



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

MINUTES
July 21, 2011
APPROVED

Attachments:

1. Meeting Agenda
2. Hearing Continuance Form for 50 Westford Rd. – 7/21/11
3. Hearing Continuance Letter for Wind By-Law Discussion – 7/21/11
4. Special Permit Application for 81 Westford Rd. – 7/18/2011
4. 413 Middlesex Rd. (Bahama Breeze Restaurant) Application for Special Permit – 6/17/11
5. David E. Ross Associates, Inc. Bahama Breeze Restaurant Special Permit Review – July 18, 2011
6. Bohler Engineering Response to David E. Ross Comments – July 21, 2011
7. Comment Forms for the Bahama Breeze Restaurant from: Fire Dept., Board of Health, ZBA, Sewer Dept., Highway Dept., Police Dept., Conservation, Assessors, and Building Dept.
8. Planning Board Memo to Building Commissioner Regarding 321 Westford Rd. – 6/30/11
9. Building Commissioner Letter to John Coburn Regarding 321 Westford Rd. – 7/7/11

Members Present: Steve Nocco, Chairman
Tom Delmore, Vice Chairman
Bill Gramer
Caryn DeCarteret
Steve O'Neill
Jesse Johnson, P.E.: David E. Ross Associates
Pamela Berman, Administrative Assistant

7:00pm - Meeting called to order by Chairman S. Nocco

7:02pm - **81 Westford Road** – Special Permit and Site Plan permit application submission.

Ken Lania from K&M Land Consultants, LLC appeared before the Board to submit a special permit application for the proposed construction of a commercial development consisting of 1 free standing building to contain a Honey Dew Donuts, and another building dedicated to additional retail/office entities. This development would be located on a 2 acre site currently zoned Industrial 1 at 81 Westford Rd. The application was reviewed for completion and fees were collected. Chairman Nocco signed in the application, and the public hearing was scheduled for September 13, 2011 at 7:00pm.

7:15pm - 413 Middlesex Rd. (formerly On the Border Restaurant) – Special Permit and Site Plan permit for the proposed Bahama Breeze Restaurant.

C. DeCarteret: Motion to waive the reading of the abutters list and legal notice.

S. O’Neill: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Michele Wright of LD Reeves, James Bernardino of Bohler Engineering, and Neil Terwilliger of Darden Industries appeared before the Board to speak on the Special Permit application for the Bahama Breeze Island Grille restaurant to be located at the former “On the Border” restaurant site at 413 Middlesex Rd. The Bahama Breeze Island Grille is a restaurant that features Caribbean-inspired, foods, drinks, and atmosphere. Ms. Wright explained that the current site would be revitalized, with improvements to the building and grounds. She went on to explain that they have been working with the Board of Selectmen to secure the appropriate licenses. In addition, they understand that they will need to obtain a variance from the ZBA in order to erect the desired signage on the property. Additionally, all permits from other Town departments would be secured before beginning construction; these would include Building, Fire Department, and Board of Health requirements.

James Bernardino addressed the comments noted in the plan review done by Board engineer Jesse Johnson. Mr. Johnson noted that the plans as submitted were very well done and meet all zoning requirements. Only a couple minor construction related items existed that should be addressed, most notably that the plans should indicate where the snow storage would be, and the planting of an additional tree in the traffic island that does not currently have one. Mr. Bernardino indicated that the applicant is willing to comply with all of the proposed revisions.

The Board asked what the restaurant’s seating capacity was. Mr. Bernardino said that there would be 239 indoor seats with an additional 17 bar stools. They are also working on securing the appropriate licensing for 51 additional seasonal outdoor patio seating. There were no abutters present to speak on this permit.

S. O’Neill: Motion to close the public portion of the hearing.

T. Delmore: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

C. DeCarteret: Motion to issue a Special Permit for 413 Middlesex Road (M11, P23) for the renovation of the existing building and further development of a new restaurant to be called Bahama Breeze Island Grille.

In accordance with Section 1.16.14 of the Zoning By-Law the Planning Board finds that this proposed use:

1. Is in harmony with the purpose and intent of this By-Law.
2. Will not be detrimental or injurious to the neighborhood in which it is to take place.
3. Is appropriate for the site in question.
4. Complies with all applicable requirements of this By-Law.

The following **Mandatory Conditions** apply to this decision:

1. Approval is required prior to any deviation from the approved plan. Any and all deviations shall be submitted to the Planning Board in writing at a regularly scheduled meeting for consideration of approval.
2. Approval does not imply approval of signage.
3. Approval is conditioned on the following:
 - a. Proposed signage requires a variance from the Tyngsborough Zoning Board of Appeals.
 - b. Per the Tyngsborough Fire Department – Building must comply with NFPA 13, 72, 70, 101, and all other state and local applicable code and standards.
 - c. Per the Tyngsborough Board of Health – All applicable Board of Health approvals and inspections.
 - d. All applicable Board of Selectmen approvals for licenses (including live entertainment) and operations (including outdoor patio seating).
 - e. Compliance with Planning Board engineer comments per letter dated July 18, 2011.
 - f. Planning Board engineer inspections during construction, and upon completion of the work.

S. O'Neill: 2nd the motion

Roll Call Vote:

W. Gramer: Yes

T. Delmore: Yes

S. Nocco: Yes

S. O'Neill: Yes

C. DeCartert: Yes

In Favor: 5 **Opposed:** 0

Passes: 5-0

7:25pm - 50 Westford Road (a.k.a Tyngsborough Commons): Special Permit and Site Plan Special Permit for a proposed mixed-use development that includes seven buildings for commercial, professional, and residential use – Westford Road Development, LLC. Continued from May 19, 2011.

The Board was notified by the applicant that their revised plans have not been completed and asked that this hearing be continued until August 18, 2011.

T. Delmore: Motion to continue this hearing until August 18, 2011
S. O'Neill: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

Discussion

Small and Large Wind Energy System By-Law

The Board was notified by Selectwoman Coughlin that further review is required by Town Counsel and The Energy and Environmental Affairs Committee. Therefore, she requested a continuance.

S. O'Neill: Motion to continue this hearing until notified.
T. Delmore: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

321 Westford Road – Flood plain violation

Chairman S. Nocco recused himself from this discussion due to his personal friendship with the property owner, John Coburn.

C. DeCarteret and Jesse Johnson both disclosed their acquaintance with the property owner, John Coburn.

Property owner, John Coburn appeared before the Board in answer to an Enforcement Order issued by the Tyngsborough Conservation Commission concerning an alleged flood plain violation. The violation encompasses altering the flood plain by dredging, filling, and/or dumping of earth per the Building Commissioner's letter dated July 7, 2011. Mr. Coburn admitted doing the work in question but was unaware of the need for a permit from the Planning Board. He said that he is willing to comply and asked the Board for guidance. Mr. Johnson indicated that he would need to have an engineer construct plans of the property that indicate the

existing conditions with regards to flood plain. Mr. Coburn noted that he needs to file with Conservation as well and asked if these plans can be used for that filing. It was the Board's opinion that the plans should be a comprehensive detail of the entire project that was done on his property. If Conservation issues need to be addressed, the plans should reflect those as well.

Mr. Coburn said that he would begin gathering the information necessary to file with the Planning Board and Conservation and update the Board through Ms. Berman in the office.

Administrative

C. DeCarteret: Motion to approve the minutes from June 16, 2011

T. Delmore: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

7:50pm

T. Delmore: Motion to adjourn

W. Gramer: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman
Planning Board Administrative Assistant