



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
December 11, 2014
APPROVED

Attachments:

1. Meeting Agenda
2. 4 Birch St. ZBA Application – 11/17/14
3. Tyngsborough Town Department Comments for 4 Birch St.
4. Abutter Petition of Support for 4 Birch St.
5. Tyng Village ZBA Comprehensive Permit Application – 10/30/14
6. 125 & 135 Middlesex Rd. (Tyngsboro Crossing) Landscaping & Lighting Plan – 11/1/14
7. 125 & 135 Middlesex Rd. (Tyngsboro Crossing) Site Development Plan – 11/13/14
8. PSC Traffic Impact & Access Study Peer Review – 11/8/14
9. Transportation Engineering, LLC Response to Traffic Peer Rvw. – 11/13/14

Members Present: Robb Kydd – Vice Chairman
Joe Polin
Christine Mechalides
Adriana Gioumbakis
Chaz Doughty
Pamela Berman, Administrative Assistant

Members Absent: Claire Cloutier

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

Public Hearing #1

4 Birch St. (M31B, P16, L0) – Claire Janice McConnell applicant, request for a Variance under Section 2.12.50 (side yard setback & lot area), and a Special Permit under the provisions of Section 2.15.24 of the Tyngsborough Zoning By-Laws to raze an existing structure and re-build a single family dwelling. *Advertised in the Lowell Sun Thursday November 27, 2014 and Thursday December 4, 2014.*

Abutters List Present and Complete

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

A. Giombakis: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Atty. Melissa Robbins representing the applicant appeared before the Board. Atty. Robbins reported that the existing home will be razed and a new 48' x 47' home would be built. They plan to re-locate the new home further away from the 100' wetland buffer zone which would be more conforming. Due to the pre-existing non-conformance to current zoning, a hardship is evident. Abutters from 5 & 6 Alder St., and 3, 25, 28, 30, 31, 33, 38-39, 64 Elm St. signed a petition in support of the project. In addition, abutters from 33, 25, and 19 Elm St. spoke in favor of the project.

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

- The Board felt that the hardship is viable, and felt this would be an improvement for that lot.
- Driveway access would be from Elm St.
- Lot is a on the corner of Birch St. and Elm St. at the Tyngsborough/Dracut Town lines, but the home would be located completely in Tyngsborough.

Review Notes/Comments on Application from other Tyngsborough Departments

Building Inspector: Should also be requesting a variance from Section 2.12.50 (Table of Standard Dimensional requirements (Note: Applicant submitted a request for the variance)

Conservation: No issues

Assessor: No adverse comments

Planning Board: No issues

Fire Dept.: OK

Tax Collector: No delinquent taxes

Sewer: On sewer

Highway Dept.: No comment

Planning Board: No issues

Police Dept.: No comments

J. Polin: Motion to approve; Assessors Map 31A, Parcel 25, Lot 0 request for a variance for requirements of Zoning By-Laws for square footage in an R-2 Zone, from required 20,000 sq. ft. to 7,768 sq. ft. as shown on plan view dated 5/15/14

R. Kydd: 2nd

In Favor: 5 Opposed: 0

Passes: 5-0-1

J. Polin: Motion to approve; Assessors Map 31B, Parcel 16, Lot 0 request for a variance from requirements of Zoning By-Laws for square footage in an R-1 Zone, from required 65,000 sq. ft. to 23,411 sq. ft.; lot frontage from the required 200 ft. to 153.5 ft.; and side yard setback from the required 30 ft. to 24.5 ft. as shown on plan view dated 11/14/14.

A. Giombakis: 2nd

In Favor: 5 Opposed: 0

Passes: 5-0

J. Polin: Motion to approve; Assessors Map 31B, Parcel 16, Lot 0 a Special Permit under Section 2.15.24 to raze existing structure, clear out lot, haul out buildings and construct new 47' x 48' 1-story-dwelling with approved setbacks not to exceed a maximum building height of 30' as shown on plan view dated 11/14/14.

A. Giombakis: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Public Hearing #2

65 Tyng Road (M27, P4, L0) – Request by Tyng Road Development, LLC, applicant 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 28 units of residential housing on a 4.22 acre site to be named “Tyng Village”. *Advertised in the Lowell Sun Thursday November 17, 2014 and Thursday December 4, 2014.*

ZBA Board member C. Mechalides recused herself from this hearing. Board members sitting for this hearing are: Robb Kydd, Joe Polin, Chaz Doughty, Adriana Giombakis.

J. Polin: Motion to waive the reading of the abutters list.

A. Giombakis: 2nd the motion

In Favor: 4 Opposed: 0

Passes: 4-0

Atty. Melissa Robbins appeared before the Board for the applicant Walter Eriksen. Atty. Robbins briefed the Board on this new 40B development project that would be located on 4.22 acres of dry upland at 65 Tyng Rd. This parcel is located at the corner of Middlesex Rd. and Tyng Rd. and would be developed to support 28 units of housing, 7 of which would be deemed “affordable”. Atty. Robbins pointed out that this parcel was included in Tyngsborough’s Housing Production Plan.

Applicant engineer Doug Lees reported that the development would be supported by Town water and sewer with an entrance proposed to be placed off of Tyng Rd. He went on to say that the existing stone wall surrounding the property will be preserved and a buffering screen of Fraser Firs would be planted.

The Board had several concerns regarding the design which included, but was not limited to traffic, safety, proximity of project to the Innovation Academy Charter School, and density of the project. An abutter from 60 Middlesex Rd. agreed with those concerns and added that he was concerned about the “illegal “culvert that the State installed many years ago that affects the drainage of stormwater.

Board engineer Tom Houston issued a preliminary report which the Board will take up at the next meeting. Board Atty. Adam Costa advised the Board to establish a 53G account and Memorandum of Agreement between the Board and the Applicant.

R. Kydd: Motion to obtain Professional Services Corporation (PSC) as the Board’s site and traffic consultant for the Tyng Village project.

J. Polin: 2nd the motion

In Favor: 4 Opposed: 0

Passes: 4-0

R. Kydd: Motion to have the applicant establish a 53G escrow account in the amount of \$10,000 and bring the balance back up to \$10,000 if that balance falls at or below \$5,000

J. Polin: 2nd the motion

In Favor: 4 Opposed: 0

Passes: 4-0

A. Gioubakis: Motion to allow applicant traffic engineers to consult with Board traffic engineers as needed.

C. Doughty: 2nd the motion

In Favor: 4 Opposed: 0

Passes: 4-0

R. Kydd: Motion to continue this hearing until January 8, 2015 at 6:30pm

A. Gioubakis: 2nd the motion

In Favor: 4 Opposed: 0

Passes: 4-0

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 November 13, 2014*

Atty. Melissa Robbins appeared before the Board for the applicants Dennis Page and Dave Trahan. In addition, landscape architect Lorayne Black, and traffic consultant Eric Hazarvartian were present.

Ms. Black showed the Board a landscape plan for the project that highlighted full 4-season type plantings, flowering trees, and seating areas in the open space areas; all of which would not impede snow storage areas. The Board was satisfied with this plan. Eric Hazarvartian submitted a response to the Board's traffic impact study. Board traffic consultant Tom Houston reported that the traffic study was well done and complies with all State regulations. He went on to say that the traffic impact volume would be low to barely moderate, and that there would be no impacts to the Tyng Rd. & Middlesex Rd. intersection.

The Board disclosed that Board member Claire Cloutier has taken a medical leave from the Board and therefore will not be voting on this project. That leaves the eligible voting body at 3 members. Atty. Costa advised the applicant that any decision would have to be "unanimous". The applicant has the option of moving forward with the current voting members or requesting that the Board be "reconstituted" which would qualify the new members to vote on this matter. An informal poll of the Board yielded that they would be inclined to vote in the affirmative on this project at this time. Atty. Costa noted that he would work with Atty. Robbins and the Board to draft a list of conditions and waivers to be included in any decision. In addition, Atty. Robbins agreed to grant an extension of this hearing to January 12, 2015.

R. Kydd: Motion to continue this hearing to January 8, 2015 at 6:30pm.

J. Polin: 2nd the motion

In Favor: 3 Opposed: 0 Abstain: 2

Passes: 3-0-2

ADMINISTRATIVE

The November 13, 2014 minutes were not ready for approval.

1. New Business:

- Next meeting is scheduled for January 8, 2015

8:20pm

J. Polin: Motion to adjourn

C. Doughty: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, ZBA Administrative Assistant