

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN HALL COMMUNITY ROOM
September 27, 2005**

Present

HJ: Henry Jungmann, Chairperson CH: Cynthia Hanna LC: Lori Capone, Director
RS: Robert Sherburne, Vice Chair FZ: Frank Zarba(7:05) GC: Gloria Clancy, Clerk
LG: Lucy Gertz BL: Brian Logue, Associate Member

Absent

JZ: Jeanne Zarba JK: Jeff Kablik

7:00 Meeting opened by Henry Jungmann, Chairperson

7:02 Aline Roy – 18 Bridle Path Way – Notice of Intent: (Map 27, Parcel 64) (Continued from 6/14 & 6/28, 7/12, 7/26, & 8/23/05) Proposed construction of a single family home, driveway, retaining walls, septic system and associated utilities within the buffer zone. LC told the Commission members that she has received no further correspondence from the applicant, but that she knows that no ruling has been issued, as yet, from Town Counsel Zaroulis.

RS: Motion to continue this hearing until October 25th at 7:02 PM.

LG: 2nd.

Unanimous (4-0)

Other Business:

❖ **Director Determination for 130 Lakeview Avenue** – Don Crowell. We recently issued an OOC on this parcel. The applicant is now requesting permission to relocate the house to be built. The prospective buyer wants the house 4’ larger and shifted to the right. It will set right on the 50’ line. It had been at 58’. LC has instructed him to stake out the foundation, and to produce a certified plot plan prior to being issued a building permit. HJ asked for discussion. The members had no problem with the change.

RS: Motion to approve the Director Determination for 130 Lakeview Avenue.

CH: 2nd.

4 Yeas. 1 Abstain (FZ was not present for the beginning of the presentation.)

Motion Carried.

❖ **Director Determination for 11 Christine Avenue** – Patrick Dorant - Proposal to build an addition on the house. LC said the wetland is across the street, 74’ away from the proposed project. The grade is fairly flat. She feels the project will not impact the wetland.

RS: Motion to approve the Director Determination for 11 Christine Avenue.

CH: 2nd.

Unanimous (5-0).

❖ **Director Determination for 9 Alden Street** – James Finn - Seeks “after-the-fact” permission to remove a concrete pad and replace it with a semi circle of pavers and the rest grass. LC had noticed the work in progress when she was in the area for the complaint at 1 Alden. The pavers allow for more infiltration than the concrete pad did, but cover a larger area. The project is within the floodplain, about 18’ from the lakeshore and 130’ from perennial stream. She has

informed the owner of the importance of filing with the Commission for projects in the buffer zone.

CH: Motion to approve the Director Determination for 9 Alden Street.

RS: 2nd.

Unanimous (5-0).

- ❖ **Director Determination for 11 Christine Avenue** – Patrick Dorant - Proposal to build an addition on the house. LC said the wetland is across the street, 74' away from the proposed project. The grade is fairly flat. She feels the project will not impact the wetland.

RS: Motion to approve the Director Determination for 11 Christine Avenue.

CH: 2nd.

Unanimous (5-0).

- ❖ Update on the complaint at 1 Alden Street. LC did a site visit and the area under and around the dock has been cleared of debris and the sand build up has washed through. There seems to be no more impediments to the flow of the water. He has not, however, changed the footings of the dock as requested. The members agreed to give him until the next hearing to do so.

7:15 Ann Tinnirella – End of Beech Tree Road: (Continued from 8/23/05) Conduct a hearing pursuant to an Order of Judgement by the Superior Court, dated May 23, 2005, whereby this matter is remanded to the Conservation Commission for further hearing and determination of the ownership of the affected property. Town Counsel Zaroulis was present to represent the Town, Atty. Julie McNeil to represent the Shyjans, and Atty. Colleen Gary representing Ann Tinnirella. HJ requested, with permission from Mrs. Tinnirella, that Atty. McNeil address the Commission first where the issue of ownership was raised by her client. Town Counsel Zaroulis interjected to emphasize that the focus of this hearing is solely regarding the ownership of the land where the dock would be placed. Each attorney passed out handouts and spoke briefly on their title search, surveys, etc. on behalf of their clients. Atty. Zaroulis reiterated that the case pending in court would decide the outcome of the appeal of the Commission's decision of issuing the Order of Conditions. Regarding permission from owner of land, he read from Mass. General Law 310 CMR 10.05 Sec. 4a: "except where the land is Commonwealth Land." The ownership of the land at the end of Beech Tree Road has not been proven to be other than Commonwealth Land as Lake Mascuppic is a Great Pond. He suggested that the hearing be continued so that all parties can review the information handed out. HJ opened the hearing to questions from the members and abutters. Town Counsel again reminded that the only discussion should be about the ownership of that land where the dock would be set. Mr. Shyjan asked permission and handed out photos taken at a culvert, to show the variation between high and low water line of the lake. There was brief discussion.

FZ: Motion to continue this hearing to 10/25/05 at 7:15 PM.

LG: 2nd.

Unanimous (5-0).

7:30 (7:45) Donato Dirocco – 361 & 371 Middlesex Road – Notice of Intent: (Map 12, Parcel 40 and Map 19, Parcel 8A) (Continued from 9/13/05) Proposed installation of water line within 200' of an unnamed perennial stream. At the last meeting we were awaiting a DEP number prior to voting. LC said we now have a number. She also told the members that Marybeth Shanahan, the prospective manager of the planned restaurant, would like to amend the NOI to include re-paving of

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the parking lot. There was discussion. The members agreed to allow the addition of the parking lot re-pavement. HJ asked if there were any abutters. There were none present.

FZ: Motion to close the hearing.

RS: 2nd.

Unanimous (5-0).

LG: Motion to issue an OOC for the project at 361 & 371 Middlesex Road per plan dated 8/8/05, with the addition of re-pavement of the parking lot.

CH: 2nd.

Unanimous (5-0).

7:45 (7:47) Steven & Donna Deschenes – 31 Elm Street – Notice of Intent: (Map 31B, Parcel 23) (Continued from 9/13/05) Raze existing single family home and construct new single family home within the buffer zone of Long Pond. The applicants presented their need for the project and their representative, David Kelly of LandTech Consulting, presented the plan. The plan already has Zoning Board of Appeals approval. The existing house and driveway constitutes 2090 S.F. of impervious surface. Though the new house is larger the applicant is proposing to reduce the driveway, for an overall impervious surface calculation of 1980 S.F.. The new dwelling is proposed 35 feet from Long Pond with a deck to within 30 feet of the pond. Though the foundation is slightly closer to the pond than the existing foundation, the deck does not come closer to the pond than the original structure. According to the FEMA maps, this lot is located within the floodplain but the floodplain does not have a defined elevation. The engineer explained that the stream that fed the area at the time of the mapping no longer exists. He passed out copies of the map, a certificate from a Flood Insurance Company, and his report with calculations of the flood plain elevation. He read from DEP Regulations on the ways to calculate the flood plain when there is a discrepancy with the FEMA Maps. HJ asked for input from the members. There was discussion, especially on the need for a de-watering plan during excavation and foundation work. LC commented that she just received all of this information and needs to review it. The Commission requested LC meet with Mr. Kelly and review the floodplain calculations. We still have not received a DEP number for this filing. HJ opened discussion up to abutters. There were no abutters present.

RS: Motion to continue this hearing to 10/25/05 at 7:30 PM.

FZ: 2nd.

Unanimous (5-0).

8:00 (8:07) Chuck Berry – 11 Clover Hill Circle – Notice of Intent: (Map 16, Parcel 19, Lot 11) Installation of an 18' x 36' in-ground pool located within the buffer zone.

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

LG: 2nd.

Unanimous (5-0).

CH: Motion to waive the reading of the legal notice.

LG: 2nd.

Unanimous (5-0).

Mrs. Berry presented her plan. She passed out an aerial photo of the area and pointed out where the pool with apron would be, approximately 60 feet from a bordering vegetated wetland. The project

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maintains a 30 foot no disturb zone adjacent to the wetland. The applicant will use an environmentally sound sand filter and will backwash outside the buffer zone. LC said the area is presently lawn and there is a good buffer between the lawn and the resource area. HJ opened to discussion. There were no abutters present.

RS: Motion to close the hearing.

LG: 2nd.

Unanimous (5-0).

RS: Motion to issue an OOC for the project at 11 Clover Hill Circle per plan and discussion.

FZ: 2nd.

Unanimous (5-0).

Other Business:

- ❖ Update on 401 Dunstable Road. LC read her letter specifying the remedy suggested by the Commission. The Commission approved the letter and requested it be mailed out.
- ❖ LC showed a plan for a project on Business Park Drive that is out of the buffer zone except for a little bit of clearing and silt fencing 5' over the 100' line. She will sign off on the building if the members say they don't require a filing. There was discussion and it was agreed there was no need for a filing.
- ❖ The members signed the OOCs for 80 Danforth Road, 361 & 371 Middlesex Road, and 11 Cloverhill Circle.
- ❖ LC referred to members' folders:
 1. Complaint and Request for Jury Trial. The abutters of the project at Lot 12 River Bend Road have filed an appeal under the bylaw with the Superior Court. Town Counsel has submitted the Answer of the Defendants with the court.

RS: Motion to accept the minutes of the Forest & Trails meeting of September 7, 2005.

FZ: 2nd.

Unanimous (5-0).

- ❖ Reminder there will be no meeting **October 11** because of **Town Meeting**.
- ❖ Update of the DEP Appeal of the Wynbrook project - Site Visit Tuesday, 9/20 at 10 A.M. In addition to the applicant, their representatives and members of the Conservation Commission, also in attendance were Selectmen O'Connor, Selectmen Lemoine, Selectmen Schnackertz, David Denomme of the Water District and Barbara Reynolds of the Council of Aging. The site visit was cut short do to the stirring up of a yellow jacket nest. Marielle Stone of DEP requested any materials that we could provide that would be helpful. LC is putting together a package of minutes, etc.

CH: Motion to adjourn.

LG: 2nd.

Unanimous (5-0)

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Meeting adjourned at 8:30 P.M.

Minutes taken and respectfully submitted by Gloria Clancy, Clerk