

**APPROVED MINUTES  
BROOKFIELD ZONING COMMISSION  
Thursday, June 14, 2012 – 7:00 p.m.  
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

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**1. Convene Meeting**

Acting and Vice Chairman Blessey convened the meeting and established a quorum of members.

**Present:** Chairman W. Mercer (arrived at 7:01 p.m.), Vice Chairman R. Blessey, Secretary F. Lollie, Alternate and Voting Member J. Varda

**Absent:** C. Lynch, M. Grimes, Alternates R. Ziembicki and J. Cordisco

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

**Vice Chairman Blessey moved to go to Agenda Item 7.a. Chairman Mercer seconded the motion, and it carried unanimously.**

**7. New Business:**

**a. 39 Federal Road #201200496: Site Plan Modification to remove peaks from building and add glass fronts (dec date 8/18/12)**

1. Map titled "Proposed Renovations – Front Elevation" prepared by Gordon Edward Johnson dated 5/30/12 revised 6/4/12 – sheet 1

- "Plan, Side Elevation" dated 5/30/12 revised 6/4/12 – sheet 2

*Gordon Johnson, Architect, Stamford, CT, was present, on behalf of the property owner/applicant.* He reviewed a photograph of the property, and indicated that the site plan modification includes the deletion of peaks and a straightening of the front center of the building. Mr. Johnson advised that the middle five bays are six feet wide, and the front entrance configuration may change depending on the tenant. He reviewed the proposed building materials and the square footage for the sign. Mr. Johnson advised that the roof will either be patched with the same material, or entirely replaced. He referenced a similar project he completed at the Howard Johnson's in Mystic, Connecticut.

Upon inquiry from the Commission members, Mr. Johnson advised that the current owner has had the building for four years, and there will be no change in the footprint of the building. Additionally, at this time, there is no potential tenant for the building.

**Vice Chairman Blessey moved to approve 39 Federal Road, #201200496: Site Plan Modification to remove peaks from building and add glass fronts. Commissioner Varda seconded the motion, and it carried unanimously.**

**b. 235 Federal Road #201200495: Site Plan Modification for an ice cream cart 5' x 4' (dec date 8/18/12)**

1. Map showing site of ice cream cart handed into Land Use 6/6/12

*J. Chellapyra, 235 Federal Rd. was present.* He is proposing to sell ice cream outside of his current business at this site. There was discussion regarding the parking spaces, current use, and square footage of the building. Five parking spaces were noted on the application and initialed by Mr. Chellapyra. The ice cream cart is 5' X 4', and it will not stay outside overnight, nor will it be present in the winter season.

**Vice Chairman Blessey moved to approve 235 Federal Road, #201200495: Site Plan Modification for an ice cream cart 5' X 4'. Secretary Lollie seconded the motion, and it carried unanimously.**

**8. Tabled Items:**

**a. 58 Riverford Road #200700761: Request for Final Bond Release of \$1,800**

ZEO Dew advised that she inspected this site. **Vice Chairman Blessey moved to recommend to the Board of Selectmen to release the bond in the amount of \$1,800.00 for 58 Riverford Road, #200700761. Secretary Lollie seconded the motion, and it carried unanimously.**

**4. Review Correspondence**

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 5/14/12, 5/21/12, 5/23/12 special; Zoning Board of Appeals; Planning Commission 5/17/12; Zoning Sub-Committee**
- b. Letter from Debbie Rizzo, JAR Assoc. to Zoning Commission dated 5/30/12 Re: 107 Vale Road

1. Memo from Alice Dew to Zoning Commission dated 5/24/12 Re: 107 Vale Road D. Rizzo, JAR Associates, was present. Her letter (listed above), as well as ZEO Dew’s memorandum in response, was reviewed. Vice Chairman Blessey concluded that the annual permitting will still be required because the permit was granted as a “special exception” in the aquifer protection zone.

There was discussion regarding whether the work proposed with the permit would be completed. Mrs. Rizzo indicated that the applicant has spent recent time on the upper portion of the parcel (“Maria’s Court”). Vice Chairman Blessey advised her that the current approval is good through 2017, and there is no guarantee that it will be extended every year without good reason. Mrs. Rizzo indicated that she did not receive a copy of the recent approval in the mail. A. Dew will check with Land Use Office staff and get Mrs. Rizzo a copy of what she needs.

**6. Old Business:**

- a. **37 Vale Road (CW Canfield) #201200415: Site Plan Modification to add a storage garage (dec date 7/28/12)**

*C. Canfield, 37 Vale Rd., was present.* Chairman Mercer reviewed that the applicant is requesting approval for a storage garage constructed of two storage containers with a tent over the top. Chairman Mercer noted that regulations prohibit storage containers. The Building Department has advised Mr. Canfield that if an engineer signed off on the storage garage, it would be approved. Mr. Canfield indicated that he is not applying for a permit to construct a building because he may try to sell the property, and putting a building there would de-value the property. He advised that the storage container structure is the least expensive option and can be easily removed.

The Commission members reviewed the regulations for the zone as they relate to tents, and it was noted that tents are not permitted nor prohibited.

Commissioner Varda noted that the only thing the applicant has submitted related to the application is a photograph. No elevations or materials have been submitted. ZEO Dew pointed out that after three years, the storage garage will become pre-existing and non-conforming. It was further noted that it meets the setbacks and is not in the wetlands. The siding was noted on the map and initialed by Mr. Canfield.

**Vice Chairman Blessey moved to approve 37 Vale Road, #201200415, as amended to incorporate Texture 111 siding painted on the outside of the storage containers. Commissioner Varda seconded the motion, and it carried unanimously.**

*Chairman Mercer called a five minute recess at 7:34 p.m. The meeting reconvened at 7:40 p.m.*

**2. Show Cause Hearing:**

**a. 1 High Ridge Road: File #201200370** – Chairman Mercer explained that the Cease and Desist is the result of a complaint from the property owner at 22 Beech Tree Road regarding debris on the site. *Dr. S. Zaky, 1 High Ridge Road, was present.* He claimed that the alleged debris is construction materials related to a pool renovation that he just received permits for (renovation of existing structures). He advised that the pool is existing since 1960, and the masonry wall is a fence that he installed, to replace another fence around the pool. Upon further inquiry, he explained that the fence is continuous with an opening where a door will be. Dr. Zaky advised that the pool does not have water in it because it has a crack that was caused by hydrostatic pressure. He acknowledged that there are building materials in the back yard.

Secretary Lollie inquired if an engineer has certified that the crack in the pool was caused by hydrostatic pressure, and Dr. Zaky advised that an engineer has certified this, however, he does not have the documentation with him.

Dr. Zaky reiterated that the debris is material that is meant to finish up a structure that is existing. He attempted to show a photograph and discuss another property but was advised that the discussion must stay relevant to this violation.

**Vice Chairman Blessey moved to uphold the Cease and Desist Order for 1 High Ridge Road, #201200370. Secretary Lollie seconded the motion, and it carried unanimously.**

**1 High Ridge Road: File #201200372**

Chairman Mercer explained that his complaint relates to a torn tent/garage at 1 High Ridge Road. Chairman Mercer took a photograph of this structure from the road. Dr. Zaky advised that the ripped material has been removed.

**Vice Chairman Blessey moved to uphold the Cease and Desist Order for 1 High Ridge Road, #201200372. Chairman Mercer seconded the motion, and it carried unanimously.**

**1 High Ridge Road: File #201200374**

Chairman Mercer noted that this complaint relates to a light on Dr. Zaky's shed that shines on to the property at 22 Beech Tree Road. Dr. Zaky advised that the light has been there since 1986 and it turns on when there is motion.

**Vice Chairman Blessey moved to uphold the Cease and Desist Order for 1 High Ridge Road, #201200374. Secretary Lollie seconded the motion, and it carried unanimously.**

**b. 22 Beech Tree Road: File #201200375**

*Attorney Cava, 73 Southbury Rd., Roxbury, CT, was present, on behalf of the Marciniaks and the Harrisons.* It was noted that the complaint was filed by the property owner at 1 High Ridge Road, and relates to the occupation of trailer coaches and campers at 22 Beech Tree Road. Attorney Cava submitted copies of the materials he will be presenting this evening.

Upon inquiry from Vice Chairman Blessey, Attorney Cava advised that his client is not sleeping in the camper; it is not connected to the septic system, and is therefore, uninhabitable. Additionally, he indicated that his client sleeps in the house. Attorney Cava indicated that the vehicle is connected to the water supply for the occasional running of water to keep seals lubricated, so occasionally water may drain out.

The Commission inquired how often the vehicle leaves the site, and Attorney Cava explained the recent pattern of travel. Attorney Cava discussed the regulation's requirements for temporary trailers. He contends that the definition of "occupy" includes being hooked up to the sewer. He advised that the current and prior ZEO's determined that this vehicle was not connected to the sewer. Chairman Mercer advised that the temporary trailer regulation relates to construction projects. There was lengthy discussion regarding the definition of camper. Attorney Cava indicated he utilized an older version of the regulations in his review, because there is nothing in the current regulation that defines occupancy.

*Mr. A. Harrison, owner of the recreational vehicle, was present.* He advised that he and his wife do not sleep, cook, shower, occupy or use the bathroom facilities in the RV when it is parked on this property. Mr. Harrison stated he goes into the RV to do maintenance, late at night due to a sleep disorder. Chairman Mercer inquired why the bump outs are constantly present, and Mr. Harrison indicated it gives him more room to work.

Vice Chairman Blessey stated he does not see any clear evidence of occupancy, and questioned the relevancy of a sewer hook-up if the waste is being sanitarily disposed of. Mr. Harrison indicated that he occupies it when he goes camping at camping grounds.

*W. Schappert, 5 Chickadee Lane, was present.* He indicated that he wrote the regulation, and understands the definition of "occupy" to be "to live in".

**Vice Chairman Blessey moved to rescind the Cease and Desist for 22 Beech Tree Road, #201200375. Secretary Lollie seconded the motion, and it carried unanimously.**

**22 Beech Tree Road: File #201200376**

Chairman Mercer advised that this complaint was also filed by the property owner of 1 High Ridge Road, regarding the use of a trailer for storage of material at 22 Beech Tree Road. Attorney Cava explained that there are two trailers on the property. Photographs were reviewed. Attorney Cava indicated that the larger trailer holds tools that are related to the maintenance of the trailer as well as the vehicles that it carries. Vice Chairman Blessey indicated that if the Commission had the opportunity to inspect the site previously, the enforcement action would likely not have gone this far. ZEO Dew advised that she did inspect the trailer and found its contents to be related to automobiles.

**Vice Chairman Blessey moved to remove the Cease and Desist Order for 22 Beech Tree Road, #201200376. Secretary Lollie seconded the motion, and it carried unanimously.**

**22 Beech Tree Road: File #201200379**

Chairman Mercer explained that this complaint relates to the storage of a boat trailer outside of a designated drive. Photographs were reviewed. Vice Chairman Blessey stated that upon observing the property, he saw a boat sitting on gravel, which was consistent with the ZEO's inspection. Mr. Harrison advised that he has a Certificate of Occupancy for the two-car garage on the property.

**Vice Chairman Blessey moved to rescind the Cease and Desist Order for 22 Beech Tree Road, #201200379. Chairman Mercer seconded the motion, and it carried unanimously.**

Attorney Cava's argument outline was submitted for the general file.

**3. Land Use Enforcement**

**a. Enforcement Officer's Report:**

*ZEO Dew reported on the following:*

**Request for Voluntary Compliance**

**273 Whisconier Road, #201200123** – ZEO Dew advised that Mr. Herman provided a letter that went to the Board of Selectmen regarding a fee waiver for the Zoning Board of Appeals' application.

**28 Del Mar Drive, #201200421** – ZEO Dew advised that some of the trailers have been moved, and Vice Chairman Blessey agreed that there was only white truck at the site. This matter will remain on the report.

**22 Knollcrest Drive, #201200492** – This complaint involves blight. The property has recently been taken over by the Ridgefield Bank, and will be vacated by June 16, 2012. The septic is in need of repair. Vice Chairman Blessey advised that the grass has been cut.

**14 Knollcrest Drive, #201200493** – This matter involves broken chairs, tires, and garbage cans on the property. The RVC was sent and the property owner must comply by July 5, 2012.

**85 Ironworks Hill Road, #201200509.** – This complaint involves tires, tables, and bookshelves at the site; an RVC was sent yesterday.

**Cease and Desist Orders**

**37 Vale Road, #201200303** – See discussion above, Item 6.a.

**11 Nicole's Court, #201200331** – ZEO Dew inspected this site today and observed a van, a box truck and two boats in the front yard. The letter received recently from Mr. Mazur was reviewed. Vice Chairman Blessey and Chairman Mercer reviewed the lot configuration and easement issues. It was recommended that this item be forwarded to Town Counsel for interpretation of the relevant regulations.

**227 Federal Road #201200521** – ZEO Dew advised that this complaint is related to noise and hydraulic drilling. While attempting to determine if the source of the noise was coming from Costco or the Vasquez lot, she observed the cutting of stone on the latter's property. The business owner indicated it was a mistake on an employee's part and he would pay the fine. This matter will be kept on the report for ten days and if unresolved it will move to a Citation. The property owners of 227 are attempting to find another location for the business.

ZEO Dew will send an RVC to this property owner and J. Montesano at Costco to ensure that no materials are dumped prior to 7 a.m.

**Town Counsel Action**

**20 Station Road #200101116** – ZEO Dew advised there is a pile of material in the back of the building but she is unable to determine what it is without accessing the property.

**533 Federal Road, #2012000122** – The property owners did not respond to the deadline put forth by Cohen & Wolf. The Commission would like to commence action on this item. **Vice Chairman Blessey moved to advise Town Counsel to go forward with 533 Federal Road, 2012000122, Enforcement Action. Secretary Lollie seconded the motion, and it carried unanimously.**

**45 Riverford Road, #200900768** – ZEO Dew reported that there is nothing new on this item.

**1 High Ridge Road, #201000315** - This violation is going to be joined with the Inland Wetlands action. Vice Chairman Blessey will speak with Attorney Olson/

**9 Stoney Farm Lane, #201100095** – Vice Chairman Blessey will speak with Town Counsel regarding this matter.

**54 Ironworks Hill Road, #201100755** – Delivery was attempted and returned. Attorney Buchsbaum has advised that a temporary injunction can be served to the two addresses, and to seek an order for the Town to clean the site up. Chairman Mercer will call Attorney Buchsbaum, and Commissioner Varda will assist ZEO Dew with locating Mrs. Bouchard, who is using her maiden name.

b. **22 Beech Tree Road - File #201200491**

c. **22 Beech Tree Road - File #201200467: Property inspected and the violation does**

- not exist
- d. **22 Beech Tree Road – File #201200377: Property inspected and the violation does not exist**
- e. **22 Beech Tree Road – File #201200378: Property inspected and the violation does not exist**

This matter relates to drainage and storm water runoff. *Attorney Cava and Mr. A. Harrison were present.* Attorney Cava stated that nothing has been added or changed since it was installed in 1960. There was discussion regarding the regulation that prohibits diversion of water onto neighboring properties. Mr. Harrison indicated the only change to the property was when he built the house on it in 1990. The Commission will speak with Attorney Olson and will advise him not to take any further action as it has determined that any change to the property predated the drainage regulation, so it is pre-existing and non-conforming. The Commission has determined it is not a violation.

*W. Schappert, 5 Chickadee Lane, was present.* He commenced discussion with the Commission regarding the wording of Section 242-303A. Chairman Mercer read the regulation, and noted that there is no allegation that a change was made to the topography, and again, there is no evidence that any alterations were made.

**Vice Chairman Blessey moved to accept the ZEO's determination that 22 Beech Tree Road was inspected, and no violations were found with respect to activity numbers #201200467, #201200377 and #201200378. Secretary Lollie seconded the motion, and it carried unanimously.**

**Vice Chairman Blessey moved that no violation of Section 242-401E(2), drainage onto a neighboring property, exists with respect to drainage from 22 Beech Tree Road onto 1 High Ridge Road, because any drainage in place has been existing since 1960, therefore it predates the Zoning Regulations. Commissioner Varda seconded the motion, and it carried unanimously.**

Mr. Harrison inquired regarding the block wall and Vice Chairman Blessey explained the possible sequence of future enforcement.

**1. Convene Meeting (continued)**

- a. **Review Minutes of Previous Meetings: 5/17/22 – Vice Chairman Blessey moved to approve the Minutes of the May 17, 2012 meeting. Chairman Mercer seconded the motion. He noted the following corrections: On Page 1, under “Convene Meeting”, top of the page, fourth line down, to correct “Secretary” to “Absent”. Also on Page 1, under “Review Minutes of Previous Meetings:” in the first sentence of the motion, after “April 26, 2012” to add the word, “meeting”. Motion carried, 3-0-1, with Secretary Lollie abstaining.**

**5/24/12 – Vice Chairman Blessey moved to accept the Draft Minutes of the May 24, 2012 meeting of the Zoning Commission. Chairman Mercer seconded the motion. Motion carried unanimously.**

**5. Public Hearing: None**

**9. Informal Discussion:**

- a. None.

**10. Comments of Commissioners:** Vice Chairman Blessey made the Commission aware that when discussing proposed regulation changes at a public hearing, Commission members may make

suggestions regarding changes to the proposed language. The suggested changes can be proposed via a motion, and this process can be repeated until language is approved.

**11. Adjourn: Vice Chairman Blessey moved to adjourn the meeting at 9:10 p.m. Secretary Lollie seconded the motion, and it carried unanimously.**

**\*\*Next Regular Meeting Scheduled for June 28, 2012\*\***