



***Town of Tyngsborough
Conservation Commission***

25 Bryants Lane
Tyngsborough, Massachusetts 01879-1003
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Minutes
February 12, 2013
APPROVED

Present:

BM: Brian Martin **PM:** Pat Mical **LG:** Lucy Gertz **ES:** Ed Smith **LB:** Linda Bown
JK: Jeff Kablik **MM:** Matt Marro

Absent:

JE: Jerry Earl

Attachments:

1. Agenda
2. Proposed Soil Absorption System Plans for 70 Chestnut Rd. – 12/12/12
3. Proposed Soil Absorption System Plans for 70 Chestnut Rd. – Revised 2/12/13
4. 5/12/93: H-Star Engineering Letter – 70 Chestnut Rd.
5. 5/10/94: Carragher & Fox, P.C. Letter – 70 Chestnut Rd.
6. 10/29/02: Tyngsborough ConCom Letter – 70 Chestnut Rd.
7. 10/31/02: Tyngsborough Highway Dept. Letter – 70 Chestnut Rd.
8. 11/4/02: Tyngsborough Town Administrator Letter – 70 Chestnut Rd.
9. 11/10/05: James Lane Letter – 70- Chestnut Rd.
10. 1/26/06: Tyngsborough Town Counsel Letter – 70 Chestnut Rd.
11. 5/30/06: Holmberg & Howe Report – 70 Chestnut Rd.
12. 7/5/06: Tyngsborough Town Administrator Letter – 70 Chestnut Rd.
13. 4/12/08: Wheatstone Engineering & Consulting Report – 70 Chestnut Rd.
14. 6/5/08: Carl Shapiro to Tyngsborough Board of Health Email – 70 Chestnut Rd.
15. 70 Chestnut Rd. Property Assessor Card
16. 70 Chestnut Rd. Quitclaim Deed – 6/11/02
17. 81 Westford Rd. Site Inspection Report – 1/11/13

7:00pm BM opened meeting

7:02pm **70 Chestnut Rd. (M8, P13, L0) – Notice of Intent, DEP# 309-0861** for the proposed construction of a single family dwelling including septic system, potable water well, driveway and associated grading within 100ft. of a bordering vegetated wetland. Continued from 1/22/2013.

Applicant Jim Lane and engineer Brian Milisci appeared before the Commission to continue the evidentiary portion of this hearing. A site visit was conducted on January 26, 2013 where some members of the Commission, abutters, engineers, and the property owner were present to walk through the property to understand the entire scope of the project.

During the site visit MM requested that a drainage swale be incorporated on the site that would pick up the overland water flow on the property. Mr. Milisci revised the plans to place the swale along the east side of the property along the abutting property line of Lot 5. Mr. Milisci noted that the proposed structure would be just inside the 50' no structure zone and they would be requesting a waiver from that by-law. Mr. Lane also added that the lot was created in 1961 prior to the town wetland bylaw.

LB had many concerns regarding the buildability of this lot and presented the Commission members with information she obtained from the Tyngsborough Assessor's office. The paper trail leads back several years to 1993 where it was reported by H-Star Engineering, Inc. that the lot was determined to be "unbuildable" under the Board of Health and Conservation regulations at the time due to the extensive wetlands and probable ledge on the property. In 1994 the owner of the property requested the Board of Assessors to reassess the property based on the information that the lot was deemed "unbuildable", therefore, the property owner was assessed a lower property tax due to the "unbuildable" status of the lot.

In 2002, the property owner offered to donate the land to the Conservation Commission. However, the donation fell through due to issues related to the property owner's divorce. Since then Mr. Lane, who now owns the property corresponded with the Town regarding a drainage pipe that was installed by the Town on the property sometime during the construction of the Jacques Ridge development located behind 70 Chestnut Rd. Mr. Lane contends that the Town was responsible for contributing large quantities of water on to the property which therefore, has resulted in the property being "unbuildable".

The Town had a professional assessment done on the property in 2006 by engineering firm Holmberg & Howe. This assessment reported that the culvert that was installed on the property did not increase the flow of water onto the property. In 2008 Mr. Lane retained Wheatstone Engineering & Consulting to work with the Board of Health to install a septic system on the property.

The Commission voiced their concerns with the project in light on this information, most notably the fact that the lot was deemed "unbuildable" in 1993 and the increase in stormwater flow into the wetlands and onto the abutting properties. Mr. Milisici contends that moving the town drainage pipe and changing the flow patterns with the swale will create a buildable lot and not touch the wetlands. BM stated that since the previous Board deemed it an "unbuildable" lot, and given the evidence, he cannot support this project.

Abutters John & Kathy Hamilton from 66 Chestnut Rd. spoke in strong opposition to this project contending that the owner is trying to squeeze a house and septic system on to a very wet lot. Additionally, they are concerned that the construction will severely impact the existing wetlands on the property and affect the abutting properties including their own. He went on to say that he was concerned about "waiving" any portion of the wetland by-law because it sets a bad precedent for the Town.

ES: Motion to close the public portion of the hearing

PM: 2nd the motion

In Favor: 6 **Opposed:** 0 **Absent:** 1

Passes: 6-0-1

LB: Motion to uphold the 1993 decision that 70 Chestnut Road is not a buildable lot and consequently deny the Order of Conditions.

PM: 2nd the motion

In Favor: 6 **Opposed:** 0 **Absent:** 1

Passes: 6-0-1

8:00pm **15 Buckhill Rd. (M24, P11J, L3) – Request for Partial Certificate of Compliance, DEP# 309-116.** Order of Conditions issued 2/10/1988.

MM reported that this road was finished decades ago and never fully closed-out.

ES: Motion to approve a Partial Certificate of Compliance for 15 Buckhill Road.

LG: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Director's Determination

Director's Report

81 Westford Rd. – MM reported that they have started the site prep work for this project.

Reports/Discussion:

- **Sherburne Nature Center/Trails Committee Update**

Jim Corrigan – Shady Glade trail system condition report

Resident Jim Corrigan appeared before the Commission to share his concerns with the condition of the Shady Glade trail system. Mr. Corrigan showed the Commission pictures he had taken of the trail system and where there has been some damaging beaver activity. He went on to say that he would like to walk the trails with the Commission and the Trails Committee to show where the damage is and perhaps come up with a plan to work with local organizations and individuals to repair the damage this coming spring.

Billy Mitchell - Community Service Learning Project

Teacher Beth Craig appeared before the Commission to discuss the community service learning initiative that high school students are working on. Ms. Craig went on to say that her student Billy Mitchell has expressed an interest in serving the community by helping clean the environment for his project. Mr. Mitchell has reached out to the Trails Committee for guidance and they are working with him to develop a plan for his project.

Administrative:

1. Minutes:

LB: Motion to approve the minutes as written for January 22, 2013.

ES: 2nd the motion

In Favor: 5 Opposed: 0 Abstain: 1 Absent: 1

Passes: 5-0-1-1

2. New Business

Engineer Brian Milisci updated the Commission on the status of the Thirsty's area. He is working with the Town Administrator writing a grant application for funding a project that would address the whole Thirsty's/Woodlawn St. drainage issue. More information will follow at a later date.

8:50pm

LB: Motion to adjourn

ES: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Respectfully for the Conservation Commission,

Pamela Berman
Administrative Assistant