



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

Attachments:

1. Meeting Agenda
2. 4 Cassaway Dr. ZBA Application – 9/15/15
3. 4 Cassaway Dr. Site Plan Rendering – 11/12/15
4. 4 Cassaway Dr. Existing Conditions Photos
5. Tyngsborough Town Dept. Comments for 4 Cassaway Dr.
6. 111 & 115 Middlesex Rd. By-Right Site Plan – 4/22/15
7. 111 & 115 Middlesex Rd. Site Development Plans – Revised 10/27/15
8. Tyngsboro Crossing Site Sign Detail Rendering – 11/10/15
9. PSC Peer Rvw. Report for 125-135 Middlesex Rd. & 111,115 Middlesex Rd. – 11/10/15
10. TEPP, LLC Traffic Impact & Access Study for 111 & 115 Middlesex Rd. – 9/30/15
11. PSC Peer Rvw. of Traffic Impact & Access Study for Tyngsboro Crossing – 11/11/15
12. Deschenes & Farrell response to PSC Comments – 11/2/15
13. Blatman, Bobrowski, Mead & Talerman, LLC Memo regarding Tyng village Condo Documents – 11/12/15
14. Tyng Village Draft Condo Documents & Master Deed
15. Pamela Berman Memo to ZBA regarding ZBA Applicant Expenses – 11/12/15

Members Present: Joe Polin, Chairman  
Chris Mechalides, Vice Chairman  
Robb Kydd  
Adriana Gioumbakis  
Chaz Doughty  
Harvey Miller  
Pamela Berman, Administrative Assistant

**6:30pm** Meeting was called to order by Chairman J. Polin

Hearing #1

**4 Cassaway Dr. (M20, P119, L0)** - Request by Roland Martin, applicant for a Variance from the Tyngsborough Zoning By-Laws Section 3.10.40 and 3.13.00 for the construction of 5,832 s.f. funeral home in a B-2 Zone. *Advertised in the Lowell Sun Thursday September 24, 2015 and Thursday October 1, 2015. Continued from October 8, 2015*

Abutters list present and complete

H. Miller sat out of this hearing.

Abutters list present and complete

**R. Kydd:** 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**

No Challenges to Legal Notice

Atty. Peter Nicosia, and engineer Matt Hamor appeared before the Board for the applicants Roland & Dan Martin. Atty. Nicosia reported that the Martins are the owners of Martin Funeral home currently in Lowell and they propose to build a 5,832 sq. ft. funeral home at this site which is zoned B-2. They have obtained a Stormwater Management Permit from the Conservation Commission, and a Site Plan Special Permit from the Planning Board. Since the Planning Board did a thorough site plan review, a few revisions were required on the plans and those revisions were submitted to the Board at this hearing. Atty. Nicosia went on to explain that due to the revisions, the amount of relief they are requesting from the Board has diminished.

Engineer Matt Hamor explained that all lot size and building setbacks are compliant as is the parking space requirements. They are requesting relief from the buffering and screening and parking spot setback requirements. They have been working very closely with the direct abutter (Mrs. Cassidy) who has issued her support for the project. Fencing and a landscape buffer of dogwoods, oaks, and mountain laurels will be utilized on the property line. Mr. Hamor added that the lighting and fencing scheme hasn't been determined yet, but they will return to the Planning Board with those details once they are ironed out. There were no abutters present to speak for or against this project.

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

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

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

Review Notes/Comments on Application from other Tyngsborough Departments

Conservation Commission: This proposal requires a local Stormwater Permit (Rec'd 11/10/15)

Building: No adverse comments at this time

Sewer: No Sewer available

Board of Health: Requires two sets of septic plans (currently under Board of Health Rvw.)

Assessor: No adverse comments

Tax Collector: No delinquent taxes

Fire Dept: Ok

Highway: No Comment

**J. Polin:** Motion to approve a variance from the requirements of Section 3.10.40 and 3.13.00 of the Zoning By-Laws for 4 Cassaway Dr. for the following:

1. Landscape Buffer Side Lot Line in a B-2 Zone, from required 15 ft. to 4.4 ft. (10.6 ft. of relief).
2. Landscape Buffer Rear Lot Line in a B-2 Zone from required 15 ft. to 6.9 ft. (8.1 ft. of relief).
3. Parking to Street R.O.W. in a B-2 Zone from required 15 ft. to 14.2 ft. (0.8 ft. of relief).
4. Parking to Side Lot Line in a B-2 Zone from required 15 ft. to 4.4 ft. (10.6 ft. of relief).
5. Parking to Rear Lot Line in a B-2 Zone from required 15 ft. to 6.9 ft. (8.1 ft. of relief).

Per plans dated 11/6 & 12/2015 and conditioned that the Planning Board approve the placement of the HVAC System, and that the Board of Health approves the Septic System plans.

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

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

### **Hearing #2**

**111 & 115 Middlesex Rd. -** Request by Middlesex Land Holdings, LLC & Tyngsboro Crossing, 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 120 townhouse style duplex units in 60 buildings on 14.1 acres of land, to be known as “Tyngsborough Crossing”. *Advertised in the Lowell Sun Thursday August 27, 2015 and Thursday September 3, 2015. Continued from October 8, 2015.*

C. Mechalides sat out of this hearing.

Traffic consultant Kim Hazavarti appeared before the Board with his report. Mr. Hazavarti explained that with the addition of the proposed 120 units, there would be a low to moderate increase in traffic delays. The site distances are up to 680’ feet which allows for easier access to and from the site. Board engineer David Sanderson summarized PSC’s review of the traffic report, citing that site distances, and the methodology used was sufficient and yielded acceptable results. The number of proposed parking spaces is sufficient. Additionally, the driveway design may be something that the Board would consider modifying once Mass DOT completes the access permit process.

PSC engineer summarized his report dated 11/10/15 which included a few minor open items including comments from the Fire and Police departments concerning emergency response, safety issues. The Board requested that the Fire Dept. and Police Dept. be consulted to address those outstanding issues.

**A. Gioumbakis:** Motion to continue this hearing until December 10, 2015.

**H. Miller:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**Hearing #3**

**125-135 Middlesex Rd.** – Request by Middlesex Land Holdings, LLC & Tyngsboro Crossing, LLC, applicant for the modification to the approved “Tyngsborough Crossing” (to now be known as Merrimac Commons) Comprehensive Permit, dated February 25, 2015 to convert 60 homeownership units to rental units. **Continued from October 8, 2015.**

C. Mechalides sat out of this hearing.

**A. Giombakis:** Motion to continue this hearing until December 10, 2015.

**H. Miller:** 2<sup>nd</sup> the motion

**In Favor: 5 Opposed: 0**

**Passes: 5-0**

**ENGINEER REPORTS**

Tyng Village: No new reports

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**ADMINISTRATIVE**

Minutes

The minutes were not ready for approval.

Old Business/New Business

Review & Approval of Tyng Village Condominium Documents: Atty. Melissa Robbins is seeking Board approval of the Condominium Documents relative to the Tyng Village project. These documents are necessary in order for the applicant to establish the condominium association as required by the Comprehensive Permit. Board Atty. Adam Costa reviewed the documents and made a few minor suggestions for changes. The Board will review the documents and vote at the December meeting.

ZBA Applicant expenses: ZBA Administrative Assistant P. Berman briefed the Board on the increase in legal notice and postage expenses relative to ZBA applications. Due to these increased expenses, the Treasurer has asked the Board to consider changing the way an applicant reimburses the Town for these expenses associated with a ZBA filing. Ms. Berman went on to explain that the filing fee does not cover these expenses, and that results in a budget deficit. In order to rectify this, it is recommended that a 53G Consultant fee be instituted for the ZBA, much like what is done for the Planning Board.

**R. Kydd:** Motion to approve instituting a Consultant Release 53G fund in the amount of \$1,000 for all ZBA application to start in January 2016.

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

**In Favor: 6 Opposed: 0**

**Passes: 6-0**

**9:10pm**

**R. Kydd:** Motion to adjourn

**H. Miller:** 2<sup>nd</sup> the motion

**In Favor: 6 Opposed: 0**

**Passes: 6-0**

Minutes respectfully submitted by  
Pamela Berman, ZBA Administrative Assistant