

**Zoning Commission Meeting -
MINUTES
7:00 PM Thursday, June 11, 2015
Brookfield Town Hall - Room 133**

1) Convene Meeting

Acting and Vice Chairman M. Grimes convened the meeting at 7:08 p.m. and established a quorum of members.

Present: Acting and Vice Chairman M. Grimes, Secretary F. Lollie, J. D'Entremont

Absent: Chairman R. Blessey, J. Cordisco, E. Kukk, M. Frankel, A. Samuelson

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

a) Review Minutes of Previous Meetings:

May 28, 2015 - Secretary Lollie moved to approve the Minutes of the May 28, 2015 meeting. Commissioner D'Entremont seconded the motion. Acting and Vice Chairman Grimes noted the following correction: On Page 2, in the Motion concerning the Public Hearing for 533 Federal Rd., to add the following sentence prior to the last sentence: "No one was present in the audience, nor did anyone ask to speak." Motion to approve the Minutes with this correction carried unanimously.

2) Land Use Enforcement

a) Enforcement Officer's Report:

ZEO Dew reported on the following:

Requests for Voluntary Compliance

3 Parker Hill Rd., #201500499 – ZEO Dew advised that an RVC was sent the other day due to complaints of debris in the front yard.

594 Federal Rd., #201500385 – The garbage and debris to the north side of the building has been removed. No violation exists, and this will be removed from the Report.

12 Falls Dr., #201500365 – The chicken coop has been moved to meet the setbacks, and the property owners have completed an application.

27 Mountainview Dr., #201500331 – The tree house is still present, but is encased in shrubbery and is difficult to see. The complainant/neighbor is trying to sell house. Attorney Beecher has advised that the tree house qualifies as a structure because it touches the ground. **Acting and Vice Chairman Grimes moved to issue a Cease and Desist to 27 Mountainview Dr., #201500331. Secretary Lollie seconded the motion, and it carried unanimously.**

20 North Lake Shore Dr., #201500330 – One lot of two on this property has been sold, and the recent purchaser has complained about a shed and boat on the other. ZEO Dew advised that the shed has been there for more than three years. Debris that was present has been cleaned up, and the boat is hidden by shrubbery. Secretary Lollie inquired if the boat is in a designated drive, and ZEO Dew advised it is not, but it is densely screened at the moment. She wrote a letter advising the neighbor she would re-inspect in the fall.

Cease and Desist Orders

132 Federal Rd., #201500485 – ZEO Dew indicated that a Cease and Desist was issued to the property owner of this site because of a family allegedly living in one of the business units. An altercation occurred there, and the police report was obtained by ZEO Dew. Upon inspection, she found no kitchen or any evidence of people living there. However, a Certificate of Zoning Compliance was not obtained for the psychic business occurring at the site. Upon the property owner's receipt of the Cease and Desist, the business owner has completed an application, but must pay the fee and sign the application.

Town Counsel Action

44 Old Middle Rd., #201301041 – After speaking with Attorney Beecher, ZEO Dew filed the necessary paperwork with the Town Clerk. Acting and Vice Chairman Grimes reiterated that, in response to a Freedom of Information request, the Commission was polled, and none of the members have any documentation on this matter. ZEO Dew emailed the FOI requestor and advised she would get an estimate of the cost of copies, or the requestor could come in to look at the file.

1 High Ridge Rd., #201000315 – No change.

14 Oak Grove Rd., #201300832 – No change.

148 North Lake Shore Dr., #20131115 – This matter is being handled by Attorney Beecher, and the focus is on the Inland Wetlands and Health Department violations.

3) Review Correspondence

- a) Minutes of other Boards and Commissions:
- b) Legal Briefings for Building Inspectors: May 2015
No discussion/no motions.

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

4) Continued Public Hearing:

- a) Proposed Regulation Change #201500050: Section 242-202 and Section 242-501 - Brewery and Brewpub / Restaurants Reading from her memo to K. Daniel, ZEO Dew reviewed samples of definitions of breweries, brewpubs and microbreweries. Acting and Vice Chairman Grimes expressed his appreciation for the work that went into the text proposal. There was discussion regarding the distinction between establishments that serve food, and those that only brew beer, as well as the role of the volume of beer manufactured.

Acting and Vice Chairman Grimes moved to continue the Public Hearing for Proposed Regulation Change, #201500050: Section 242-202 and Section 501 - Brewery and Brew Pubs, to June 25, 2015. Secretary Lollie seconded the motion, and it carried unanimously.

- b) 533 Federal Rd #201500201: Design Review (including Natural Resource Removal of 1,600 cu) for the construction of a 2,476 sq. ft. Medical Building and associated parking (ph close date 6/17/15 - 65 extension days remaining)

R. Posthauer, PE, CCA, 40 Old New Milford Rd., and W. Fontaine, Fontaine Construction, were present. Mr. Posthauer submitted a copy of the filed variance, copies of the lighting poles being proposed, and copies of the plans showing the sidewalk extended through the driveway. It was noted that the photometrics are on the plans. Additionally, the colors have been chosen by the applicant.

Secretary Lollie moved to close the Public Hearing on #201500201, Design Review, for 533 Federal Rd.. Commissioner D'Entremont seconded the motion. Motion carried unanimously.

Acting and Vice Chairman Grimes moved to approve 533 Federal Rd., #201500201, Design Review, noting that all of the issues the Commission requested clarification on (lighting details, color scheme, sidewalk, and filed variance from ZBA) have been submitted. Commissioner D'Entremont seconded the motion, and it carried unanimously.

5) Public Hearing:

- a) Proposed Zone Change #201500322: 874 Federal Rd to go from Town Center District to Incentive Housing District Overlay Perimeter Sub-Zone

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 May 21, 2015 and May 28, 2015. Acting and Vice Chairman Grimes indicated that the application was received on May 14, 2015. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie read the following correspondence: 1) to the Zoning Commission from the Planning Commission, dated 5/22/15; 2) to the Zoning Commission from the Western Connecticut Council of Government dated June 1, 2015, noting the application is "of local concern with minimal intermunicipal impact"; and 3) to the Zoning Commission, dated June 10, 2015, from B. D. Blackman, 119 Laurel Hill Road, in opposition to the application.

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, A. Lucera, Applicant, and M. Lillis, PE, CCA, 40 Old New Milford Rd., were present. Attorney Scalzo noted that the parcel is approximately five acres, north of Four Corners, specifically, the former Peter's Import location. Mr. Lillis submitted the certified mail receipts for the record. Attorney Scalzo pointed out that the site is directly across the street from the Riverview development, a 42-unit complex, in the Incentive Housing Zone Perimeter Subzone. The plan is to combine the applicant's parcel, which is next to the central core subzone, with another

approximately three-acre parcel, and make it one project, that will have a commercial component because of the central core subzone. Attorney Scalzo pointed out where the residential components would be.

Attorney Scalzo advised that the applicant has presented before the Planning Commission, and it was not willing to give the applicant a perimeter subzone designation. It agreed to grant an incentive housing zone referral, but with a central core subzone. Attorney Scalzo advised that the parcel is not ideal for commercial use in the front due to the grading of the land that exists there. Mr. Lillis showed photographs of the site, taken from the driveway of Riverview. The photos demonstrate the top of the slope at the site. Additionally, a topographic survey was done, and determined there is a 12-14 foot difference between the road and where the building now sits. Mr. Lillis stated that the Town Center District and incentive housing regulations call for a reduced front yard of 25 feet that will not attract what retail would require.

Attorney Scalzo reviewed a concept plan showing the combined parcels, with a commercial component central core subzone, and other areas that would be residential. Mr. Lillis pointed out where the contours get close together.

Commissioner D'Entremont inquired if the residential portion of the plan would be apartments, and Mr. Lucera advised that it would be. Secretary Lollie inquired if the concept plan calls for 187 units, and Mr. Lillis confirmed that it does. ZEO Dew pointed out that, with regard to the discussion of the architectural review in Mr. B. D. Blackman's letter (read above by Secretary Lollie), that an architectural review would be performed for any application, whether the zone is TCD, or incentive housing.

There were no questions of clarification.

No one was present to speak in favor of the application. A. Blackman, 119 Laurel Hill Rd., was present, and spoke in opposition to the application, noting his concerns with the number of apartments going into the area.

Attorney Scalzo advised that he is aware that there are not enough members of the Commission present tonight to vote on the zone change application. He noted he is just seeing Mr. Blackman's letter tonight. Also, in rebuttal to Mr. Blackman's letter, he asked the Commission to refer to its planning study, and its determination that apartments in the area were necessary to keep the Four Corners area vital. He further pointed out that incentive housing regulations allow more control to the Commission than C.G.S. 8-30g/affordable housing applications. Mr. Lillis added that the project will be subject to the review of the OSTA (Office of State Traffic Administration).

Secretary Lollie moved to close the Public Hearing re: Proposed Zone Change, #201500322, 874 Federal Rd., to go from Town Center District to Incentive Housing District Overlay Perimeter Sub-Zone. Commissioner D'Entremont seconded the motion, and it carried unanimously.

6) Old Business:

a) Medical Marijuana Moratorium #201300956:

Acting and Vice Chairman Grimes advised that the moratorium must be extended, and a public hearing set to extend it for a year. He explained that this is being done in response to the State establishing legislation regarding medical marijuana facilities.

Secretary Lollie moved to extend the Medical Marijuana Moratorium to July 15, 2015. Commissioner D'Entremont seconded the motion, and it carried unanimously.

Acting and Vice Chairman Grimes moved to set a Public Hearing for Thursday, July 9, 2015, at 7:30 p.m., with respect to a proposed one-year extension of the Medical Marijuana Moratorium. Secretary Lollie seconded the motion, and it carried unanimously.

b) 17 Long Meadow Hill Rd #201500366: Solar Array

Continued. Commissioner D'Entremont noted that the applicant sent a letter advising that he was meeting before the Historic District Commission this evening.

c) 476 Candlewood Lake Rd (Brookfield Bay Marina) #201500367: Site Plan Modification for the repair of a shed roof and fixing of water issues (dec date 7/17/15)

Continued.

d) 131 Tower Rd #201400996 (DiGrazia Vineyards):

Continued.

7) New Business:

a) 537 Federal Rd (Babu's Jerk Joint) #201500442: Request for additional temporary event dates for live music on 6/26/15, 7/31/15, 8/28/15 9/25/15, 10/30/15. The hours of the events are 7:00 pm - 11:00 pm

No one present at first call.

Thesa Vaughan, 537 Federal Rd., was present. She advised that she would like to have some concert events outside. The food will not be prepared outside. Ms. Vaughan is aware that amplifiers cannot be used, and that two special events are allowed annually. She would like to have the events on the last Fridays of the month, from 7-11 p.m. ZEO Dew read Section 242-501(l)(6) of the regulations. Upon inquiry from Secretary Lollie, Ms. Vaughan indicated that the music would involve either a DJ or a 4-piece band. Due to the practice of a DJ using an amplifier, Ms. Vaughan offered to forego that type of music. Acting and Vice Chairman Grimes requested that the applicant write the specific details of the music on the application, which she did. ZEO Dew advised that while two special events are allowed, more may be permitted by the Commission. Secretary Lollie indicated he would prefer to see how the first couple of events go, and requested that the hours for the events be changed to 6-10 p.m. The hours were changed on the application. It was noted that the site is in a commercial zone, and the apartments across the street are soundproof.

Commissioner D'Entremont moved to approve #201500442, 537 Federal Rd., for five outdoor events, 6-10 p.m., for a four-piece band, with no amplifiers. Acting and Vice Chairman Grimes seconded the motion, and it carried unanimously.

- b) 499 Federal Rd #201500475: Certificate of Zoning Compliance for a U-haul Rental business
J. Marazino and P. Burrachio were present. The application and parking chart have been completed. The business is for auto rental and office, with 4-5 trucks, 2 vans, a pick-up truck and a box truck. Parking details were reviewed, and it was noted that there will be 6-7 spots for employee vehicles and trucks. Secretary Lollie pointed out that the site abuts the aquifer, and the applicants advised that trucks will use gasoline fuel, not diesel. It was further noted that all commercial vehicles will have to park in the rear. Upon inquiry from Acting and Vice Chairman Grimes regarding delivery trucks, the applicants advised that deliveries (UPS, etc.), will come to the front of the building.

Commissioner D'Entremont moved to approve #201500475, 499 Federal Rd., a Certificate of Zoning Compliance for a U-haul Rental business. Secretary Lollie seconded the motion, and it carried unanimously.

- c) Moratorium on Apartments and Multi-family dwellings: Discussion
Acting and Vice Chairman Grimes reviewed what occurred during the 1990's and the use of a "condo cap". ZEO Dew advised that she enclosed in the after-the-fact packets references to applicable case law. An application would have to be completed for the change to the regulations. Acting and Vice Chairman Grimes suggested that the Commission obtain information from whomever was Town Counsel during the previous "condo cap" discussions.

Acting and Vice Chairman Grimes moved to schedule a Public Hearing for a Proposed Amendment to Section 242-505m of the zoning regulations, for July 9, 2015, at 7:30 p.m., following the other public hearing that night, and to authorize Secretary Lollie to file the application on behalf of the Commission with the Land Use Office on June 12, 2015. Commissioner D'Entremont seconded the motion, and it carried unanimously.

8) Tabled Items:

None.

9) Informal Discussion:

- a) Discussion of Site Plans, Special Permits and A-2 Surveys
To be discussed at the next meeting.
- b) Accessory Apartments: Discussion
It was noted that sample regulations from other municipalities (Bethel, Fairfield and New Fairfield) were received. Acting and Vice Chairman Grimes expressed his satisfaction with the wording in the Bethel regulation. He noted that the inclusion of a public hearing in the some special permit process causes unnecessary delay from certain matters. He still believes that the notification of neighbors is important. It was suggested that this discussion be continued with a full Commission, and listed under "Old Business" at the next meeting.

10)Comments of Commissioners:

Commissioner D'Entremont noted that the applicant for 117 Long Meadow had to go before the Historic Commission tonight, which prevented his attendance at this meeting.

Acting and Vice Chairman Grimes advised he would send an email to the Commissioners not present tonight, and advise them of the importance of their attendance at the next meeting.

11)Adjourn:

Commissioner D'Entremont moved to adjourn the meeting at 8:21 p.m. Secretary Lollie seconded the motion, and it carried unanimously.