resolved, legal action for an injunction will be initiated. The Zoning Commission has to authorize the issuance of a citation. Attorney Beecher explained that fines for citations were issued “per day” until a Town ordinance was changed in September 2006. The ZEO can be given the authorization to issue a citation every day under this structure. Vice Chairman Grimes inquired if a request for a hearing will halt the fines pending resolution by a hearing officer, and was advised that it would. There was discussion regarding changing the ordinance, and other remedies via injunction and penalties.

3. Adjourn

The meeting concluded at 6:52 p.m.

Regular Zoning Commission Meeting January 8, 2015 at 7:00 PM

Regular Planning Commission Meeting January 8, 2015 at 7:30 PM