



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

MINUTES
November 17, 2011
APPROVED

Attachments:

1. Meeting Agenda
2. Land Engineering & Environmental Services, Inc. Response to Comments for 50 Westford Rd. – 11/16/2011

Members Present: Steve Nocco
Tom Delmore
Bill Gramer
Steve O'Neill
Caryn DeCarteret
Jesse Johnson, David E. Ross Associates

Members Absent: Pamela Berman, Administrative Assistant

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

7:02pm - **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 November 3, 2011.

Board engineer Jesse Johnson reported that all of the Board's comments were addressed in the plans dated November 16, 2011. Additional conditions were discussed by the Board and agreed upon by the applicant. Building as-built submissions, banked parking spaces, and the formation of a property maintenance condo association were all agreed to by the applicant. There were no abutters present to speak on this hearing.

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

S. O'Neill: Motion to approve a Special Permit for a Mixed-Use development known as “Tyngsborough Commons” at 50 Westford Road.

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.

I. FINDINGS:

1. The Board finds that the Applicant has complied with the instructions and requirements for the application for a Special Permit and Site Plan Special Permit established under Sections 1.16.0 et. seq. and 2.16.0 of the Zoning Bylaws. Specifically:
 - a. The Applicant has complied with all of the requirements for a Special Permit and Site Plan Special Permit established under Section 2.16.80 of the Bylaws. The application, supporting plans, materials and filing fees were submitted in accordance with the regulations adopted pursuant to Section 1.16.00 of the Bylaws. Furthermore, the Applicant provided plans and other supplemental materials in accordance with Section 1.16.20 of the Bylaws and the Tyngsborough Planning Board Rules and Regulations.
 - b. The Applicant provided an evaluation of the impacts of “Tyngsborough Commons” pursuant to Section 2.16.82 of the Bylaws.

2. The Project, as proposed, complies with all of the requirements set forth under Section 2.16.00 of the Bylaws, namely:
 - a. “Tyngsborough Commons” will include a mix of business, commercial, professional, residential and recreational uses and be a compact, village-style development that is pedestrian-oriented and incorporates traditional architectural features compatible with the Town character;
 - b. “Tyngsborough Commons” will incorporate only such uses as are permitted under Section 2.16.50 of the Bylaws;
 - c. “Tyngsborough Commons” meets all of the dimensional and other requirements set forth under Section 2.16.70 of the Bylaws;
 - d. “Tyngsborough Commons” meets all of the requirements of Section 1.16.00, including section 1.16.14, and is consistent with the stated purposes and guidelines set forth in Section 2.16.00.

3. Under Section 1.16.14 of the Bylaws, the Board shall only issue a Special Permit where such relief:
 - a. Is in harmony with the purpose and intent of the Bylaws;
 - b. Will not be detrimental or injurious to the neighborhood in which it is to take place;
 - c. Is appropriate for the site in question; and,
 - d. Complies with all applicable requirements of the Bylaws.

4. The Board believes the requested Special Permit and Site Plan Special Permit comply with all of the mandatory findings under Section 1.16.14 for the following reasons:

- a. The requested Special Permit and Site Plan Special Permit are in harmony with the purpose and intent of the Bylaws.

At the March 2, 2010 Special Town Meeting, the Town voted to adopt the new Section 2.16.00 of the Bylaws and to establish the MUVOD for mixed-use village-style projects such as “Tyngsborough Commons.” The Board believes the requested Special Permit and Site Plan Special Permit would be in harmony with the purpose and intent of the Bylaws, particularly as recently amended.

- b. The requested Special Permit and Site Plan Special Permit will not be detrimental or injurious to the neighborhood in which the proposed Facility is to be constructed.

The Special Permit and Site Plan Special Permit allow for the construction of “Tyngsborough Commons” on approximately seventeen (17) of a total of one hundred (100) acres of currently vacant land. The Applicant has designed “Tyngsborough Commons” so as to minimize any potential detrimental or injurious impact on all neighboring parcels and ways. The Board believes that “Tyngsborough Commons,” once completed, will afford the surrounding neighborhood and the Town of Tyngsborough with a number of economic and other benefits (including increased access to Town infrastructure, increased tax revenue, attractive residential and retail space, additional public recreational facilities, etc.) Accordingly, the Board believes the requested Special Permit will not be detrimental or injurious to the surrounding neighborhood.

- c. The requested Special Permit and Site Plan Special Permit are appropriate for the site in question.

The Property is located within the newly established MUVOD. The MUVOD was specifically established at the March 2, 2010 Special Town Meeting to facilitate improvements such as “Tyngsborough Commons” that incorporate a mix of business, commercial, professional, residential and recreational uses in a compact, village-style development. At present, the Property is the only location in the Town of Tyngsborough to which the MUVOD rules and regulations apply. Accordingly, the Board believes the requested Special Permit and Site Plan Special Permit are appropriate for the Property.

- d. The requested Special Permit and Site Plan Special Permit comply with all applicable requirements of the Bylaws.

The requested Special Permit and Site Plan Special Permit comply will all applicable requirements of the Bylaws. Furthermore, the Applicant has complied with all guidelines, instructions, rules and regulations for the Application for a Special Permit and Site Plan Special Permit established pursuant to the Bylaws.

5. In sum, the Board finds that the Project will satisfy the requirements of Sections 1.16.0 et. seq. and 2.16.0 of the Bylaws, as well as the Design Guidelines associated with the MUVOD. For all of the reasons stated above, the Board is of the opinion that all of the conditions for granting the requested Special Permit and Site Plan Special Permit for the Project have been met and that the grant as described above will be in harmony with the purpose and intent of the Bylaws.

6. Therefore, acting under its discretionary power, the Board voted to **GRANT** the requested Special Permit and Site Plan Special Permit in accordance with this decision, subject to the following conditions:

IV. SPECIAL USE PERMIT CONDITIONS:

1. All construction on the Property shall be conducted in accordance with the plans and specifications as approved and conditioned by this decision and with all statutes, laws, rules and regulations of the Commonwealth of Massachusetts and the Town of Tyngsborough.
2. The Applicant will perform additional confirming soil tests and, if necessary, provide modified designs for the stormwater management systems to the Planning Board's consulting engineer for review and approval prior to the issuance of a building permit.
3. The Applicant shall be allowed to "bank" approximately 85 parking spaces. If, upon a written determination of the Town Building Commissioner, additional parking is required at the site the "banked" parking spaces shall be constructed within 3 months; provided, however, that if said construction is impossible or impractical due to the season, weather, or other circumstances beyond the Applicant's control, said period shall be extended for so long as mutually agreed upon by the Town Building Commissioner and the Applicant.
4. Prior to construction on the site, the Applicant shall submit a bond, acceptable to the Planning Board, to cover the costs of construction associated with the proposed traffic signal at the entrance to Market Street and Westford Road.
5. The Applicant shall construct the traffic signal at the entrance to Market Street and Westford Road after the construction of the first two buildings located at the front of "Tyngsborough Commons" along Westford Road. The construction of the signal shall be a condition precedent to the issuance of building permits for the construction of any additional buildings thereafter.

6. Site inspections by appropriate Town Officials or Agents, including the Building Commissioner, shall be conducted for each building that is constructed.
7. This Decision shall be recorded with the Middlesex North District Registry of Deeds. This recording shall be done prior to the issuance of any Building Permit or the start of construction on the Property.
8. The Building Commissioner shall have the authority to make inspections during the construction of the Project.
9. Any changes in the approved plans or specifications which, in the opinion of the Board, materially alter the size, shape, use, location or any other conditions stated in this decision may require that a new or modified Special Permit and/or Site Plan Special Permit be issued in accordance with the provisions of the Bylaws.
10. The Applicant shall comply with all noise standards listed in Section 3.14.41 and 3.14.42 of the Bylaws.
11. The Applicant shall address all concerns or comments from the Tyngsborough Fire Department prior to the start of construction.
12. Prior to the start of construction, the Applicant shall file for a Stormwater hearing with the Conservation Commission under Tyngsborough's Stormwater By-law.
13. Prior to construction, loading areas must be designated on the plans per TF Moran's letter dated April 20, 2011.
14. Off-site improvements related to traffic must be shown on formal plans and those plans should be submitted to the Planning Board's engineer for review and approval prior to construction.
15. Final building elevations for each building must be submitted to the Planning Board's engineer for review and approval prior to issuance of a building permit.

16. An interim as-built must be submitted, and a final inspection done by the Planning Board's engineer for each building prior to issuance of an occupancy permit. The as-built will have to show adequate access, parking, lighting, landscaping and utilities are available for that particular building.
17. The Applicant must submit proof that it has obtained a NPDES permit prior to the start of any construction.
18. A Condominium Association shall be established to facilitate all aspects of road maintenance and trash collection.
19. All engineer review fees shall be paid prior to the issuance of an occupancy permit.
20. The Recreation Facility shall be completed prior to the occupancy of the last building.

T. Delmore: 2nd the motion

Roll Call Vote:

W. Gramer: Yes

T. Delmore: Yes

S. Nocco: Yes

S. O'Neill: Yes

C. DeCarteret: Yes

In Favor: 5 Opposed: 0

Passes: 5-0

Administrative

C. DeCarteret: Motion to approve the minutes from November 3, 2011

T. Delmore: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

7:20pm

S. O'Neill: 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