

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN HALL COMMUNITY ROOM
August 9, 2005**

Present

HJ: Henry Jungmann, Chairperson JZ: Jeanne Zarba LC: Lori Capone, Director
RS: Robert Sherburne, Vice Chair CH: Cynthia Hanna GC: Gloria Clancy, Clerk
LG: Lucy Gertz JK: Jeff Kablik (came in at 7:06)

Absent

BL: Brian Logue, Associate Member FZ: Frank Zarba, Associate Member

7:00 Meeting opened by Henry Jungmann, Chairperson

7:02 Kim and James Hapenny - 9 Cedar Lane - Notice of Intent: (Map 26, Parcel 145)
(Continued from 7/12 & 7/26/05) Installation of a 4' x 10' removable dock along the shore of Lake Mascuppic. This hearing had to be continued because DEP had not issued a number for it prior to the last meeting. LC told the members that we now have a DEP# for the filing. HJ asked if there were any questions from members/abutters. There were none.

LG: Motion to close the hearing.

JZ: 2nd.

Unanimous (5-0)

JZ: Motion to issue an OOC for 9 Cedar Lane for a 4' x 10' dock.

LG: 2nd.

Unanimous. (5-0)

Other Business:

❖ **Director Determination** for John Modrich – 9 Robinhood Road – Permission to replace an existing porch on a concrete slab with a 37' x 15' addition. Half of the addition will be over the slab area and the existing driveway. The other half on what is presently lawn. He will replace the slab with a full foundation. The closest point will be 69' from an intermittent stream. The area is fairly flat. HJ asked for discussion. There was none.

CH: Motion to approve the Director Determination for 9 Robinhood Road.

RS: 2nd.

5 Yeas. 1 Abstain (JK came in near end of presentation).

❖ **Director Determination** for Maple Ridge Real Estate Dev. Corp. Sewer Line for the Ch.40B project at 24 Old Tyng Road. LC explained that the Commission previously approved the use of PVC cast in concrete within the buffer zone. The Sewer Superintendent has requested that be changed to Ductile Lion with fasteners. He feels that because the line in the buffer zone areas will be within the frost line the concrete could crack and then the PVC would probably also be compromised. That would not happen with Ductile Lion. The members agreed.

JK: Motion to approve the Director Determination for 24 Old Tyng Road, Maple Ridge Sewer Line.

JZ: 2nd.

Unanimous (6-0).

❖ **Director Determination** for Kerry Sheehan – 22A Flint Road – LC explained that the owner wants to replace an existing deck and expand it by 10’ off to the sides of the existing deck. The closest point to the pond would be no closer than it is at present, 27’. She showed a plan to the members. The owner will hand dig 4-5 more sonar tube footings.

JZ: Motion to approve the Director Determination for 22A Flint Road.

JK: 2nd.

Unanimous (6-0)

❖ **David Sears and Joe Peznola** were present to speak with the Commissioners regarding some of the contingencies on the issuance of the Order of Conditions for **Wynbrook at Tyngsboro**. HJ told them that we did not receive the updated plan until this morning and LC should not be expected to review and report on it this quickly. She did, however, find some inconsistencies with the portions of the plan that she had reviewed. There was discussion. Joe apologized for the delay and the errors. He will meet with LC tomorrow and go over all of her concerns, and make sure the new plan is exactly as the Commission has agreed upon. LC also said that we have received a check to cover the Bylaw fees for the for the units, but there is still the matter of the Bylaw fees for the roadway. Mr. Sears said that will also be corrected tomorrow.

7:15 (7:25) Applewood Construction – (previously Lot 4, now Lot 8) Sleepy Hollow – Notice of Intent: (Map 25, Parcel 58) (Continued from 7/26/05) Proposed construction of a single family dwelling, driveway, roof infiltrator, deck, grading and associated utilities within the buffer zone. Maureen Hanley of Norse Environmental Services, Inc. reminded the members of her presentation at the last meeting, and that there seemed to be no issues outstanding except that DEP had not issued a number. We are now in receipt of a number. HJ asked for discussion, and then opened to abutter comments. Elizabeth Coughlin and Randy Dean repeated their concern over drainage. HJ told them that could be discussed during the hearing for the sub-division. LC reminded them that there would be a condition that the driveway be graded towards the cul-de-sac so its associated run-off will be treated. They also brought up the subject of the old shed/stable. They feel that it should be removed. Maureen referred to a letter dated August 9 from the engineer regarding some changes to the Builder’s Lot numbers. Lot 4 is now Lot 8 and Lot 5 is now Lot 7.

JK: Motion to continue the hearing for Sleepy Hollow Lane Lot 8 (formerly Lot 4) to August 23rd at 7:30 P.M.

JZ: 2nd.

Unanimous (6-0).

7:30 Applewood Construction – Sleepy Hollow Subdivision – Notice of Intent: (Map 25, Parcel 58) (Continued from 7/26/05) Proposed roadway, Sleepy Hollow Lane, drainage, grading and associated utilities within the buffer zone. Maureen Hanley presented. Again most of the issued were discussed at the last meeting. Approximately the last 37 feet of the cul-de-sac falls within the buffer zone. The drainage design and calculations were reviewed by the Planning Board’s engineer to ensure compliance with DEP Stormwater Management. LC referred to a letter dated August 3, 2005 from the engineer in which he refers to his report dated August 1 and says he has no technical issues with the plans or drainage design. Some conditions we discussed at the last meeting were: 1) Permanently blocking off the existing gravel path to 4-wheeler traffic; and 2) A permanent deed restriction be placed on Lots 6, 7, 1B and 5A (previously known as lots 5, 6, 7 and 8) to ensure no additional impact to the riverfront area in perpetuity. HJ opened the discussion to

abutters. Randy Dean brought up the subject of the shed again. Not only because it is a safety hazard, but also some future owner may want it removed, and they would have to come before us to do so. Or they might also wish to build there, and claim the footprint is “grandfathered”.

Maureen said that at present the applicant has no intention of removing the shed, but that she will speak to him about removing it.

JK: Motion to close the hearing.

LG: 2nd.

Unanimous (6-0).

JK: Motion to issue an OOC for Sleepy Hollow Sub-division at 75 Lakeview Avenue per revised plan dated 8/1/05 and the following conditions: 1.) Permanently blocking off the existing gravel path to 4-wheeler traffic; and 2.) A permanent deed restriction be placed on Lots 6, 7, 1B and 5A (previously known as lots 5, 6, 7 and 8) to ensure no additional impact to the riverfront area in perpetuity.

JZ: 2nd.

Unanimous (6-0).

7:35 (7:49) Gregg & Pensri Prescott – 195 Frost Road – Notice of Intent: (Map 18, Parcel 51) (Continued from 7/26/05) Proposed 3-car garage addition with deck and driveway within the buffer zone. LC reminded the members that this was discussed at the last meeting, but DEP had not issued a number for the filing. We now have a number. HJ opened the hearing to discussion and to abutters. There were none.

JK: Motion to close the hearing.

RS: 2nd.

Unanimous (6-0).

JK: Motion to issue an OOC for 195 Frost Road per plan revised 6/2/05.

LG: 2nd.

Unanimous (6-0).

7:45 (7:52) Gail Joseph - 10 Cedar Lane – Notice of Intent: (Map 26, Parcel 144) Installation of a 4’ x 16’ dock within Lake Mascuppic.

JK: Motion to waive the reading of the Legal Notice.

JZ: 2nd.

Unanimous (6-0)

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

CH: 2nd.

Unanimous (6-0).

Gail presented her plan for a removable dock. She will use no pressure treated wood in the water. It will be anchored to footings in the bank. The sonar tube holes will be hand dug. LC asked if she will access by one of the two trails already there. She will use the one left of the fire pit. She will not remove any of the blueberry bushes. LC had no issues with the filing, but we are awaiting a DEP number. HJ opened to abutters. There were none.

JZ: Motion to continue this hearing to 8/23 at 7:35 P.M.

JK: 2nd.

Unanimous (6-0).

Other Business:

- ❖ **Ron Vieira – 7 Alden Street** – had issued a complaint against Stephen McCarthy, 1 Alden Street, for impeding the flow of the shoreline of Long Pond, which is against the OOC for his dock. Mr. McCarthy had been asked to appear, but he had not arrived as yet. Mr. Vieira showed photos of the area of McCarthy's dock. The pictures verified that the flow was impeded. HJ told LC to write him a letter; IF no response, issue an Enforcement Order.

8:00 Maple Ridge Real Estate Development – 12 Middlesex Road and Corner of Old Tyng Road. – Request for Determination of Applicability: (Map 28, Parcel 92) Installation of a meter pit on Middlesex Road within the buffer zone. Also grading and paving of an access area within the buffer zone, approximately 125 linear feet to realign the intersection of Old Tyng Road and Middlesex Road.

JK: Motion to waive the reading of the Legal Notice.

JZ: 2nd.

Unanimous (6-0)

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

JZ: 2nd.

Unanimous (6-0).

*Walter Eriksen was present for this hearing and requested that they re-open the hearing for the 75 Lakeview Avenue Sub-division to amend it to include the removal of the shed/stable, on Lot 1B, that had been a concern to the abutters. He is the applicant and he is willing to remove it.

JZ: Motion to re-open Applewood's Sleepy Hollow Subdivision Roadway hearing.

JK: 2nd.

Unanimous. (6-0).

JZ: Motion to close Applewood's Sleepy Hollow Subdivision Roadway hearing.

JK: 2nd.

Unanimous. (6-0).

JZ: Motion to amend the OOC for Applewood's Sleepy Hollow Subdivision Roadway to include the removal of the shed/stable on Lot 1B.

JK: 2nd.

Unanimous. (6-0).

Maureen Hanley addressed the Commission regarding the RDA filing at hand. As Ms. Hanley passed out copies of a plan showing both the previously approved meter pit and the proposed new location for the meter pit, she told the members that this filing is in two parts. Part I, she explained is that the owner of the land made it clear that he did not want the meter pit on his property. The new location is actually town-owned property, and as the sewer department will eventually have control of it, this will work out better for all those concerned. Part 2 is that she needs to file a change in the Roadway plan. They need to add 125' of roadway, adjacent to a wetland area. The area is presently full of purple loosestrife and it does not provide the interests set forth in the WPA. Walter Eriksen said that he is willing to remove the invasive plant and try to replant the area with cat-o-nine-tails. LC agreed that would be an improvement. HJ opened the hearing to discussion and then to abutters. Mark & Karen Ryan, who own Ryans' Automotive, right at the intersection, said they do not have any questions, but they feel the new roadway will prevent a

Minutes 8/9/05 continued

traffic flow problem that otherwise would have been created.

JK: Motion to close the hearing.

RS: 2nd.

Unanimous. (6-0)

JK: Motion to issue a Negative Determination for both Part I and Part 2 of this filing.

JZ: 2nd.

Unanimous. (6-0)

Other Business:

- ❖ **Victoria Clougher** requested permission to perform a Girl Scout Silver Owl Project of durable *Botanical Signs and Plant Labels* for placement on Town Conservation Land. She has to complete the project by September 1. There was discussion. The members agreed that the Sherburne Property has diverse species and asked LC to give Victoria a list to work with. LG invited Victoria to come to the display planning session at the Sherburne House on August 24th.
- ❖ Stephen McCarthy arrived and wanted to defend against the complaint by Mr. Vieira. He showed a copy of a plan from a NOI from 1995 showing the shoreline and claims that it has not changed at all. A site visit was set up for Saturday, August 20 at 8:30 A.M.

JK: Motion to accept the minutes of the Conservation meeting of 7/26/05.

RS: 2nd.

5 Yeas; 1 Abstain (JZ had not been present) **Motion Carried.**

JK: Motion to accept the minutes of the Special meeting of 5/4/05.

JZ: 2nd.

5 Yeas; 1 Abstain (CH had not been present) **Motion Carried.**

❖ The members signed previously voted **OOCs** for Sleepy Hollow, 195 Frost Road and 9 Cedar Lane; and **Negative Determinations** for 36 Pawtucket Blvd. and 75 Lakeview Ave.

❖ HJ and RS commented that they recently attended an Executive Session with LC and the Selectmen. The Selectmen had some issues with LC to work out. HJ wanted the Commission to issue a vote of confidence for LC.

RS: Motion to issue a vote of confidence and an expression of complete trust and faith in the job that LC does for the Commission, the Town, and the Environment.

JZ: 2nd.

Unanimous (6-0).

JZ: Motion to adjourn.

RS: 2nd.

Unanimous (6-0)

Meeting adjourned at 8:55 P.M.

Minutes taken and respectfully submitted by Gloria Clancy, Clerk