

MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING

May 9, 2006

Present

HJ: Henry Jungmann, Chairperson
RS: Robert Sherburne, Vice Chair

LG: Lucy Gertz
CH: Cynthia Hanna

LC: Lori Capone, Director
GC: Gloria Clancy, Clerk

Absent

FZ: Frank Zarba

JZ: Jeanne Zarba

BL: Brian Logue, Associate Member

7:00 Meeting opened by Henry Jungmann, Chairperson.

7:02 Two Tyng LLC: 104 Coburn Crowell – Notice of Intent: (Map 25, Parcel 43) (Continued from 4/25/06) Proposed construction of a single family dwelling, porch, garage, and driveway with grading and associated utilities; all within the buffer zone. LC said she just received plans yesterday afternoon with the wetland flags numbers, as requested at the last meeting, but was unable to verify the delineation as presented. She has submitted a request for an opinion from Town Counsel, as requested at the last meeting, regarding the statement that “imposing setbacks constitutes a taking”.

LG: Motion to continue this hearing to May 23rd at 7:20 P.M.

CH: 2nd.

Unanimous (4-0)

Other Business:

❖ **ZBA** will hold a hearing on Omnipoint’s proposed cell tower next to the Sherburne Property. LC read from her letter to ZBA and showed photos that she will enclose. She asked for members to attend the meeting. There was discussion of the impact the tower would have on the wildlife habitat in the area. HJ mentioned that the proposed location was in a valley and that there may be alternative sites more advantageous to them. One is off of Beverlee Road and the other off of Trinity Drive. LC showed a topo map of the area and all agreed that the elevation of the other two properties might be better for the tower.

7:10 Richard Bergskaug – 68 Mascuppic Trail - Notice of Intent: (Map 32B, Parcel 30) Demolition of an existing and construction of a new single family dwelling within the floodplain and buffer zone.

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

LG: 2nd.

Unanimous. (4-0)

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

RS: 2nd.

Unanimous. (4-0)

Mr. Bergskaug was present. LC commented that the proposed disturbance is within 45 feet from the bvwl located on 71 Mascuppic Trail and the new house is proposed 81.8 feet from the bvwl. All work is proposed within the floodplain. The owner has received approval from the ZBA to tear down the existing building and construct a new one with the same footprint, centered on the lot. Disturbance to the floodplain is the same as the existing therefore compensatory storage is not necessary. The applicant agreed to revise the erosion controls to include haybales in addition to silt fence, and also to install hay bales between the silt fence lines during construction only to be removed for entry and exit of the site. Silt fence only should be installed up both lot lines to ensure there is no erosion into abutting properties. The applicant agreed to provide the Conservation Commission with a revised plan showing revised erosion controls, a spoils location with erosion controls and a de-watering plan per LC’s comments. The hearing was continued as a DEP File number has not yet been issued. HJ asked for member comments. There were none, and there were no abutters present.

Minutes 5/9/06 continued

CH: Motion to continue this hearing to 5/23/06 at 7:25 P.M.

RS: 2nd.

Unanimous (4-0)

7:15 (7:26) Boston & Maine Corporation – B & M Rights of Way – Request for Determination of Applicability: Verification of sensitive areas. LC said that, under the Wetlands Protection Act, an RDA does not require abutter notification. So we only need to address the legal notice.

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

RS: 2nd.

Unanimous. (4-0)

They have requested a continuance. LC referred the members to copies of B&M's Yearly Operations & Maintenance Plan. She asked them to read it over before the next meeting.

CH: Motion to continue this hearing to 5/23/06 at 7:30 P.M.

LG: 2nd.

Unanimous (4-0)

7:20 Maple Ridge Real Estate Development – Shakespeare Street – Parcel G - Request for Determination of Applicability: Burial of boulders and creation of a 6.35 acre park area. Work within the buffer zone. The applicant was not present yet, so the hearing was “tabled” to the end of the meeting.

Other Business:

❖ **Director Determination for Ron Viera – 7 Alden Street.** He wants permission to loam and seed his front yard after connecting to Town water. LC said that it would be 6” of loam approximately 361 Sq. Ft., 68.6 feet from Long Pond. There was discussion of disturbance and future fertilization. It was agreed to condition minimal use of fertilizer.

CH: Motion to approve the Director Determination for loaming and seeding at 7 Alden Street, with the condition of minimal use of fertilizers.

RS: 2nd.

Unanimous (4-0)

7:30 Nicholas Rabias – 37 Willowdale Road – Abbreviated Notice of Resource Area Delineation: (Map 33, Parcel 1) Verification of delineation of bordering vegetated wetlands and intermittent streams.

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

LG: 2nd.

Unanimous. (4-0)

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

LG: 2nd.

Unanimous. (4-0)

LC said the applicant has requested a continuance. She also said there are some questionable areas and she still needs to perform a site visit with the wetland scientist to verify the wetland delineation. The following abutters were present with questions as to what is being planned for the area: Dennis Guilbeault, 57 Willowdale Road; Sandra Anderson, 35 Willowdale Rd.; Charlie Browning, 45 Willowdale Rd.; and George Saba, owner of vacant land on Spruce Street. LC told them that this is strictly for wetland verification and the applicant will need to file additionally for any proposed projects. They will be notified at such time. HJ explained that this hearing will be continued and they should take note as there will be no future notification on this.

LG: Motion to continue this hearing to 5/23/06 at 7:30 P.M.

CH: 2nd.

Unanimous (4-0)

Minutes 5/9/06 continued

7:45 David Seltz – 20 Wyoming Road – Notice of Intent: (Map 2, Parcel 62) Installation of above ground pool within the buffer zone.

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

RS: 2nd.

Unanimous. (4-0)

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

RS: 2nd.

Unanimous. (4-0)

The applicant would like to install the pool 15 feet from his house, which is approximately 140 feet from the perennial stream. There is a minimum of 100 feet of undisturbed riverfront area from the stream. No tree removal is necessary. There was discussion on the different types of filters. Mr. Seltz will use an environmentally friendly filter. LC recommended silt fencing until the area is stabilized. We are waiting to hear from the Natural Heritage program and to receive a DEP number.

CH: Motion to continue this hearing to May 23rd at 7:40 P.M.

RS: 2nd.

Unanimous (4-0)

Other Business:

❖ **Director Determination for Barbara Roche – 74 Mascuppic Trail.** LC showed aerial photo of the house. It needs a new roof. The applicant wants a pitched roof and also wants to have 16 x 40 addition on the bathroom. There is a roadway and a pumping station between the project area and the resource area. The members had no concerns over this project.

LG: Motion to approve the Director Determination for 74 Mascuppic Trail.

RS: 2nd.

Unanimous (4-0)

❖ **Director Determination for Smith/Menez – 41 Woodfern Ave.** Proposed deck 60' from the stream. There will be four hand-dug sona tubes. LC does not see a problem with this project.

LG: Motion to approve the Director Determination for 41 Woodfern Ave.

CH: 2nd.

Unanimous (4-0)

7:20 (8:00) Maple Ridge Real Estate Development – Shakespeare Street – Parcel G - Request for Determination of Applicability: Burial of boulders and creation of a 6.35 acre park area. Work within the buffer zone.

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

RS: 2nd.

Unanimous. (4-0)

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

RS: 2nd.

Unanimous. (4-0)

The hearing was "tabled" earlier. The applicant was still not present.

CH: Motion to continue this hearing to 5/23/06 at 7:45 P.M.

LG: 2nd.

Unanimous (4-0)

Minutes 5/9/06 continued

Other Business:

- ❖ **Director Determination for John Murray – 50 Davis Street.** Proposed paving of parking area 40' from the lakeshore. Davis Street drainage dumps directly into Lake Mascuppic. LC does not feel that paving this small area will add to that problem.

RS: Motion to approve the Director Determination for 50 Davis Street.

CH: 2nd.

Unanimous (4-0)

Other Business:

- ❖ LC went over the administrations proposed budget cuts for our department. The members need to vote to approve the spending of approximately \$2000 from the Wetland Protection Act Fund to supplement LC's salary. She explained that across the board cuts of a few hours a month are expected.

RS: Motion to approve the spending of \$2,000 from WPA funds to supplement the Director's salary.

CH: 2nd.

Unanimous (4-0)

- ❖ LC referred to copies of an Appeal of our decision on 18 Bridle Path Way by the abutters that had spoke against it at the hearing. LC has contacted DEP and has faxed over the Amended OOC. The appeal is on the amendment, not on the original OOC.
- ❖ LC gave another reminder to think about choosing someone to be our representative on the **Master Plan Implementation Committee**. The members asked to put it off to the next meeting.
- ❖ **HJ** suggested that we form a "Friends of the Sherburne Estate" group. He asked that the members research how the *Library Friends* and *Fire Department Friends* did it and what they might suggest.
- ❖ LC asked for comments on her draft brochure of upcoming happenings at the Sherburne Estates. HJ reminded them that any and all uses must be under the auspices of this Commission. He also said that CPC money can be requested at Town Meeting in October to get a new roof on the garage and new, energy efficient windows that will match the old style windows. We will need to ask for \$20-30K. LG said that the Tyngsborough Garden Club has asked to do some gardening and tree planting.

LG: Motion to approve the minutes of April 25, 2006.

CH: 2nd.

Unanimous. (4-0)

HJ: Motion to adjourn.

RS: 2nd.

Unanimous (4-0).

Meeting adjourned at 8:26 P.M.

Respectfully submitted by Gloria Clancy, Conservation Clerk