

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING TOWN
OFFICES COMMUNITY ROOM
May 24, 2005**

Present

JK: Jeff Kablik, Chairperson BL: Brian Logue LC: Lori Capone, Director
RS: Robert Sherburne HJ: Henry Jungmann Gloria Clancy, Clerk
CH: Cynthia Hanna LG: Lucy Gertz, Vice Chair (*came in at 7:30PM*)

Absent

JZ: Jeanne Zarba FZ: Frank Zarba, Associate Member
LB: Laura Bride, Associate Member

7:00 Meeting opened by Jeff Kablik, Chairperson

The first two hearings were opened together as they are related and both are to be continued.

7:02 Missick Realty Trust – 100 Massapoag Road – Notice of Intent: (Map 3, Parcel 4) (Continued from 5/25, 6/8, 7/27, 9/28, 10/26, 11/9/04 and 1/25, 3/22 & 4/26/05) Proposed five (5) lot residential subdivision with driveways, grading, grass swale and associated utilities within the buffer zone. LC had met with the applicant, his representatives and Jeff Rider on May 6th to go over Howe’s concerns. The applicant needs to submit a revised Notice of Intent to clearly define which activities are being permitted under which Order of Conditions. The applicant is requesting a continuance until the next meeting.

7:05 Missick Realty Trust - Massapoag Roadway – Notice of Intent: (Map 3, Parcels 2,3,4,4-4,4-5,4-6 & 4-7) (continued from 3/22 & 4/26/05) Proposed roadway improvement, parking, drainage, grading, and associated utilities within the buffer zone of Lake Massapoag and the 200’ riverfront area of a perennial stream. (See above comments).

HJ: Motion to continue these hearings to June 14 at 7:02 and 7:05 respectively.

RS: 2nd

Unanimous (5-0)

Other Business:

❖ **Director’s Determination for Joe Caggliano – 273 Middlesex Road:** Request to remove 5 trees from an area of his *Used Car Lot*. LC explained that 3 of the trees are dead saplings, the other two are large red maples, one is leaning over the lot and limbs are falling on the cars. LC doesn’t see any good reason to cut the other maple.

HJ: Motion to approve the Director’s Determination for Joe Caggliano – 273 Middlesex Road to remove 4 of the trees from the lot.

RS: 2nd.

Unanimous (5-0)

❖ **Director’s Determination for Robert Wheeler – 2 Geraldine Place:** Request to place an 8’x 15’ shed on a concrete pad 94’ from Massapoag Pond. The location is flat and is presently lawn. He will dig the area for the pad by hand and the concrete truck will stay on the roadway.

HJ: Motion to approve the Director’s Determination for 2 Geraldine Place.

RS: 2nd.

Unanimous (5-0)

- ❖ **Director's Determination for Adam Bowen – 58 Chestnut Road:** Request to place a shed on blocks 45' from a wetland.
HJ: Motion to approve the Director's Determination for 58 Chestnut Road.
RS: 2nd.
Unanimous (5-0)
- ❖ **Director's Determination for Betsy McCarthy– 8 Elm Street:** Request to place an above ground pool 60' from a wetland. LC told the members that she informed the applicant that all pools need to have a hearing, but she insisted on trying to get it approved as a Determination. She is in a hurry. The members agreed that the applicant would need to file and have a hearing. No vote was taken.
- ❖ LC asked the members to add to the *Regulations* a regulation that all revised plans must be submitted at least one week prior to hearing or continue to allow time to review the revisions. She has been getting revised plans as late as the day of a hearing. It is impossible to visit the site and review changes in time to report on them.
HJ: Motion to make it a Policy that all revised plans be submitted at least one week prior to hearing.
RS: 2nd.
Unanimous (5-0)
- ❖ The draft Regulations will go before Town Counsel one more time and then we will file them with the Town Clerk and advertise a hearing and vote on them at the next meeting.

HJ: Motion to approve the minutes of 4/12/05.

RS: 2nd.

Unanimous (5-0)

- ❖ LC referred to several items in the members' folders: Several lengthy correspondences with Town Counsel regarding Grant Reimbursements, ADA compliance for Conservation/Recreation Lands, Land Management Plans, Conservation Restrictions, Self Help Project Agreement; Informational Package from The Department of the Army Programmatic General Permit and one on the new Massachusetts River and Stream Crossing Standards: Technical Guidelines, both of which she will be attending upcoming seminars on; and a letter from the Trustees of Reservations reporting on their recently conducted routine monitoring inspection of the Sherburne Property.

7:30 & 7:35) 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, 4/12 & 4/26/05) Construction of 92 detached condominiums with associated driveways, roadway and utilities some of which is within the 100 buffer zone and riverfront area. LC said we are in receipt of a request for a continuance. She met with David Sears, Joe Peznola and David Sanderson out on site on May 6th to review the stream delineation that was performed. Many changes need to be made. There were some areas that need to be redelineated. CH asked about the fact that the project site is listed in the Inventory of Historic and Archeological Assets of the Commonwealth. LC commented that as of 5/6 the applicant was still awaiting a permit from the Massachusetts Historical Commission to determine what kind of survey should be conducted for the project site. The applicant needs to coordinate any such surveys with the Conservation Commission if within the buffer zone or riverfront area.

HJ: Motion to continue this hearing to June 28 at 7:02 PM.

BL: 2nd

Unanimous (6-0)

7:45 Linnette Rivera – Lot 12 River Bend Road – Notice of Intent: (Map 20B, Parcel 29, Lot 12) (Continued from 2/22, 3/8, 3/22, 4/12 & 4/26/05) Installation of a dock along the Merrimack River, and proposed clearing of 25'x25' area for parking within the 200' Riverfront Area. Linnette passed out newly stamped plans. One of the issues had been the fact that the engineer that did her plan, Russell Wilson, had allowed his license to lapse. He has since renewed it, however she had Bob Elliott, of the same engineering company, go out to the site and verify the plan and stamp it. She also gave us copies of valid licenses of both men. LC said the abutters had hired a surveyor to verify location of the floodplain and an abutter's septic system. It is not ready. It was agreed however that the references used and the flood plain elevations shown on the plan were arrived at in a valid way. JK asked for member comments. There were none. He opened the hearing to abutters. Jane Pirkle of 5 River Bend Road came forward and told the members that the abutters appreciate all of their efforts and realize that theirs is a thankless job. She then proceeded to tell them that she had attended the Board of Selectmen's meeting last night and passed out a copy of a formal letter of complaint that she gave the Selectmen. She also passed out copies of two other letters addressed to the Conservation Commission itemizing abutter complaints and citing statutes that they feel have been ignored or broken. She read all of the letters aloud. JK said that he would not comment on all of it right now, except that he apologized for appearing insensitive to their concerns. He said he would address their issues at a later date, as it is a lot to read and think about. JK opened the floor to the other members. HJ said it seems the abutters are making assumptions on the outcome of the hearing and reminded them that no vote has been taken and no Order of Conditions has been issued as yet. As to comments that we don't follow our own By Laws, he said that we follow Town Counsel's advice and certain things are kept as "Policy" as oppose to 'By Law', so that we can use our judgement to waive certain things. JK said to keep in mind that our decisions would be based on the impact to the resource area. Other abutters who spoke included Kurt Peredina, Barbara Monleon, and Donna Peredina. Elizabeth Coughlin commented that although not an abutter, she has been present at several of the hearing, and finds it odd that there is so much discussion regarding the parking lot, and no discussion regarding the dock.

HJ: Motion to continue this hearing to June 14 at 7:15 PM.

RS: 2nd.

Unanimous (6-0)

8:00 (8:20) Applewood Construction Corp - 75 Lakeview Avenue – Notice of Intent: (Map 25, Parcel 58) Proposed single family dwelling, deck, driveway, grading and associated utilities within the buffer zone and Riverfront Area of Lawrence Brook. Maureen Hanley of Norse Environmental Services, Inc., and Jim Harrington were present. Maureen passed out a revised plan and cover letter. She explained some of the changes. They have moved any encroachment out of the 100' Riverfront Area. The erosion controls will follow the 100' line to ensure no encroachment into the inner riparian zone. LC commented that she just received the revised plan today and hasn't finished reviewing it. However she did comment that as the project proposed 22,000 S.F. of disturbance to the riverfront area, 6.5% of the total riverfront area on the mother lot, depending on how much alteration to the riverfront area the rest of the subdivision proposes, we may want a deed restriction be placed on this lot, as well as any lot within the subdivision which possesses riverfront area, to ensure no more than 10% alteration of the total riverfront area of the mother lot in not exceeded in perpetuity. The erosion controls should consist of silt fence and haybales not just haybales as depicted. Since this lot is being subdivided from the mother parcel, which will be further subdivided soon, LC questioned whether this filing should provide the Commission with a \$100 bylaw fee for a lot within a subdivision. Mr. Harrington said they would pay it. HJ questioned if a wildlife habitat study should be performed to ensure that the proposed

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work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. LC said that is up to the discretion of the members. JK opened the hearing to abutters. Randy Dean, 57 Lakeview Avenue, and Elizabeth Coughlin, 61 Lakeview Avenue, are very concerned about the present and additional stormwater runoff. Elizabeth said there is already ponding occurring on that lot. She would like to see use of low impact development techniques. Maureen said she would speak to the engineer about that. HJ would like to have the applicant arrange to block off the access for 4-wheeler traffic to get in by the brook.

LG: Motion to continue this hearing to June 14 at 7:30 PM.

HJ: 2nd.

Unanimous (6-0)

8:15 (8:50) Ken Peterson – 3 Bryants Lane – Notice of Intent: (Map 20, Parcel 22) Proposed above ground pool with deck located within the buffer zone.

HJ: Motion to waive the reading of the abutter list.

BL: 2nd.

Unanimous (6-0)

HJ: Motion to waive the reading of the legal ad.

BL: 2nd.

Unanimous (6-0)

Mr. Peterson was present. LC told the members that the proposed above ground swimming pool with deck located would be located 60' from the wetlands located in the rear of the property. Silt fence and haybales shall be installed around the project area to protect the resource area from siltation. The applicant will be using an environmentally sound sand filter and shall backwash outside the buffer zone. She does not feel this project will impact the wetland resource area. JK asked for member/abutter comments. There were none.

HJ: Motion to close the hearing.

BL: 2nd.

Unanimous (6-0)

HJ: Motion to issue an OOC for the above ground pool using an environmentally sound filter and backwashing outside the buffer zone.

BL: 2nd.

Unanimous (6-0)

8:30 (8:55) Martin Kelley (for Tyngsborough Sportsmen's Club) – 90 Westford Road – Notice of Intent: (Map 21, Parcel 5) Proposed construction of an Indoor Pistol Range within the 200' Riverfront Area of an unnamed perennial stream.

HJ: Motion to waive the reading of the abutter list.

BL: 2nd.

Unanimous (6-0)

HJ: Motion to waive the reading of the legal ad.

BL: 2nd.

Unanimous (6-0)

Mr. Kelley presented his plan and explained that some of the Sportsmen's Club members had begun clearing some trees prior to this filing. They were ignorant of the fact they needed to wait for permission. LC said that they did not disturb any area outside of the footprint of the proposed 91'x26'

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building. The Commission waived the additional fee for “After the Fact” filing. LC told the members that the perennial stream is located about 155 feet from the project. The riverfront area, on site has been previously disturbed, however, this portion of the inner riparian zone where the project is proposed is presently undisturbed, and therefore, per 310 CMR 10.58(4)(d) shall remain undisturbed. The applicant is providing *Cultec-Contractor 100 roof drains* to treat run-off generated from this new building to meet stormwater management. Silt fence and haybales should be installed along the new tree line to protect the wetland resource area from siltation. Minimal grading and no further tree removal will be done. JK asked for member/abutter comments. HJ thinks they should replant a few trees or shrubs. Elizabeth Coughlin said she is a member of the club, and that they have been waiting a long time to get this project underway.

HJ: Motion to close the hearing.

RS: 2nd.

Unanimous (6-0)

HJ: Motion to issue an OOC for the indoor pistol range at 90 Westford Road per plan dated 4/4/05, with conditions: 1.) That 3-5 trees or shrubs are planted between the new building and the wetland resource area. 2.) Silt fence and hay bales are installed at the existing tree line.

RS: 2nd.

Unanimous (6-0)

8:45 (9:05) Urbano Laurencio – 82 Chestnut Road - Notice of Intent: (Map 8, Parcel 16) Repair of existing septic system in the buffer zone.

HJ: Motion to waive the reading of the abutter list.

RS: 2nd.

Unanimous (6-0)

HJ: Motion to waive the reading of the legal ad.

RS: 2nd.

Unanimous (6-0)

This filing is an after-the-fact for the emergency permit issued last meeting for the septic system. LC said the system is presently being installed and everything looks good.

HJ: Motion to close the hearing.

RS: 2nd.

Unanimous (6-0)

HJ: Motion to issue an OOC for the project at 82 Chestnut Road.

RS: 2nd.

Unanimous (6-0)

HJ: Motion to adjourn.

RS: 2nd.

Unanimous (6-0)

Minutes taken and respectfully submitted by Gloria Clancy, Clerk