



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

MINUTES
April 17, 2014

APPROVED

Attachments:

1. Meeting Agenda
2. 5 Summer St. Special Permit Application – 3/11/14
3. David E. Ross Associates Report for 5 Summer St. - 4/14/14
4. Land Engineering & Environmental Services response to David E. Ross comments dated 3/17/14 for 4 Trader Circle (aka, 32 Progress Ave.) – 4/7/14
5. Sewer Dept. Letter regarding 4 Trader Circle – 4/8/14
6. David E. Ross Associates response review for 4 Trader Circle – 4/14/14
7. Land Engineering & Environmental Services response to David E. Ross comments dated 4/14/14 for 4 Trader Circle (aka, 32 Progress Ave.) – 4/14/14
8. Deschenes & Farrell letter regarding 4 Trader Circle – 4/15/14
9. Heritage Hill Preliminary Subdivision Application Submission – 4/9/14
10. 7-23 Middlesex Rd. Zoning Change Citizens Petition – 2/26 & 28/14
11. Dept. Comments regarding 7-23 Middlesex Rd. Zoning Change Citizens Petition
12. Zoning Bylaw Amendment for Section 5.00.00 – Special Requirements for Registered Marijuana Dispensaries

Members Present: William Gramer, Chairman
Kimberly O'Brien, Vice Chairman
Steve O'Neill
Steve Nocco
Jesse Johnson, David E. Ross Associates

Members Absent: Tom Delmore

7:00pm - Meeting called to order by Chairman William Gramer

7:02pm **5 Summer St. (M31, P80, L0)** – Jean Chandonnet applicant, for a Special Permit to construct a Temporary Independent Living Quarters (In-Law Suite) in accordance with Tyngsborough Zoning By-Law Section 4.15.00. Said property is zoned R-1.

S. Nocco: Motion to waive the reading of the abutters list and legal notice

K. O'Brien: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

Applicants and homeowners Jean and Rose Chandonnet appeared before the Board regarding this project. They explained that the in-law suite addition would be added to the top of an existing garage in order for their daughter and her family to occupy. They requested a waiver of the requirement for architect/engineer stamped plans. Board engineer J. Johnson reviewed the plans and noted that they were thorough. He noted that the current design has stairwell access to the TILQ from a foyer that provides access to the rear and to the family room of the primary residence. This layout does not appear to comply with Section 1.15.30(3) and (8) of the Bylaw as it does not ensure that the TILQ will forever function as such or be easily converted back into the primary residence. The Board asked if the proposed door could be eliminated and just left as a cased opening for free pass-through. Mr. Chandonnet agreed to the revision to the plans.

An abutter from 6 Summer St. spoke in favor of the project. No other abutters were present to speak for or against this project.

S. Nocco: Motion to close the public portion of the hearing

S. O'Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

S. O'Neill: Motion to approve a Special Permit for “Temporary Independent Living Quarters” (T.I.L.Q.) at 5 Summer Street per plans dated December 28, 2013 with a revision made to Page 4 of the plans on April 28, 2014 that removed the 2’8” door between the existing Family Room and the proposed addition Foyer. In accordance with section 1.16.14 and 4.15.00 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. Including the requirements set forth in Section 4.15.30 “Decision Criteria” items #1 through #9 inclusive.

S. Nocco: 2nd the motion

Roll Call Vote:

Steve Nocco: In Favor

Steve O'Neill: In Favor

William Gramer: In Favor

Kimberly O'Brien: In Favor

Tom Delmore: Absent

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

7:25pm 4 Trader Circle (M13, P42, L0) – Logan Realty Trust, applicant, for a Special Permit application pursuant to Tyngsborough Zoning By-Laws Section 2.11.30 for a Site Plan Special Permit for the proposed construction of a 9,900 s.f. industrial building for purposes of operating a heavy vehicular sales or repair business. Said property is zoned I-1. **Continued from March 20, 2014.**

Atty. Kevin Eriksen and engineer Doug Lees appeared before the Board with revised plans dated April 7, 2014. The revisions were based on comments from Board engineer J. Johnson. They added a vehicle storage parking area per the Board's request. J. Johnson reported that the adjustments made to the plans were good. Atty. Eriksen briefed the Board on a pending issue with the Sewer Commission regarding proposed work within the Sewer Easement on the property. They are expected to discuss the issue with the Commission on April 24, 2014 and requested a continuance.

S. Nocco: Motion to continue this hearing to May 1, 2014 at 7:00pm.

S. O'Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

7:45 pm Heritage Hills Preliminary Subdivision Plan Application Submission

Project developers Scott Connell and Mike Schena appeared before the Board with an application for a preliminary subdivision to be known as Heritage Hills. Chairman W. Gramer signed the application and the hearing was scheduled for May 15, 2014 at 7pm.

7:50pm Relative to Proposed Zoning By-Law Amendments, Pursuant to M.G.L. c. 40A, § 5

The Tyngsborough Planning Board will hold a public hearing to discuss the proposed amendment to the Town's zoning map, where it will act as a Special Permit granting authority as specified in paragraph 1.16.00 of the Tyngsborough Zoning By-Law.

The subject matter of the proposed amendment is indicated below. The complete text and maps relative to the proposed amendment are available for inspection during regular business hours in the office of the Planning Board, 25 Bryants Lane Tyngsborough, MA.

The purpose of the hearing is to consider a Citizen's Petition regarding an amendment to the Tyngsborough Zoning Map. The applicant seeks to change the zoning classification from I1 to B3 a certain parcel of land with improvements thereon, located at 7-23 Middlesex Road, Tyngsborough, Massachusetts 01879 and more particularly described in a deed recorded at Book 27393, Page 206 and recorded in the Middlesex North District Registry of Deeds on June 18, 2013. The property is also identified as Map 28, Block 111, Lot 0 on the Tyngsborough Tax Assessor's Maps. The property is currently owned by 7-23 Middlesex Road LLC and it contains approximately 2.35 acres of land more or less arising from three contiguous parcels under the same deed.

S. Nocco: Motion to waive the reading of the legal notice.
S. O’Neill: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1
Passes: 4-0-1

Atty. Peter Nicosia appeared before the Board to explain that this petition for a zoning map change would allow Route 3A Motors to expand their business from Chelmsford into Tyngsborough at this site. The intention is to sell Indian motorcycles which is not currently allowed due to the I-1 zoning classification. A B-3 zoning classification would be more restrictive in allowed uses; however, it would allow small vehicle sales. Atty. Nicosia went on to stress that this is not “spot zoning” as there exists similar business zoning classification up and down Middlesex Rd., and it is consistent with the Town’s objective in creating a business district on Middlesex Rd. Finally, Atty. Nicosia noted that the final approval would have to be voted on at Town Meeting. There were no residents present to speak for or against this petition.

S. Nocco: Motion to close the public portion of the hearing
S. O’Neill: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1
Passes: 4-0-1

S. Nocco: Motion to recommend to the Board of Selectmen and Town Meeting the Citizen’s Petition to change the zoning classification of 23 Middlesex Rd. from I-1 to B-3.
S. O’Neill: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 1
Passes: 4-0-1

7:55pm Relative to Proposed Zoning By-Law Amendments, Pursuant to M.G.L. c. 40A, § 5

The Tyngsborough Planning Board will hold a public hearing to discuss the proposed amendment to the Town’s Zoning By-Laws, where it will act as a Special Permit granting authority as specified in paragraph 1.16.00 of the Tyngsborough Zoning By-Law.

The subject matter of the proposed amendment is indicated below. The complete text relative to the proposed amendment is available for inspection during regular business hours at the Tyngsborough Office of the Planning Board, 25 Bryants Lane Tyngsborough, MA.

The purpose of the hearing is to consider a proposed amendment the Zoning Bylaws by replacing the existing Section 5.00.00, “Interim Restriction/Moratorium for Medical Marijuana Treatments Centers”, in its entirety with the new section entitled, Section 5.00.00, “Special Requirements for Registered Marijuana Dispensaries” and includes the following sub-sections:

- 5.10.00 Purpose
- 5.20.00 Applicability
- 5.30.00 Definitions
- 5.40.00 Eligible Locations
- 5.50.00 General Requirements and Conditions for all Registered Marijuana Dispensaries
- 5.60.00 Special Permit Requirements
- 5.70.00 Abandonment or Discontinuance of Use
- 5.80.00 Severability

S. Nocco: Motion to waive the reading of the legal notice.

S. O'Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

Assistant Town Administrator Nina Nazarian and Town Counsel Atty. Charles Zaroulis appeared before the Board regarding this by-law amendment. Ms. Nazarian reported that a committee was formed made up of members from the Board of Selectmen, Board of Health, Planning Board, and the Police Department to draft regulations that would assist the Town in facilitating an applicant seeking to open a marijuana dispensary. The by-law was based on the Massachusetts town of Dennis which has already won the Attorney General's approval of a similar bylaw.

The Board discussed the language of the bylaw noting that a dispensary would only be allowed in a B-3 zoning district. In addition, the Massachusetts State regulations would dictate the requirements for permitting such a facility. There was additional discussion concerning the gross floor area of a dispensary which was amended from 2,500 square feet, to 2,000 square feet. It was further noted that Town Meeting would be the final vote on this bylaw. There were no residents present to speak for or against this bylaw amendment.

S. Nocco: Motion to close the public portion of the hearing

S. O'Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

K. O'Brien: Motion to amend Section 5.50.02 to strike "2,500, and replace with "2,000"

S. Nocco: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

S. Nocco: Motion to recommend to the Board of Selectmen and Town Meeting an amendment to the Zoning Bylaws by replacing the existing Section 5.00.00, “Interim Restriction/Moratorium for Medical Marijuana Treatments Centers”, in its entirety with the new section entitled, Section 5.00.00, “Special Requirements for Registered Marijuana Dispensaries” and includes the following sub-sections: 5.10.00 Purpose, 5.20.00 Applicability, 5.30.00 Definitions, 5.40.00 Eligible Locations, 5.50.00 General Requirements and Conditions for all Registered Marijuana Dispensaries, 5.60.00 Special Permit Requirements, 5.70.00 Abandonment or Discontinuance of Use, 5.80.00 Severability

S. O’Neill: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

ADMINISTRATIVE

S. Nocco: Motion to approve the minutes as written from the 4/3/14 meeting.

K. O’Brien: 2nd the motion

In Favor: 3 Opposed: 0 Abstain: 1 Absent: 1

Passes: 3-0-1-1

8:20pm

S. Nocco: Motion to adjourn

K. O’Brien: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 1

Passes: 4-0-1

Minutes respectfully submitted by
Pamela Berman