



**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 10, 2016**

**APPROVED**

Attachments:

1. Meeting Agenda
2. NMCOG letter regarding Tyngsboro Crossing ENF – 2/16/16
3. Executive Office of Energy & Environmental Affairs ENF Certification for Tyngsboro Crossing - 2/26/16
4. Land Engineering & Environmental Services letter regarding 111 & 115 Middlesex Rd. – 3/1/16
5. 125 & 135 Middlesex Rd. Landscaping & Lighting Plan – Revised 3/1/16
6. 125 & 135 Middlesex Rd. (Merrimac Commons Site Development Plan – Revised 3/1/16
7. Draft Comprehensive Permit for 111 & 115 Middlesex Rd. (Tyngsboro Crossing) – 3/10/16
8. Draft Modification to the Comprehensive Permit for 125 & 135 Middlesex Rd. (Merrimac Commons) – 3/10/16
9. 57-58 Althea Ave. ZBA Application – 2/9/16
10. Tyngsborough Town Depts. Comments for 57-58 Althea Ave.
11. 89 Coburn Rd. ZBA Application – 2/16/16
12. Tyngsborough Town Depts. Comments for 89 Coburn Rd.
13. David Sanderson email regarding Tyng Village – 3/7/16
14. Smart Growth / Smart Energy Toolkit for Inclusionary Zoning

Members Present: Joe Polin, Chairman  
Adriana Gioumbakis  
Chaz Doughty  
Harvey Miller  
Pamela Berman, Administrative Assistant

Members Absent: Robb Kydd

**6:45pm** Meeting was called to order by Chairman J. Polin

**Hearing #1**

**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 February 11, 2016.**

Atty. Melissa Robbin and developer Dave Trahan appeared before the Board.

Revised site plans and landscape plans were submitted that addressed the remaining concerns. In addition, they received approvals from the Conservation Commission and MEPA. Board attorney Adam Costa drafted the decision with all of the conditions and the Board reviewed with no additional changes needed. There were no other comments or concerns from the Board or any Town departments. In addition, there were no abutters present to speak for or against this project.

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

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

**J. Polin:** Motion to approve a Comprehensive Special Permit for 111 & 115 Middlesex Rd. for a residential community to be named “Tyngsborough Crossing” according to plans entitled “Site Development Plan, Tyngsboro Crossing, Tyngsborough, Massachusetts,” prepared by Land Engineering & Environmental Services, dated July 28, 2015 and revised through March 1, 2016.

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

## **Hearing #2**

**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 February 11, 2016.**

Atty. Melissa Robbin and developer Dave Trahan appeared before the Board. Atty. Robbins explained that they wish to convert the homeownership aspect of this project to rentals, and to change the name from “Tyngsboro Crossing”, to “Merrimac Commons”. Revised plans were submitted to reflect the change in landscaping and driveway connection between the two projects.

There were no other comments or concerns from the Board or any Town departments. In addition, there were no abutters present to speak for or against this project.

**H. Miller:** Motion to close the public portion of the hearing.

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

**J. Polin:** Motion to approve a modification to the Comprehensive Special Permit for 125 - 135 Middlesex Rd. to change the name of the project from “Tyngsborough Crossing” to Merrimac Commons; and to convert the project from home ownership to rentals according to plans entitled “Site Development Plan, Merrimac Commons, Tyngsborough, Massachusetts,” prepared by Land Engineering & Environmental Services, dated February 10, 2014 and revised through March 1, 2016.

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

**Hearing #3**

**57-58 Althea Ave. (M33, P44 & 54, L0)** – Request by Rachel DeCarteret, applicant for a Variance from Section 2.12.50 (lot area, frontage, front, side & rear yard setbacks), and a Special Permit under Section 2.15.22 & 2.15.24 of the Tyngsborough Zoning By-Laws to raze an existing structure and build a new 26' x 30' single family dwelling in an R-1 Zone. *Advertised in the Lowell Sun Thursday February 25, 2016 and Thursday March 3, 2016.*

**A. Gioubakakis:** Motion to waive the reading of the abutters list and legal notice

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

No challenges to the legal notice

Owners Mark DeSousa and Rachel DeCarteret appeared before the Board. Mr. DeSousa explained that this is an old house built in the 1920s that is in poor condition and pre-dates current zoning. He is proposing to demolish it and build a new 900 s.f home which would be smaller than the existing dwelling. Mr. DeSousa went on to say that he has already obtained approvals from Conservation and the Board of Health. There were no abutters present to speak for or against this project.

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

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

Review Notes/Comments on Application from other Tyngsborough Departments

Assessor: No adverse comments.

Board of Health: The Board of Health does not have any issues at this time. Applicant has been before Board of Health requesting variances for septic system.

Conservation Commission: An Order of Conditions was approved and is due to be issued 2/23/16.

Building Inspector: No adverse comments at this time.

Board of Selectmen: Voted "No Comment" 3/9/16.

Fire Dept.: OK

Highway Dept.: No Comment

Planning Board: No Issues

Sewer Dept.: No Sewer

The Board felt that this project would be an improvement to the neighborhood. Since the under-sized lot pre-dates current zoning there exists a hardship.

**A. Gioubakakis:** Motion to approve a variance from the requirements of Section 2.12.50 for 57-58 Althea Ave. per plan dated 1/29/16 for the following:

**House:**

1. Minimum lot area to 6,825 s.f.
2. Frontage to 75 ft.
3. Front Yard Setback to 20 ft.
4. Side Yard Setback to 12.8 ft.

**J. Polin:** 2<sup>nd</sup> the motion  
**In Favor: 4 Opposed: 0 Absent: 1**  
**Passes: 4-0-1**

**A. Gioumbakis:** Motion to approve a Special Permit under Section 2.15.22 & 2.15.24 to raze existing structures and construct a new 26' x 30' single family dwelling per plan dated 1/29/16.

**H. Miller:** 2<sup>nd</sup> the motion  
**In Favor: 4 Opposed: 0 Absent: 1**  
**Passes: 4-0-1**

#### **Hearing #4**

**89 Coburn Rd. (M26A, P125, L0)** – Request by Double Scott Homes, LLC, applicant for a Special Permit under Section 2.15.22 & 2.15.24 of the Tyngsborough Zoning By-Laws to raze an existing structure and build a new 26' x 36' single family dwelling with a 24' x 24' attached garage in an R-1 Zone. *Advertised in the Lowell Sun Thursday February 25, 2016 and Thursday March 3, 2016.*

**C. Doughty:** Motion to waive the reading of the abutters list and legal notice  
**H. Miller:** 2<sup>nd</sup> the motion  
**In Favor: 4 Opposed: 0 Absent: 1**  
**Passes: 4-0-1**

#### **No challenges to the legal notice**

Owner Scott Taft appeared before the Board. Mr. Taft explained that this is a house that is in very poor condition and does not meet the zoning setbacks. He is proposing to demolish it and build the new dwelling on a different footprint which would conform to the zoning setbacks. There were no abutters present to speak for or against this project.

**C. Doughty:** Motion to close the public portion of the hearing.  
**H. Miller:** 2<sup>nd</sup> the motion  
**In Favor: 4 Opposed: 0 Absent: 1**  
**Passes: 4-0-1**

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

Assessor: No adverse comments.

Board of Health: Property is on sewer, therefore, Board of Health has no comment.

Conservation Commission: No action required from Conservation.

Building Inspector: No adverse comments at this time.

Tax Collector: Taxes are current

Board of Selectmen: Voted "No Comment" 3/9/16.

Fire Dept.: OK

Highway Dept.: No Comment

Planning Board: No Issues

Sewer Dept.: Cut and cap sewer line

The Board felt that this project would be an improvement to the neighborhood. Since the under-sized lot pre-dates current zoning there exists a hardship.

**J. Polin:** Motion to approve a variance from the requirements of Section 2.12.50 for 89 Coburn Rd. per plan dated 1/5/16 for minimum lot area to 16,769 s.f.

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

**J. Polin:** Motion to approve a Special Permit under Section 2.15.22 & 2.15.24 to raze existing structures and construct a new 26' x 36' single family dwelling with a 24' x 24' attached garage per plan dated 1/5/16.

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

### **ENGINEER REPORTS**

Tyng Village: Board engineer David Sanderson issued an email report dated 3/7/16 that noted that the 3<sup>rd</sup> foundation has been poured and one house has started framing. No site work had been done due to the weather until today, when they began tapping the internal main for sewer connections to the individual homes.

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### **ADMINISTRATIVE**

#### **Minutes**

**G. Gioubakis:** Motion to approve the minutes for January 14, 2016 as written

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

**C. Doughty:** Motion to approve the minutes for February 11, 2016 as written

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

#### **Old Business**

**ZBA Town Meeting Warrant Article:** The Board continued discussion on submitting a warrant article for an "inclusionary housing bylaw". R. Kydd and J. Polin are working with Assistant Town Administrator Matt Hanson and NMCOC who will work on drafting an article for the Fall Town Meeting.

**8:00pm**

**C. Doughty:** Motion to adjourn

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

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

Minutes respectfully submitted by  
Pamela Berman, ZBA Administrative Assistant