

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING  
TOWN OFFICES COMMUNITY ROOM**

**April 12, 2005**

**Present**

JK: Jeff Kablik, Chairperson

JZ: Jeanne Zarba

CH: Cynthia Hanna

LG: Lucy Gertz, Vice Chair

HJ: Henry Jungmann

LC: Lori Capone, Director

BL: Brian Logue

RS: Robert Sherburne

LB: Laura Bride, Associate Member

**Absent**

FZ: Frank Zarba, Associate Member

Gloria Clancy, Clerk

**7:00 Meeting opened** by Jeff Kablik, Chairperson

**7:02 (7:05) Blair J. Finnegan, Tyngsboro Partners LLC – 169 Westford Road – Notice of Intent:** (Map 15, Parcels 13 and 8) (Continued from 11/9 & 12/28/04, 1/25, 2/8, 2/22 & 3/22/05) Construction of 92 detached condominiums with associated driveways, roadway and utilities some of which is within the 100 buffer zone and riverfront area. Joe Peznola of Hancock Associates was present to represent the applicant Blair J. Finnegan who was also present along with David Sears, both of Tyngsboro Partners LLC. The surveying work the Commission requested of the applicant at the last hearing has not been initiated. There was much discussion on what parameters the Commission wants the financial analyst to address when viewing the pro-forma. It was decided that the Commission would bring forth questions at the next meeting to define the scope of the financial review for discussion at which time the Commission would decide upon a reviewing consultant. JK asked if there were any abutters, there were none.

**HJ: Motion** to continue this hearing to April 26 at 7:02 PM

**RS: 2<sup>nd</sup>.**

**Unanimous 7-0.**

\* As another hearing is scheduled at this time I called Joe Peznola the next day who consented to continue the hearing to 7:30 PM.

**7:15 (8:00) Linnette Rivera – Lot 12 River Bend Road – Notice of Intent:** (Map 20B, Parcel 29, Lot 12) (Continued from 2/22/05) Installation of a dock along the Merrimack River, and proposed clearing of 25'x25' area for parking within the 200' Riverfront Area. The applicant has requested a continuance to finalize the plans.

**HJ: Motion** to continue this hearing to April 26 at 8:00 PM.

**RS: 2<sup>nd</sup>.**

**Unanimous 7-0.**

**7:30 (8:01) Applewood Construction Corp - 75 Lakeview Avenue – Abbreviated Notice of Resource Area Delineation:** (Map 25, Parcel 58) (Continued from 2/22/05) Verification of resource area delineations of bordering vegetated wetland, riverfront area of Lawrence Brook and flood plain area. Maureen Hanley of Norse Environmental Services represented the applicant. LC had revisited the site as requested at the last meeting. The stream that was in question was included in the delineation as depicted on the plan. This stream is not shown on the USGS maps and LC has no evidence to prove it to be perennial. LC explained that even if this stream were to be considered perennial, its associated riverfront area is almost completely encompassed within the Riverfront Area associated with Lawrence Brook and determining the status of the stream would not impact development of the subject parcel. JK asked for abutters. Elizabeth Coughlin, 61 Lakeview Avenue, questioned the draft minutes of the 3/22/05

Conservation Commission meeting as to the order of abutters being out of sequence and the omission of her comments regarding the perennial status of an abutting stream and if vernal pool characteristics of the parcel have been explored. LC explained minutes are not verbatim. JK asked LC to amend the minutes to reflect Ms. Coughlin's comments. Elizabeth Coughlin would like to contend the stream in question is perennial. JK explained we need evidence to substantiate the claim that the stream is perennial. Elizabeth Coughlin questioned whether the Commission's determination on the status of this stream precludes redesignating the stream in the future. LC explained an Order of Resource Area Delineation is valid for three years. Elizabeth Coughlin questioned how the floodplain was determined. Maureen Hanley explained it was determined according to the FEMA maps in which this area is a studied floodplain with specific elevations. Elizabeth Coughlin asked if stormwater calculations should be submitted at this time to determine impacts of groundwater patterns and quality. JK stated stormwater will be addressed under a Notice of Intent and will be reviewed by an outside consultant. Elizabeth Coughlin requested a qualified person go out and look for vernal pools and endangered fauna and flora. JK asked LC to do so.

**HJ: Motion** to continue this hearing to April 26 at 8:15 PM.

**RS: 2<sup>nd</sup>.**

**Unanimous 7-0.**

**7:45 Patricia McCann - 235 Pawtucket Blvd – Request for Determination of Applicability:** (Map 34, Parcel 28, Lot 0) Construction of an 8' x 16' deck located within the floodplain and riverfront area.

**HJ: Motion** to waive the reading of the Legal Notice.

**RS: 2<sup>nd</sup>.**

**Unanimous 7-0.**

**HJ: Motion** to waive the reading of the Abutter List.

**CH: 2<sup>nd</sup>.**

**Unanimous 7-0.**

Patricia McCann presented her project. JK asked for comments from the Commission and LC. There were none. JK asked for abutters. There were none.

**HJ: Motion** to close the hearing.

**BL: 2<sup>nd</sup>.**

**Unanimous 7-0.**

**HJ: Motion** to issue a Negative Determination of Applicability per plan.

**BL: 2<sup>nd</sup>.**

**Unanimous 7-0.**

\* Lucy Gertz stepped down for the next hearing as she is the applicant

**8:00 Lucille Gertz – 18 Willowdale Road – Notice of Intent:** (Map 27, Parcel 30, Lot 0) Installation of an above ground swimming pool within the buffer zone.

**HJ: Motion** to waive the reading of the Legal Notice.

**JZ: 2<sup>nd</sup>.**

**Unanimous 6-0.**

**HJ: Motion** to waive the reading of the Abutter List.

**JZ: 2<sup>nd</sup>.**

**Unanimous 6-0.**

Lucille Gertz presented her project. The pool is proposed 40 feet from a bordering vegetated wetland, she shall use a sand filter which is the most environmentally sound and backwashing

will be discharged outside the buffer zone. JK asked for comments from the Commission and LC. JK asked if there will be a deck. Mrs. Gertz explained that the design comes with a deck which does not require footings so there will be no additional ground disturbance and shall be located further away from the wetland resource area than the pool. BL asked if she will allow 48 hours after chlorination before backwashing. The applicant agreed. JK asked for abutters. There were none.

**BL: Motion** to close the hearing.

**RS: 2<sup>nd</sup>.**

**Unanimous 6-0.**

**JZ: Motion** to issue an OOC with condition of backwashing outside of the buffer zone and no sooner than 48 hours after chlorination.

**CH: 2<sup>nd</sup>.**

**Unanimous 6-0.**

\* Lucy Gertz returned to her seat on the Commission.

**8:15 Kevin Cashman – 299 Westford Road – Notice of Intent:** (Map 8, Parcel 48B, Lot 0) Construction of a new dwelling, barn, and their associated utilities within the buffer zone and riverfront area.

**HJ: Motion** to waive the reading of the Legal Notice.

**CH: 2<sup>nd</sup>.**

**Unanimous 7-0.**

**HJ: Motion** to waive the reading of the Abutter List.

**JZ: 2<sup>nd</sup>.**

**Unanimous 7-0.**

Kirk Fitzpatrick of Civil Solutions represented the applicant Kevin Cashman who was also present. Mr. Fitzpatrick would like to add updating the driveway crossing as part of the application and submitted additional details on the crossing. The applicant would like to remove the existing crossing made of timbers and install two 30-inch corrugated steel culverts 6 inches apart and backfill with gravel. The applicant shall install floating erosion barriers along the downstream side of the crossing to prevent erosion. LC asked if the crossing will be completed before machinery is allowed to enter the site. Mr. Fitzpatrick agreed. JK asked for abutters. Rick Deleo, 4 Canter Road, questioned whether the crossing is sized properly. Mr. Fitzpatrick said new crossing will be the same size as the existing but shall verify with cross section calculations of existing versus proposed crossing.

**HJ: Motion** to continue this hearing to April 26 at 8:30 PM.

**BL: 2<sup>nd</sup>.**

**Unanimous 7-0.**

#### **Other Business:**

- ❖ Attorney Zaroulis would like a response from the Commission as to whether we are interested in owning the remaining portion of Massapoag Road which shall be restricted to pedestrian traffic only. The Commission has no interest.
- ❖ Members signed a letter to the Selectmen requesting the Greene Property be placed under a Conservation Restriction.
- ❖

- ❖ JK signed a letter to the Town Accountant regarding the Vesper Development Conservation Fund requesting the monies expended be returned.
  
- ❖ **Director's Determination for Kathleen Cayer - 18 Althea Avenue.** The owner has requested permission to resurface their driveway with recycled pavement located 50 feet and across the street from a bordering vegetated wetland.  
**HJ: Motion** to approve the Director's Determination for 18 Althea Avenue.  
**JZ: 2<sup>nd</sup>.**  
**Unanimous 7-0.**
  
- ❖ **Director's Determination for Patrick Pendergast – 51 Riverbend Road.** He has requested permission to construct an 8' x 6' addition on an existing impervious area located 85 feet from the Merrimack River.  
**HJ: Motion** to approve the Director's Determination for 51 Riverbend Road.  
**CH: 2<sup>nd</sup>.**  
**Unanimous 7-0.**
  
- ❖ **Director's Determination for Pysey Soth - 75 Danforth Road.** The owner has requested permission to install a 10' x 12' shed on 6 sonar tube footings located 90 feet from a bordering vegetated wetland on an existing lawn area.  
**HJ: Motion** to approve the Director's Determination for 75 Danforth Road.  
**RS: 2<sup>nd</sup>.**  
**Unanimous 7-0.**
  
- ❖ **Director's Determination for Paul MonLeon - 25 River Bend Road.** The owner has requested permission to remove two trees within the Riverfront Area, a maple located on the bank of the Merrimack River and a pine tree located 175 feet from the River. No debris shall be allowed to drop in the River and the stumps shall remain.  
**HJ: Motion** to approve the Director's Determination for 25 River Bend Road.  
**JZ: 2<sup>nd</sup>.**  
**6 Yeas; 1 Nay (BL).**
  
- ❖ Leon Constantine – 401 Dunstable Road: LC explained he has cleared a lot of trees with the Riverfront Area and buffer zone which was not allowed under his Order of Conditions. The Commission wants Mr. Constantine to file a Notice of Intent for the May 10<sup>th</sup> meeting.

**HJ: Motion** to adjourn.

**RS: 2<sup>nd</sup>**

**Unanimous 7-0.**

Meeting adjourned at 9:58 P.M.

Respectfully submitted by Lori Capone, Director