



**Town of Tyngsborough
Planning Board**
25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext. 115

MINUTES
July 17, 2008

APPROVED

Attachments:

1. Meeting Agenda
2. Land Engineering & Environmental Services, Inc. 30 Progress Ave. "Site Plan Special Permit Review" – 7/9/08 & 7/16/08
3. David E. Ross Associates, Inc. 30 Progress Ave. - "Site Improvement Plan Review" – 7/15/08 & 7/17/08
4. Sewer Commission Memo RE: 30 Progress Ave. – 7/14/08
5. Building Commissioner Memo RE: 30 Progress Ave. 7/9/08 Plans – 7/16/08
6. Planning Board Chairman email RE: 30 Progress Ave. – 7/17/08
7. Town Administrator Memo RE: Engineering Consultant RFPs – 7/16/08

Members Present: Caryn DeCarteret, Chairman
John Forti
Jim Miller
Steve Nocco
Steve O'Neill – Arrived at 7:05pm
Pamela Berman: Clerk
Jesse Johnson, P.E.: David E. Ross Associates

7:00pm - Meeting called to order by Chairman DeCarteret

The Board discussed reorganization due to the open positions which resulted in the election of a new member.

J. Forti: Motion to appoint Steve Nocco as Vice Chairman of the Tyngsborough Planning Board

J. Miller: 2nd the motion

In Favor: 3 **Absent:** 1 **Abstain:** 1

7:05pm - Continued from 6/19/08: Special Permit for a Major Industrial Complex prepared by Land Engineering & Environmental Services, Tyngsborough, MA, on behalf of the applicant Logan Realty Trust of Tyngsborough, MA for the construction of 2 additions 4800 S.F. and parking area and a 1240 S.F. addition onto the existing building at 30 Progress Ave. for the purpose of heavy vehicle sales and services.

APPROVED

Doug Lees, representing Land Engineering & Environmental Services, and Walter Erikson representing the owner, presented revised site plans dated July 15, 2008 for the above proposed application. The revised plans incorporate all of the modifications requested by the Planning Board at the June 19, 2008 meeting. Walter Erikson reported that the owner agreed to install granite curbing per request of the Planning Board. In addition, Mr. Erikson agreed to repair the sewer manhole per the request of the Tyngsborough Sewer Superintendent. The Board suggested several conditions to be attached to the granting of the Special Permit. All conditions were agreed to by Mr. Erikson and Mr. Lees.

S. Nocco: Motion to close the public hearing

S. O'Neill: 2nd the motion

Unanimous: 5-0

S. O'Neill: Motion to approve the Special Permit for a Major Industrial Complex prepared by Land Engineering & Environmental Services, Inc. Tyngsborough, MA, on behalf of the applicant Logan Realty Trust, of Tyngsborough, MA for the construction of 2 additions 4800 S.F. and parking area and a 1240 S.F. addition onto the existing building at 30 Progress Ave. for the purpose of heavy vehicle sales and service contingent on the following conditions:

1. The removal of all vehicles and equipment from Lot 8 and establishment of the landscaping buffer prior to occupancy.
2. Any further expansion or development would require a Special Permit to be filed with the Planning Board.
3. Repairs to the exposed four feet of sewer manhole will be repaired.
4. A stamped report from the applicant's engineers (Land Engineering & Environmental Services, Inc.) stating that all of the work has been done in compliance with the approved plan. In addition, a final inspection will be done by David E. Ross engineer, Jesse Johnson to confirm that the work was completed to plan specifications.
5. Occupancy of the new additions are contingent upon meeting these requirements set forth in the Special Permit approval conditions, and Section 1.16.14 of the Town of Tyngsborough Zoning By-Law.

S. Nocco: 2nd the motion

Unanimous: 5-0

7:15pm - Wilson Way “Street Acceptance” and Bond Reduction

Richard Blechman of Missick Realty Trust and Attorney, John Gallant, counsel for Missick Realty Trust, appeared before the Board to request consideration for street acceptance and that bond money be released for Wilson Way. Mr. Blechman explained that the only work he believed to be remaining was gas straps, cleaning the catch basins, and the As-Builts. As there are other issues that still need to be addressed by the contractor, the Board requested that Jesse Johnson inspect the site and submit a report of his findings to the Board before any bond money be released or street acceptance be considered. The Board will continue this hearing at the next meeting on August 7, 2008 for further discussion.

New Business:

S. Nocco: Motion to appoint Steve O’Neill Planning Board Treasurer and NMCOG Representative.

J. Forti: 2nd the motion

In Favor: 4 **Abstain:** 1

S. Nocco: Motion to appoint John Forti Planning Board Secretary

S. O’Neill: 2nd the motion

In Favor: 4 **Abstain:** 1

S. Nocco: Motion to appoint Jim Miller Planning Board Clerk

S. O’Neill: 2nd the motion

In Favor: 4 **Abstain:** 1

Engineering services proposals from Fay, Spofford & Thorndike, David E. Ross Associates, Inc., and LandTech Consultants were considered for selection to provide the Town of Tyngsborough Planning Board with engineering consulting services.

S. O’Neill: Motion to extend the contract and retain the engineering services of David E. Ross Associates, Inc. based on price and quality of service.

J. Forti: 2nd the motion

Unanimous: 5-0

8:15pm - Administrative:

- * Applicant procedural change: All certified mail requirements will be the responsibility of the applicant except for Town of Tyngsborough sponsored Zoning Law petitions. The applicant must mail their own certified abutters notifications from the certified abutters list obtained from the Assessor's office. The applicant must also return the certified mailed receipts to the Planning Board for inclusion in the project files.

8:30pm – Executive Session

S. Nocco: Motion to go into Executive Session to discuss the Grey Wolf litigation.
J. Miller: 2nd the motion
Unanimous: 5-0

9:00pm

J. Forti: Motion to adjourn
J. Miller: 2nd the motion
Unanimous: 5-0

Minutes respectfully submitted by
Pamela Berman
Planning Board Clerk

EXECUTIVE SESSION MINUTES
July 17, 2008

APPROVED

Attachments:

1. David Vaillancourt, Plaintiff v. Caryn DeCarteret, John Forti, Steven A. Nocco, Darryl Wickens, and Steve O'Neill, as members of the Town of Tyngsborough Planning Board, and Grey Wolf Realty, LLC, and Levent S. Bozkurt as Resident agent of Grey Wolf Realty, LLC Defendants – January 22, 2008
2. David Vaillancourt, Plaintiff v. Grey Wolf Realty, LLC and Levent S. Bozkurt as Resident agent of Grey Wolf Realty, LLC, Defendants & Cross-Claim Plaintiffs v. Caryn DeCarteret, John Forti, Steven A. Nocco, Darryl Wickens, and Steve O'Neill as members of the Town of Tyngsborough Planning Board, Defendants & Cross-Claim Defendants – May 21, 2008
3. Opinion letter from Town Counsel Charles Zaroulis concerning the above litigation – June 11, 2008

Members Present: Caryn DeCarteret, Chairman
John Forti
Jim Miller
Steve Nocco
Steve O'Neill
Pamela Berman: Clerk

8:30pm Executive Session to discuss the litigation pending for the Stonehedge Inn Special Permit application at 160 Pawtucket Blvd. (David Vaillancourt v. Grey Wolf Realty & Tyngsborough Planning Board). Note: please see the attached litigation for a complete history and explanation of the lawsuits.

Caryn DeCarteret and Steve O'Neill of the Planning Board attended the July 7, 2008 Board of Selectman meeting with Town Counsel Charles Zaroulis to discuss the litigation pending regarding the Special Permit for 160 Pawtucket Blvd. – Stonehedge Inn. Chairman DeCarteret explained to the Planning Board what the litigation was about and what recommendations were made by Town Counsel and the Board of Selectman. The original complaint from David Vaillancourt dated January 2008 concerning the Constructive Approval, and the cross-complaint from Grey Wolf Realty, LLC dated May 21, 2008 were discussed as to what decision the Planning Board wanted to reach with regards to defending this litigation.

S. O'Neill: Motion for the Tyngsborough Planning Board to decline to defend the Cross-Complaint dated May 21, 2008 brought against the Planning Board regarding the Special Permit for 160 Pawtucket Blvd. – Stonehedge Inn.

J. Forti: 2nd the motion

Unanimous: 5-0

8:45pm

S. Nocco: Motion to close Executive Session

J. Miller: 2nd the motion

Unanimous: 5-0

Minutes respectfully submitted by
Pamela Berman
Planning Board Clerk



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AGENDA July 17, 2008 Community Room

- 7:00 PM Open Meeting
- 7:05PM **Hearing continued from June, 19, 2008:** Special Permit for a Major Industrial Complex prepared by Land Engineering & Environmental Services, Tyngsborough, MA, on behalf of the applicant Logan Realty Trust, of Tyngsborough, MA for the construction of 2 additions 4800 S.F. and parking area and a 1240 S.F. addition onto the existing building at 30 Progress Ave. for the purpose of heavy vehicle sales and service.
- 7:15PM **Wilson Way “Street Acceptance” and Bond Reduction**
- 7:30PM **Executive Session** (Grey Wolf Litigation)

ADMINISTRATIVE

1. Approval of Minutes: 4/3/08, 4/17/08, 6/19/08
2. Bills
3. Discussion
4. New Business
 - Appointment of CPC Rep.
 - Appointment of Economic Development Rep.
 - RFP Selection