



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

MINUTES
October 6, 2011
APPROVED

Attachments:

1. Meeting Agenda
2. Planning Board Hearing Continuance Form for 50 Westford Rd. – 10/6/11
3. Update email from Jesse Johnson on 321 Westford Rd. Flood Plain Violation – 9/29/11
4. MassDOT report regarding the DEIR for 50 Westford Rd. – 5/31/11
5. David E. Ross Associates review letter for 81 Westford Rd. – 10/4/11
6. Special Permit layout plans for 81 Westford Rd. – 9/30/11

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

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

7:02pm - **81 Westford Rd. (M21, P4, L0)** – Special Permit and Site Plan Special Permit in connection to 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.

Planning Board Vice Chairman Tom Delmore disclosed that he owns a Honey Dew Donuts franchise in a different community and is not affiliated with the applicant of this project.

Attorney Peter Nicosia, and engineer Ken Lania appeared before the Planning Board with the applicant Frank Pollack who will be the proprietor of the proposed Honey Dew Donuts. Atty. Nicosia addressed the Board with a brief summary of the proposed project which includes a 16,000 square foot Honey Dew Donuts, and a 12,000 square foot building to house other retail and office entities. The Tyngsborough Sportsmens Club is granting the lease for this project, as they are the landowners. He went on to explain that they have already been granted several zoning variances from the ZBA, and it is the understanding of the applicant that they will need to file a Notice of Intent with the Conservation Commission which would address the significant wetland, stormwater, and drainage issues that exist on this property. He went on to report that he

and his client had several meetings with Planning Board engineer Jesse Johnson, and Conservation Director Matt Marro in hopes of addressing some of the issues that surfaced during Mr. Johnson's review. These meetings were very productive in solving some of the major issues related to this project.

Applicant engineer Ken Lania presented the Board with a detailed summary of the proposed project. Mr. Lania explained that the proposed site would be accessed by both Westford Rd. and Industrial Way. A drive-thru lane, which would accommodate approximately 8-10 vehicles, would be included with the Honey Dew Donut facility. He went on to say that the proposed retail structure would have two drive-thru lanes for a possible bank. Mr. Lania indicated that he is working on revising the plans according to the recommendations made by Board engineer Jesse Johnson. Mr. Lania went on to indicate that there is a bordering vegetated wetland (BVW) adjacent to the project lot that has been subject to erosion of the soil into an intermittent stream associated with the culvert that comes across Westford Rd. The development of the property (which is 16-20 feet higher than the abutting property) could exacerbate the erosion problem, and therefore, leave Mr. Pollack as the responsible party. With that, Mr. Lania suggested that the potential erosion problem be addressed now in the planning stages. Therefore, they have contacted the abutting owners of the land (Notre Dame Academy) who were in attendance at tonight's hearing. They proposed to Notre Dame a possible restoration and upgrade to the BVW on their property in hopes of reducing any future erosion concerns with the development of the Honey Dew property. Mr. Lania's proposal was preliminarily reviewed by Conservation Director Matt Marro who indicated that the erosion plan seemed like a good one if the abutting property owners were in agreement. Mr. Lania went on to say that they do not have an obligatory requirement to meet the stormwater regulations for the abutting property, but he simply wanted to avoid any anticipated erosion on the Notre Dame property by designing a micro-pool and pocket wetland. Mr. Lania has been in contact with Notre Dame's engineer and will be submitting his design plans to them for their review and comments. In addition, Mr. Lania has been working on the Notice of Intent filing for Conservation and plans to submit that filing sometime next week (10/10-10/14/2011). One other issue noted in Mr. Johnson's report questioned whether or not the waterway that is on Notre Dame's property is a perennial stream. Mr. Lania used the Tyngsborough GIS system to identify a conservative watershed area that contributes to the small pond on the Sportsmens Club property across the street from the 81 Westford Rd. property. Based on Mr. Lania's research, he reported that there is less than half a square mile that drains to that stream, and therefore, would characterize it as an intermittent stream and not a perennial stream.

Mr. Lania addressed the comments from Mr. Johnson's review and agreed to make the necessary revisions recommended in Mr. Johnson's review. The Board requested that a more site specific drawings be developed that will show a more definitive building and landscape rendition of what will be built on the site. The traffic study item is something that the applicant is still studying and will have more information in the coming weeks.

Board member T. Delmore was concerned with the drive-thru lane for the Honey Dew Donuts and its lack of an escape lane for cars who want to jump out of the drive-thru line. Mr. Lania will work on incorporating that into the revised plans. S. O'Neill asked how involved the applicant has been with communicating with Notre Dame. Atty. Nicosia stated that they're goal tonight was to give

Notre Dame a fuller picture of the plan and give them a set of plans for their engineer to review. S. O'Neill asked about the course of tractor trailer deliveries through the site. K. Lania said that delivery trucks would enter from Westford Rd. and travel around the back of the building for deliveries, and subsequently exit on Industrial Way. S. Nocco noted that the design of the one loading zone for both buildings might create a crowded situation. C. DeCarteret added that, in her opinion, the flow of traffic is going to be a nightmare due to the two proposed lanes for a bank on the right side of the building eventually merging to one lane then out onto Industrial Way. The Board asked if the flow of traffic through the property can be revisited and perhaps revised in order to alleviate their concerns. Mr. Lania responded that they would review those issue and the possibility of revising the flow. S. Nocco noted also that Industrial Way is a private way, and was wondered if that status would affect the proposed usage.

Jesse Johnson also reported that he was uncertain how this project's traffic flow would impact the much larger project proposed at 50 Westford Road (Tyngsborough Commons). A traffic study was performed for that project and suggested that perhaps a traffic study should be considered in lieu of the Board's concerns with the currently proposed traffic patterns.

S. Nocco opened the hearing to public comments. John McGrath spoke on behalf of Notre Dame Academy. Mr. McGrath was concerned with the lack of proper communication between the applicant and his clients concerning this project. They feel that in order to understand the project and the impact it would have on their property, they would need to have their own engineer review the plans. He went on to say that there is no agreement between the applicant and The Sisters of Notre Dame Academy to use their land as proposed by Mr. Lania. They urged the Board to continue this hearing in order to give the Sisters more time to have an independent peer review done on the plans. T. Delmore assured Mr. McGrath that there would not be any decision made at tonight's meeting as there remain several outstanding issues that need to be addressed. Atty. Nicosia noted that they wanted to work with Notre Dame regarding this project and they have every intent on keeping them informed. He went on to comment that the plans result in an improvement to Notre Dame's property and not a detriment. Mr. Lania added that he is currently in contact with Notre Dame's peer consultant regarding this project. Atty. Nicosia reassured the Board and Notre Dame that all parties would be included in the peer review process.

Selectwoman Elizabeth Coughlin spoke about her concerns regarding the lack of land boundaries on the plans and the brazen development of property that does not belong to them. In addition, the body of the Tyngsborough Sportsmens Club has not received any description of this project. Ms. Coughlin went on to say that she was informed that it was a town owned drain that emptied out onto the Notre Dame property. Also, she was concerned with the proposed scope of the project being bigger than what the site can adequately hold. S. Nocco noted that the applicant had gone to the ZBA first and was granted a significant amount of zoning relief in order to

design this project. T. Delmore added that the Planning Board has no control over what the ZBA granted. Ms. Coughlin said that the plans as drawn do not delineate the entire wetland area, and had additional concerns with the drainage on and off site, and the maintenance issues involved with catch basins and underground catchment areas. Atty. Nicosia said that all of those issues would be addressed by the Conservation Commission. S. Nocco also noted that the Board's approval would be contingent on stormwater management standards and Conservation Commission approvals. Finally, Ms. Coughlin was concerned about the ownership of Westford Rd., whether it was town owned or state owned, and who would be responsible for maintaining it. Atty. Nicosia indicated that it was a town owned road.

S. O'Neill: Motion to continue this hearing until November 3, 2011
W. Gramer: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

8:25pm

S. O'Neill: Motion for a 5 minute recess.
W. Gramer: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

8:30pm – Meeting Reconvened

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 June 16, 2011.

Elizabeth Coughlin spoke to the Board regarding the MEPA filing and their comments about the two options for a second bridge in Tyngsborough. Their comments weren't meant to derail the project.

Also, it was noted that there remains a deficit in the project's 53G account. The applicant has been notified twice and will submit a check next week.

S. O'Neill: Motion to continue this hearing until November 3, 2011
W. Gramer: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

Discussion:

Sleepy Hollow Lane Paving – Roger Larose

Roger & Dianne Larose appeared before the Board to urge them to speak with developer Walter Eriksen on their behalf in order to get their road paved. It's been an ongoing problem that the Laroses haven't been able to rectify with Mr. Eriksen, as he does not return their phone calls. Mr. Eriksen's representative Jim Patierno reported that the paving process will be started on 10/11/11. J. Johnson will be monitoring the process and keeping the Board updated.

321 Westford Rd. Flood Plain Work

P. Berman spoke with Mr. Coburn today and reported to the Board that he is working with an engineer to finalize the plans and is in the process of filling out the Special Permit application for submittal at the 11/3/11 meeting.

Administrative

S. O'Neill: Motion to cancel the Planning Board meeting scheduled for October 20, 2011 due to the absence of engineer J. Johnson.

C. DeCarteret: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

S. O'Neill: Motion to approve the minutes from September 15, 2011

W. Gramer: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

9:00pm

S. O'Neill: Motion to adjourn

C. DeCarteret: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman
Planning Board Administrative Assistant