



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

MINUTES
December 3, 2015
APPROVED

Attachments:

1. Meeting Agenda
2. Application for Zoning By-Law Amendment Review (Form Z) – 11/17/15
3. Flint’s Corner Mixed Use Development Concept Plan – 11/5/15
4. Tyngsborough Town Dept. Comments for Zoning Amendment By-Law Review
5. Atty. Charles Zaroulis Email Regarding Zoning By-Law Amendment – 11/25/15
6. David E. Ross Associates Site Inspection Report for Ava Lane – 11/23/15
7. David E. Ross Associates Site Inspection Report for 4 Middlesex Rd. – 12/2/15
8. Walter Eriksen letter regarding 4 Middlesex Rd. – 12/3/15
9. As-Built Plan for 4 Middlesex Rd. – 11/30/15
10. Site Photos for 4 Middlesex Rd. – 12/3/15

Members Present: Tom Delmore, Chairman
Kimberly O’Brien, Vice Chairman
Steve Nocco
Corliss Lambert
Steve O’Neill

Members Absent: Pat Sands, Associate Member

7:00pm - Meeting called to order by Chairman Tom Delmore

1. **Zoning By-Law Amendment:** Pursuant to M.G.L. c. 40A, § 5, Flints Corner Realty Trust, applicant, requests to amend Section 2.16.00 of the Tyngsborough Zoning By-Laws. *Advertised in the Lowell Sun Wednesday November 18, 2015 and Wednesday November 25, 2015.*

Amend Section 2.16.00 of the Tyngsborough Zoning By-Laws “Mixed Use Overlay District” by adding the following text to Section 2.16.20 “Boundaries”:

“The boundaries of the MUVOD shall also include the areas as shown on the Town of Tyngsborough Assessor’s Map Sheet 15, Parcel 18; Map Sheet 22, Parcels 7 and 23; and Map Sheet 22, Parcel 20, Lot 17, encompassing an area consisting of approximately 12.2 acres with frontage on Westford Road and Dunstable Road.”

S. Nocco: Motion to waive the reading of the abutters list and legal notice
K. Obrien: 2nd the motion
In Favor: 5 Opposed: 0
Passed: 5-0

Chairman T. Delmore noted that the Board's responsibility is to hear a request for a Zoning By-Law amendment that is to be brought before Town Meeting for a vote. The Planning Board can Only make a recommendation to support or not support the proposed amendment, as Town Meeting has the final vote.

Atty. Melissa Robbins, engineer Joe Pezznola, developer Jay Finnegan and property owner Ed Duffy appeared before the Board. Atty. Robbins explained that they had approached the Board of Selectmen looking for support to sponsor a warrant article for the upcoming Special Town Meeting to amend the Mixed use Overlay District By-Law, Section 2.16.00. The By-Law delineates one parcel for an overlay district on Westford Rd., and Mr. Finnegan and Mr. Duffy are proposing a new overlay district project for the property located at Flints Corner Plaza. Atty. Robbins added that Town Meeting would need to approve the zoning change which is only an addition of another overlay district parcel to the existing by-law.

The concept plan submitted to the Board detailed what could be developed on the parcel with an overlay district delineation. This concept includes the current Flint's corner plaza along with a set of stores, a restaurant, and three 32 unit residential condo complexes added to the site. The Board noted concerns from the Sewer Commission and Zoning Board of Appeals that included "no" sewer capacity available for the site, traffic, and roadway infrastructure, and town services impacts. Atty. Robbins acknowledged these issues and assured the Board the any future plans would require extensive discussion, analysis, and design, as well as multiple Town Board approvals before moving forward with any project.

Several residents from Windemere Circle, and Wynbrook Lane spoke in favor of the zoning amendment and the concept plan, citing confidence in the developer, Jay Finnegan. S. Nocco noted that Town Counsel reviewed the amendment for any "spot zoning" issues, and there were none. The Board felt that the concept plan would be a good fit but would require extensive review when the time comes. No other residents spoke for or against the by-law amendment.

S. Nocco: Motion to close the public portion of the hearing
C. Lambert: 2nd
In Favor: 5 Opposed: 0
Passes: 5-0

S. Nocco: Motion to support an amendment to Section 2.16.00 of the Tyngsborough Zoning By-Laws "Mixed Use Overlay District" by adding the following text to Section 2.16.20 "Boundaries":

“The boundaries of the MUVOD shall also include the areas as shown on the Town of Tyngsborough Assessor’s Map Sheet 15, Parcel 18; Map Sheet 22, Parcels 7 and 23; and Map Sheet 22, Parcel 20, Lot 17, encompassing an area consisting of approximately 12.2 acres with frontage on Westford Road and Dunstable Road.”

S. O’Neill: 2nd the motion

Roll Call Vote:

C. Lambert: In Favor

S. Nocco: In Favor

T. Delmore: In Favor

K. O’Brien: In Favor

S. O’Neill: In Favor

Passes: 5-0

ENGINEER REPORTS

Ava Lane: Board engineer R. Oliva briefed the Board on the activity at this 4 lot subdivision. Builder Peter Cricones appeared to ask about establishing the street bond. R. Oliva reported that he is still waiting for the as-built plans, but he is working on the numbers for an estimate to be discussed at the next meeting.

ADMINISTRATIVE

New Business:

4 Middlesex Rd. Engineer Report & As-Built Plan:

Developer Walter Eriksen appeared before the Board and submitted an As-Built plan. Mr. Eriksen reported that he has tenants for the building and is requesting building occupancy at this time. Board engineer R. Oliva said that his site inspection yielded several unfinished items including slope stabilization, landscaping, and questions about the handicap accessibility ramp slope grades. Mr. Eriksen said that he will be having mulch delivered on 12/4/15, which he believes will stabilize the slope enough this winter that it won’t degrade. He went on to say that he would have his architect investigate the ramp grades. R. Oliva suggested that he would be comfortable with a certification from the architect that the grades are compliant. The Board decided to issue a letter to the Building Inspector recommending temporary occupancy as long as the site be re-inspected in the Spring and any issues be addressed at that time.

Minutes:

S. Nocco: Motion to approve the minutes for November 19, 2015 as written.

K. O'Brien: 2nd the motion

In Favor: 5 Opposed: 0

Passed: 5-0

8:00pm

S. Nocco: Motion to Adjourn

K. O'Brien: 2nd the motion

In Favor: 5 Opposed: 0

Passed: 5-0

Minutes respectfully submitted by,
Pamela Berman
Planning Board Administrative Assistant