



***Town of Tyngsborough***  
*Zoning Board of Appeals*  
Town Hall-25 Bryants Lane  
Tyngsborough, MA 01879-1003  
(978) 649-2300, Ext. 115

**TYNGSBOROUGH ZONING BOARD OF APPEALS MINUTES**

**April 12, 2012**

**APPROVED**

Attachments:

1. Meeting Agenda
2. 431 Middlesex Rd. ZBA Application – 3/15/12
3. Town Department Comments for 431 Middlesex Rd.
4. Simon’s Service Center Letter of Support for 431 Middlesex Rd. – 3/8/12
5. 257 Middlesex Rd. ZBA Application – 3/15/12
6. Town Department Comments for 257 Middlesex Rd.
7. Deschenes & Farrell Letter regarding 3 Poe Circle at Maple Ridge Development – 4/11/12

Members Present: Robb Kydd, Chairman  
Chris Mechalides, Vice Chairman  
Claire Cloutier  
Cheryl Bradley  
Joseph Polin  
Scott Bordeleau

**6:30pm** Meeting was called to order by Chairman R. Kydd

**Public Hearing #1**

**SMOKEY BONES BAR & GRILL – 431 MIDDLESEX RD.** – Assessor Map 11, Lot 21; Request a Variance from Sections 2.12.50 side yard setback, 3.13.32 buffering and screening; and 3.10.24 parking spaces, of the Zoning By-Law for a new 1,290 sq. ft. enclosed patio and 470 sq. ft. outdoor patio addition to the existing Smokey Bones restaurant. *Advertised in the Lowell Sun Thursday March 29, 2012 and Thursday April 5, 2012.*

Abutters List Present and Complete

**C. Cloutier:** Motion to waive the reading of the Abutters List

**C. Bradley:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Application Presentation by Applicant/Designee:

Atty. Peter Nicosia appeared for the applicant Smokey Bones Restaurant. He explained that this project encompasses an expansion of the existing restaurant to include a year round dining area and an outdoor patio. He went to say that they would also need approvals from the Planning Board for the modification of the Special Permit and site plan, and the Board of Selectmen for the liquor license expansion.

That area of Middlesex Rd. is a prime location for several restaurants in Town, including the newly opened Bahama Breeze which has an outdoor patio. Smokey Bones feels that this expansion would help keep up with the other local restaurants and maintain their successful business presence in Town.

The variance relief they are looking for is for the side yard setback, buffering & screening requirements, and the parking requirements (need 12 more spaces to meet the bylaw). The property is leased from the owners of the Pheasant Lane Mall. There does exist a parking easement that would allow the additional parking to be utilized at the adjacent parking lot. Atty. Nicosia noted that Simon Service Center, who is the direct abutter, submitted a letter of support for the project. No other abutters spoke for or against the project.

Board Discussion and Q&A to Applicant with Applicant response

The Board had safety concerns with the adjacent parking lot and the impact on the customers who would be crossing the mall driveway to get to the restaurant. In addition, they questioned what the landscape plan would look like with reduced buffering and screening. Atty. Nicosia said that he did not have a landscape plan ready for tonight but could provide it. He went on to note that the Planning Board will do an extensive review of the entire site plan as part of their site plan special permit review process.

The Board requested that the applicant submit a plot plan that would address the inconsistencies between the revised plot plan and the existing building plan. In addition, they requested that the landscape plans that show the scope of the buffering and screening.

**J. Polin:** Motion to continue the hearing until May 10, 2012.

**S. Bordeleau:** 2<sup>nd</sup> the motion

**In Favor: 6 Opposed: 0**

**Passes: 6-0**

7:45pm Board took a five minute recess

7:50pm

## **Public Hearing #2**

### **ROUTE 3A GAS, INC. AND TYNGSBOROUGH REALTY TRUST – 257**

**MIDDLESEX RD.** – Assessor Map 20, Lot 47; Request a Variance from Sections 2.11.30 & 2.11.50 for Light Vehicle Sales (7 car maximum). *Advertised in the Lowell Sun Thursday March 29, 2012 and Thursday April 5, 2012.*

The recording device malfunctioned prior to the opening of this hearing and therefore, no testimony was recorded.

- The meeting was opened
- Some evidence was heard by the Board
- Hearing was continued until May 10, 2012

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## **OTHER BUSINESS**

Maple Ridge Discussion – Eriksen

A letter requesting a modification to the Comprehensive Permit for Maple Ridge Development, specifically, 3 Poe Circle was submitted to the Board for consideration. The letter details the homeowner's request to build a 24' x 22' addition to the property located at 3 Poe Circle. The Board was requested to vote on whether this request is a substantial change or an insubstantial change to the Comprehensive Permit.

The recording device malfunctioned prior to this discussion and therefore, no testimony was recorded.

53G Accounts

The recording device malfunctioned prior to this discussion and therefore, no testimony was recorded.

**ADMINISTRATIVE**

1. Minutes: The recording device malfunctioned prior to this discussion and therefore, no testimony was recorded.
2. Next meeting is scheduled for: May 10, 2012

Meeting Adjourned

Minutes respectfully submitted by  
Pamela Berman, ZBA Administrative Assistant