



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

March 14, 2013

APPROVED

Attachments:

1. Meeting Agenda
2. 364 Westford Rd. ZBA Application – 2/14/13
3. 364 Westford Rd. Dept. Comments
4. 272 Middlesex Rd. ZBA Application – 2/14/13
5. 272 Middlesex Rd. Dept. Comments
6. PSC 40B Project Status Report – 2/22/13

Members Present: Claire Cloutier, Chairman
Robb Kydd, Vice Chairman
Chris Mechalides
Cheryl Bradley
Joe Polin
Scott Bordeleau
Pamela Berman, Administrative Assistant

6:30pm Meeting was called to order by Chairman C. Cloutier

Public Hearing #1

J. Polin sat out of this hearing.

364 Westford Rd. (M9, P26) – Request for a Variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Law, and a Special Permit under Section 2.15.22 to raze an existing structure and construct a new single family home in an R-1 Zone. *Advertised in the Lowell Sun Wednesday February 27, 2013 and Wednesday March 6, 2013.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list.

R. Kydd: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Application Presentation by Application/Designee

Atty. Peter Nicosia appeared before the Board for the applicant Wingback Realty Trust. Atty. Nicosia explained that this property currently has 4 abandoned structures that will be removed. The applicant intends to completely rehabilitate the property by cleaning, grading, and building one single family dwelling. In addition to the ZBA, they will be filing with the Board of Health for a new septic system, and with the Conservation Commission due to the wetlands. Atty. Nicosia went on to say that the work will increase the conformity of the lot by improving the side yard encroachment. In addition, the work will be a vast improvement to the whole neighborhood.

The relief sought for the project would be a variance for the buildable lot area and the side yard setback. In addition, a Special Permit is sought in order to raze the existing 4 structures and re-build 1 single family dwelling. Abutters from 371 and 359 Westford Rd. spoke in favor of the project. No abutters were present to speak against this project.

R. Kydd: Motion to close the public portion of the hearing.

S. Bordeleau: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- Board members felt that this project was beneficial to the neighborhood and had no issues with the proposed plans.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: This is a good project and meets the spirit & intent of the Town's Zoning Bylaws.

Planning Board: None

Assessor: None

Board of Health: Needs Title V done by June 20, 2013

Fire Dept.: None

Conservation Commission: Intrusion into the 100 ft. buffer requires Conservation approval

Sewer Dept.: None

Highway Dept.: None

BOS: None

Police Dept. None

C. Mechalides: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for buildable lot area and side yard setback for 364 Westford Road.

C. Bradley: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

R. Kydd: Motion to grant a Special Permit under Section 2.15.22 of the Tyngsborough Zoning Bylaws to raze existing structures and construct a new single family home for 364 Westford Road with the condition that all four existing structures be removed

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

WINGBACK REALTY TRUST – 364 WESTFORD ROAD: Assessors Map 9, Parcel 26; **APPROVE** a **Variance** from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws for square footage in an R-1 Zone, from required 65,000 sq. ft. to 38,681 sq. ft.

Assessors Map 9, Parcel 26; **APPROVE** a **Variance** from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws for side yard setbacks in an R-1 Zone, from required 30ft. to 14.71 ft.

Assessors Map 9, Parcel 26; **APPROVE** a **Special Permit** under Section 2.15.22 to raze four existing structures, clear lot, hall out buildings and construct new 27'x44' 2-Story Colonial single family dwelling with attached garage with approved setbacks as shown on plan view dated 2/4/13.

Public Hearing #2

R. Kydd sat out of this hearing.

272 Middlesex Rd. (M20, P35) – Request for a Variance from the requirements of Section 2.12.50 and 3.13.31 of the Tyngsborough Zoning By-Law, and a Special Permit under Section 2.15.22 to renovate a pre-existing non-conforming structure for the purpose of professional office space in a B-2 Zone. *Advertised in the Lowell Sun Wednesday February 27, 2013 and Wednesday March 6, 2013.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list.

R. Kydd: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Application Presentation by Application/Designee

Atty. Peter Nicosia appeared before the Board for the applicant BFC Wareham Holdings, LLC. Atty. Nicosia explained that this property was previously granted a variance in 2010. However, because more than one year has elapsed, the subsequent owner must renew the approvals. It should be noted that the site is zoned B-2, and a Special Permit from the Planning Board would be required for the professional office use intended at the property. In addition, the septic design approved in 2010 would also have to be renewed with the Board of Health. The relief sought tonight would bring the property closer to conformity as the lot is a pre-existing no-conforming parcel.

C. Mechalides: Motion to close the public portion of the hearing.

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Open Discussion by the Board and Q&A to Applicant with Applicant responses

- C. Mechalides: Will the current entrance be the same, and will the footprint of the structure change from the 2010 variance?
- P. Nicosia: the entrance will remain the same, and there will be no footprint change from the 2010 variance.
- J. Polin: Is the relief you're looking for the same as what was granted in 2010, and will there be a new septic system?
- P. Nicosia: The relief sought is the same that was granted in 2010, and yes, there will be a new septic system installed.
- S. Bordeleau: There is a note from the Tax Collector about unpaid taxes.
- P. Nicosia: I have spoken to the Tax Collector and have assured him that all taxes will be paid.
- Additional comments from the Board centered around the septic system, snow storage and building use. Atty Nicosia reiterated that the applicant will need to get approvals from the Board of Health for the septic system. In addition, the site is zoned B-2 and due to the limitations and regulations regarding parking, the only permitted use would be a professional office. He went on to say that the Building Inspector would enforce the zoning code regarding use.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: None
Planning Board: parking concerns
Assessor: None
Board of Health: Will need new septic system
Tax Collector: Property Taxes are due
Fire Dept.: None
Conservation Commission: None
Sewer Dept.: None
Highway Dept.: None
BOS: None
Police Dept. None

J. Polin: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for square footage in a B-2 Zone, front and side yard setbacks, and from the requirements under Section 3.13.31 for buffering and screening at 272 Middlesex Road.

C. Bradley: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

J. Polin: Motion to grant a Special Permit under Section 2.15.22 of the Tyngsborough Zoning Bylaws to renovate, alter limited to the existing footprint of the existing structure at 272 Middlesex Road.

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

BFC WAREHAM HOLDINGS, LLC– 272 MIDDLESX ROAD: Assessors Map 20, Parcel 35; **APPROVE** a **Variance** from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws for square footage in a B-2 Zone, from required 20,000 sq. ft. to 10,417 sq. ft.; for front yard setback from 15 lin. ft. to 8.5 ft.; for right yard setback from 15 lin. ft. to 4.5 ft. as detailed on the plans dated 2/14/13.

Assessors Map 20, Parcel 35; **APPROVE** a **Variance** from the requirements of Section 3.13.31 of the Tyngsborough Zoning By-Laws for buffering and screening in a B-2 Zone from the required 15 ft. side yard to a 14 ft. left side variance; and from 15 ft. to a 4.5 ft. right side variance as detailed on the plans dated 2/14/13.

Assessors Map 20, Parcel 35; **APPROVE** a **Special Permit** under Section 2.15.22 of the Tyngsborough Zoning Bylaws to renovate, alter limited to the existing footprint to a pre-existing non-conforming structure, with approved setbacks as shown on the plan view dated 2/14/13.

OTHER BUSINESS

1. The engineering firm for the ZBA on the 40B projects in town, Professional Services Corp., submitted a project status report for all 40B projects: Whispering Pines, Maple Ridge, Merrimac Landing, Wyndbrook, and Whitman Woods. The report detailed the dates of site visits and corresponding construction observation reports, all invoicing relative to each site visit that included a detailed summary of activity during the site visit, any and all correspondence between PSC and the project contractor relative to each project, a detailed report of outstanding issues for each project, and a projected cost analysis relative to unfinished projects.

The Board requested that each developer receive a copy of the report and requested that the developers of Merrimac Landing come in to the next meeting to discuss their report as there seems to be a lot of outstanding issues. The next meeting is scheduled for April 11, 2013.

2. S. Bordeleau asked if Walter Eriksen had replenished the 53G account for the Maple Ridge project. As of tonight's meeting, no monies have been received. The Board suggested that a reminder letter be sent to Mr. Eriksen.
3. A Building Permit Denial & Zoning Code Ruling form was reviewed by the Board and they approved of the format.

ADMINISTRATIVE

1. Minutes

R. Kydd: Motion to approve the minutes with corrections for February 14, 2013.

S. Bordeleau: 2nd the motion

In Favor: 4 Opposed: 0 Abstain: 2

Passes: 4-0-2

2. New Business:

- Next meeting is scheduled for April 11, 2013

7:25pm

C. Mechalides: Motion to adjourn

J. Polin: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, ZBA Administrative Assistant