



***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 12, 2015**  
**APPROVED**

Attachments:

1. Meeting Agenda
2. Westford Rd. & Industrial Way (Auto Butler) ZBA Application – 1/14/15
3. Westford Rd. & Industrial Way Auto Repair Facility Plan Set – 12/16/14
4. Westford Rd. & Industrial Way Auto Repair Facility Revised Plans – 3/6/15
5. Tyngsborough Town Dept. Comments for Westford Rd. & Industrial Way (Auto Butler)
6. Westford Rd. & Westech Dr. (storage warehouse) ZBA Application – 1/15/15
7. Westford Rd. & Westech Dr. (storage warehouse) permit plan set – 12/31/14
8. Westford Rd. & Westech Dr. (storage warehouse) artist rendering plan – 3/6/15
9. Tyngsborough Town Dept. Comments for Westford Rd. & Westech Dr. (storage warehouse)
10. Letter from Stateline Irrigation Supply, Inc. regarding Westford Rd. & Westech Dr. (storage warehouse) – 3/12/15
11. 160 Pawtucket Blvd. Hearing Continuance Form – 3/12/15
12. PSC Peer Review for Tyng Village – 3/9/15
13. PSC Traffic Peer Review for Tyng Village – 3/9/15
14. Innovation Academy Letter regarding Tyng Village – 3/12/15
15. Revised plan set for Tyng Village – 3/11/15

Members Present: Robb Kydd, Vice Chairman  
Joe Polin  
Chris 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

**Hearing #1**

**Westford Rd. & Industrial Way (Map 21, Block 2F)** – Request by FMP Realty Trust, applicant, for a Variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws (lot area, front & side yard setbacks) for the proposed construction of a 2,960 s.f. new building in an I-1 Zone to be known as “Auto Butler”. *Advertised in the Lowell Sun Thursday January 29, 2015 and Thursday February 5, 2015.* **Continued from February 12, 2015.**

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

**A. Gioumbakis:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Atty. Peter Nicosia, and engineer Matt Hammer, representing the applicant, appeared before the Board. Atty. Nicosia reported that the lot in question is a lightly wooded 44,947 s.f. vacant lot on the corner of Westford Rd. and Industrial Way. It is zoned I-1 which requires 80,000 s.f. He went on to say that there are two right-of-way easements on the property which lends to the hardship, as does the shape of the lot.

The proposed business will be an auto repair business known as Auto Butler, which is currently located in Dracut, and will re-locate to Tyngsborough. Atty. Nicoisa added that they will still have to go before the Board of Selectmen for a Special Permit, as they are the permitting authority for this type of business. Finally, Atty. Nicosia noted that this use is not detrimental to the neighborhood since there is a similar business in the vicinity. There were no abutters present to speak for or against this project.

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

**J. Polin:** 2<sup>nd</sup> 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 that this project would be an improvement for that lot.
- Driveway access would be from Industrial Way.
- There would be four bays for car repair, with 16 parking spaces. The extra parking area on the Westford Rd. side of the lot would be for a car pick-up and drop-off area.
- A new septic system would be required on the lot.

**Review Notes/Comments on Application from other Tyngsborough Departments**

Building Inspector: No comments at this time

Conservation: Abutting property has a current Order of Conditions. This project will require further review for potential stormwater filing.

Assessor: No adverse comments

Planning Board: Planning and site design elements were not reviewed; however, the Planning Board notes that this project would require a Special Permit from the Board of Selectmen.

Fire Dept.: OK

Sewer: No sewer available

Highway Dept.: No comment

Board of Health: Will require septic plan that meets intended use.

**J. Polin:** Motion to approve; Assessors Map 21, Parcel 2F, Lot 0 a variance from the requirements of Section 2.12.50 of the Zoning By-Laws for Minimum Lot Area in an I-1 Zone from the required 80,000 sq. ft. to 44,947 sq. ft.; front yard setback from the required 100 ft. to 55 ft.; and side yard setback from the required 40 ft. to 19 ft., with a maximum building height of 28 ft. per plans dated 12/16/14, and revised 3/6/15.

**C. Mechalides:** 2<sup>nd</sup>

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

### **Hearing #2**

**Westford Rd. & Westech Dr. (Map 22, Block 27A)** – Request by FMP Realty Trust, applicant, for a Variance from the requirements of Section 2.12.50 of the Tyngsborough Zoning By-Laws (lot area, maximum building height) for the proposed construction of a self-storage mini warehouse facility in an I-1 Zone. *Advertised in the Lowell Sun Thursday January 29, 2015 and Thursday February 5, 2015. Continued from February 12, 2015.*

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

**J. Polin:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Atty. Peter Nicosia, and engineer Matt Hammer, representing the applicant, appeared before the Board. Atty. Nicosia clarified that after the plans were drafted it was determined that a variance for building height would not be needed. Therefore, the only relief they are seeking tonight is the front yard setback.

The lot in question is a 121,000 s.f. hilly, wooded lot on the corner of Westford Rd. and Westech Dr. and is zoned I-1. The driveway access for this project would be from Westech Dr. as delineated in the Master Deed for the Condominium Association for Westech Dr. The proposed building will be a self storage mini warehouse to be known as “A-Tyngsborough Self Storage”. The hardship of the lot’s shape and the steep challenging topography, with an abundance of ledge, required that the building be placed further to the front of the lot, creating the need for a variance.

Abutters from Stateline Irrigation Supply, Inc. on Westech Dr. submitted a letter of opposition to the project stating that a variance in excess of 85 feet is extreme and unreasonable. Abutter Jeff Seeger asked several questions regarding traffic, water flow,

curb cuts on Westech Dr. and visual landscaping. Atty. Nicosia noted that a landscape plan would be provided that ensures an aesthetically pleasing building and lot design. In addition, they still require a Special Permit from the Planning Board, and a Stormwater Permit from the Conservation Commission, which would ensure that all site specific details meet the Town's rules and regulations.

**A. Gioumbakis:** Motion to close the public portion of the hearing.

**J. Polin:** 2<sup>nd</sup> 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 lot size and topography were viable hardships.
- The Board was concerned with the amount of relief requested, and the plans' depiction of a 4 ½ story building, when the applicant explained that there would only be 3 ½ stories.
- The Board requested the applicant to re-visit the plans to see if there was any other way to situate the building that didn't impact the setback as much as they have requested. In addition, new plans should be submitted that depict the correct building height.

**C. Mechalides:** Motion to continue the hearing until April 9, 2015.

**J. Polin:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**Hearing #3**

**160 Pawtucket Blvd. (dba, Stonehedge Inn)** – Request by Boston East Tyngsboro Holdings, LLC, applicant, for a Variance from the requirements of Section 3.10.24 (Table of Off-Street Parking Requirements), and a Special Permit under Section 2.15.22 (Non-Conforming Structure: Changes, Extensions and Alterations) of the Tyngsborough Zoning By-Laws for the proposed construction of a 7,100 s.f. wedding banquet facility in an R-1 Zone. *Advertised in the Lowell Sun Thursday January 29, 2015 and Thursday February 5, 2015. Continued from February 12, 2015.*

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

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

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Atty. Peter Nicosia appeared before the Board for the applicant. Atty. Nicosia explained that the site in questions is an R-1 (residential) district and is pre-existing non-conforming since it is a hotel. That makes the ZBA the permitting granting authority for the site plan special permit as well as the variance. He went on to request that the Planning Board's engineer (Jesse Johnson of David E. Ross Associates) be consulted for this project and establish a 53G account to pay for the expenses. In addition, he requested to continue this hearing until April 9, 2015.

**A. Giombakis:** Motion to retain David E. Ross Associates for peer review and establish a 53G account in the amount of \$2,500 that will be replenished if the balance goes below \$1,000.

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

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**C. Mechalides:** Motion to continue the hearing until April 9, 2015

**J. Polin:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

#### **Hearing #4**

**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 27, 2014 and Thursday December 4, 2014. Continued from February 12, 2015.*

C. Mechalides sat out of this hearing.

Atty. Melissa Robbins appeared with the applicant Walter Eriksen. Board engineer Dave Sanderson reported that three revisions have been done to the plans since the last meeting, and most of the Board's concerns have been addressed. Atty. Robbins added that they have collaborated with the Innovation Academy Charter School to make changes to the original site plan and unit plans. These updates are listed below:

- Addition of a sidewalk running along the entire property line along Tyng Rd.
- Improved landscape along Tyng Rd. and the elimination of the proposed vinyl fence.
- Changes to the architecture of the units along Tyng Rd. that will improve their aesthetics when viewed from the street and the school.
- Relocation of the driveway to exist closer to Middlesex Rd. away from the school driveway.

Additional revisions were made to the plans and are detailed below:

- An 8' privacy fence was added along the abutter property line on Tyng Rd.
- Test pit logs were added to the existing conditions plans.
- A street light was added to the new intersection.
- A detail of the proposed sign was added to the landscape plan.
- Handicap ramps were added at the terminus of each sidewalk.
- Vertical granite curb was added at the new intersection with Tyng Rd.
- Cascade grates were added to the utility plan.
- Street sweeping will be incorporated.
- The location of the affordable units were designated on the layout plan.
- A MassDOT permit application will be filed with the State if required.

In addition, the chain link fence will be eliminated from around the detention basin, additional parking spaces were added to the mailbox area, and they will be adding a sewer stub in order for the abutting property to tie in to the expanded sewer line.

D. Sanderson also summarized the peer review of the traffic study that had been submitted. Generally the number of traffic volumes generated were low enough that they should not adversely impact operations at the proximate Middlesex Rd. and Tyng Rd. intersection. However, it was recommended that adequate intersection sight distance be maintained, and that individual unit driveways be laid out to provide a 20' long parking space clear of the traveled way of the principal on-site access drive. Finally, the site drive should operate as a two way stop controlled intersection.

The Board was very pleased with the progress made between the applicant and the abutters. Atty. Robbins indicated that she would be submitting the list of requested waivers for the Board to review at the next meeting. A. Gioumbakis added that a list of permit conditions should be considered at the next meeting as well, noting that fence maintenance, and water testing should be considered as part of that list. The Board also requested that the plans be updated with all of the revisions.

**J. Polin:** Motion to continue the hearing until April 9, 2015

**A. Gioumbakis:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

---

## **ADMINISTRATIVE**

**C. Doughty:** Motion to approve the minutes for January 8, 2015 as written.

**R. Kydd:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**C. Doughty:** Motion to approve the minutes for February 12, 2015 as written.

**J Polin:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**C. Mechalides:** Motion to approve the minutes for February 25, 2015 as written.

**J Polin:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**9:15pm**

**J. Polin:** Motion to adjourn

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

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Minutes respectfully submitted by  
Pamela Berman, ZBA Administrative Assistant