



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 10, 2014
APPROVED

Attachments:

1. Meeting Agenda
2. 41 Woodfern Ave. ZBA Application – 2/11/14
3. 41 Woodfern Ave. Tyngsborough Dept. Comments
4. 77 Frost Rd. ZBA Application – 3/20/14
5. Hearing Continuance Form for 125-135 Middlesex Rd. (Tyngsboro Crossing) – 4/10/14
6. Deschenes & Farrell Continuance Request for 125-135 Middlesex Rd. (Tyngsboro Commons) – 3/27/14

Members Present: Claire Cloutier - Chairman
Robb Kydd – Vice Chairman
Cheryl Bradley
Christine Mechalides
Joe Polin
Pamela Berman, Administrative Assistant

Members Absent: Scott Bordeleau

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

Public Hearing #1

41 Woodfern Ave. (M32B, P30, L1) - Request for a Variance from the requirements of Section 2.12.50 (Rear Yard Setback), of the Tyngsborough Zoning By-Laws for the construction of an 11' x 22' addition in an R-2 Zone. *Advertised in the Lowell Sun Thursday February 27, 2014 and Thursday March 6, 2014.* **Continued from March 13, 2014**

Homeowners Kevin and Ann Menezes appeared before the Board with an updated plot plan dated 3/20/14. In addition, abutters from 20 Pleasantview Ave., 39 Woodfern Ave., 33 Oakland Ave., and 37 Oakland Ave. appeared before the Board and voiced their strong support for this project. Abutter Mark DeSousa from 37 Oakland Ave. owns the home with the fence where the proposed addition would be closest too. He stated that he has no issues or problems with the proposed addition being close to his fence, and supports the project.

J. Polin: Motion to close the public portion of the hearing.
R. Kydd: 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 comfortable with the project knowing that the neighbors were in support of it.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Commissioner: No comments at this time.

Planning Board: None

Assessor: None

Fire Dept.: Must upgrade entire home to current detection standards. Comply with current local and state codes, Ch. 148, 527 CMR.

Homeowners reported that they have spoken to the Fire Dept. about these requirements.
Conservation Commission: This proposal will require the filing for a Request for a Determination with the Conservation Commission.

The Homeowners will be filing this paperwork next week for a hearing prior to pulling the building permit.

Sewer Dept.: None

Highway Dept.: None

Tax Collector: 1st half sewer usage bill is delinquent, due 2/25/14.

Homeowners have paid this bill and the Tax Collector confirms receipt.

R. Kydd: Motion to grant a Variance under Section 2.12.50 of the Tyngsborough Zoning Bylaws for 41 Woodfern Ave. from certain dimensional requirements in an R-2 Zone including: 1.4 ft. rear yard variance based on plot plan dated 3/20/14.

Cheryl Bradley: 2nd the Motion

In Favor: 5 Opposed: 0

Passes: 5-0

Motion written as follows:

2.12.50 Table of Standard Dimensional Requirements; R-2 Zone (20,000s.f. min. lot area; 75 ft. frontage; 50 lin. ft. lot width; 30 lin. ft. front yard setback; 20 lin. ft. side yard setback; 20 lin. ft. rear yard setback; not to exceed 2 ½ stories at 36 lin. ft.).

Motion to **APPROVE**; Assessors Map 32B, Parcel 30, Lot 1 request for a **Variance** from the requirements of the Zoning By-Laws for Rear Yard Setback in a R-2 Zone from the required 20ft. to 1.4ft. by Robb Kydd, seconded by Cheryl Bradley.

5-0, Motion to APPROVE – unanimous

Claire Cloutier	AYE
Robb Kydd	AYE
Chris Mechalides	AYE
Cheryl Bradley	AYE
Joe Polin	AYE

Public Hearing #2

77 Frost Rd. (M25, P2, L0) – Request for a Variance from the requirements of Section 2.12.50 (lot area, frontage, front, side & rear setbacks), and a Special Permit under Section 2.15.24 of the Tyngsborough Zoning By-Laws to raze existing home and construct a new 20' x 28' single family dwelling in an R-1 Zone. *Advertised in the Lowell Sun Friday March 28, 2014 and Thursday April 3, 2014.*

Abutters List Present and Complete

C. Mechalides: Motion to waive the reading of the abutters list
C. Bradley: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

Application Presentation by Application/Designee

Owner Peter Marlowe appeared before the Board to request an amendment to his existing variance. Mr. Marlowe explained that after he obtained the variance he discovered that Verizon and National Grid power lines were encroaching on his property. When he asked them to move them, they said they could but it could take up to a year to do so. Therefore, Mr. Marlowe decided to push back the proposed house on the lot which would require an additional 7 ½ feet of relief. It should be noted that all other design features from the previous filing will remain the same. The additional 7 ½ feet of relief will accommodate the spacing from where the power pole is currently located. Mr. Marlowe also requested the ability to move the footprint along the main Frost Rd. axis (perpendicular to Lemire Ave.) but not closer or farther away from Frost Rd.

C. Bradley: Motion to close the public portion of the hearing.
R. Kydd: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

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

- The Board felt that this was a serious hardship on the applicant.

J. Polin: Motion to amend the Variance at 77 Frost Rd. pursuant to 2.12.50 of the Zoning By-Law from certain dimensional requirements in an R-1 Zone including: minimum 11.0 ft. rear yard setback dimension from initially requested 18.5 feet (variance in-process change). Additional note is the authorization of the builder to move the planned structure footprint (as a whole) along axis parallel to Frost Road, but no closer to Frost Rd. or farther away from Frost Rd. (plan of record 49 feet) to better situate the structure away from the existing power pole on the property. The minimum setback will be 11.0 ft. and maximum 18.8 ft. (as originally delineated on proposed plan of record).

R. Kydd: 2nd the motion
In Favor: 5 Opposed: 0
Passes: 5-0

2.12.50 Table of Standard Dimensional Requirements; R-1 Zone (65,000s.f. min. lot area; 200 ft. frontage; 30 lin. ft. front, side & rear yard; not to exceed 2 ½ stories at 36 lin. ft.).

Motion written as follows:

Motion to **APPROVE**; Assessors Map 25, Parcel 2, Lot 0 request for an **Amendment** to the **Variance** for requirements of Zoning By-Laws for Rear Yard Setback only from 30 ft. to between 11.0 ft. and 18.5 ft., by Joe Polin, seconded by Robb Kydd.

5-0, Motion to APPROVE – unanimous

Chris Mechalides	AYE
Claire Cloutier	AYE
Robb Kydd	AYE
Joe Polin	AYE
Cheryl Bradley	AYE

Public Hearing #3

125-135 Middlesex Rd. (M21, P14, L0 & L1) – Request for a Comprehensive Permit pursuant to Chapter 40B of the Massachusetts General Law, and the Tyngsborough Zoning By-Laws Section 1.13.23 for the development of a residential housing community that will contain 66 units of residential housing on an 8.3 acre site to be named “Tyngsboro Crossing”. *Advertised in the Lowell Sun Thursday February 27, 2014 and Thursday March 6, 2014.* **Continued from March 13, 2014 (Please note that a letter requesting a continuance to the May 8, 2014 meeting was received 4/1/14 from the applicant for this hearing.)**

C. Mechalides reported that she has reviewed the March 13, 2014 ZBA meeting on the Town's website and has filed the appropriate Certification with the Town Clerk.

C. Cloutier: Motion to accept the applicant's request to continue this hearing until May 8, 2014 at 6:30pm

R. Kydd: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

ADMINISTRATIVE

1. Minutes

R. Kydd: Motion to approve the minutes as written for March 13, 2014.

C. Cloutier: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

2. New Business:

- Next meeting is scheduled for May 8, 2014

7:05pm

J. Polin: Motion to adjourn

C. Mechalides: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, ZBA Administrative Assistant