



FORM 4

Town of Tyngsborough PLANNING BOARD

25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Planning Office: (978) 649-2300, Ext. 115 Fax: (978) 649-2301

NOTICE OF DECISION SPECIAL PERMIT

Notice is hereby given that a Special Permit with Site Plan Approval has been granted by the Town of Tyngsborough Planning Board for parcel located on Pawtucket Blvd., (Map 27, Parcel 56B) (the "Property") for Rainbow Builders, Corp. (the "Applicant") to construct *sixteen duplex residential buildings in an R-3 Zoning District and within the Flood Plain District to be known as Stonehedge Meadows under sections 2.13.00 (Floodplain and Floodway Districts) and 4.12.00 (Multifamily Development)*. The reasons for approval, or approval with conditions, are outlined below.

Subject Property: Tyngsborough Assessors Map 27, Parcel 56B (the "Property").
Applicant: Rainbow Builders, Corp. (the "Applicant")

REASONS FOR APPROVAL OR CONDITIONS OF APPROVAL

The following **Mandatory Conditions** apply to this decision:

In accordance with Section 1.16.14 of the Zoning By-Law the Planning Board finds that this proposed use:

1. Is in harmony with the purpose and intent of this By-Law.
2. Will not be detrimental or injurious to the neighborhood in which it is to take place.
3. Is appropriate for the site in question.
4. Complies with all applicable requirements of this By-Law.

Approval is required prior to any deviation from the approved plan. Any and all deviations shall be submitted to the Planning Board in writing at a regularly scheduled meeting for consideration of approval. Modifications may require renotification of abutters and a public hearing.

The Town of Tyngsborough Planning Board (the "Board") hereby certifies that the following is a detailed record of its proceedings relative to the application submitted by Rainbow Builders, Corp. for a Site Plan Special Permit under Sections 1.16.00 et seq., 2.13.00 et seq., and 4.12.00 et seq. of the Town of Tyngsborough Zoning Bylaws (the "Bylaws") to construct sixteen duplex dwellings in an R-3 Zoning District and within the Floodplain District to be known as Stonehedge Meadows.

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I. BACKGROUND:

1. Rainbow Builders Corp. (the "Applicant") applied for a Special Permit and Site Plan Approval to construct sixteen duplex residential buildings in an R-3 Zoning District and within the Flood Plan District to be known as "Stonehedge Meadows".
2. Site Improvement Plans (dated December 6, 2019), were submitted by Whitman & Bingham Associates on December 12, 2019. Revised Site Plans were submitted by the same on June 18, 2020, August 19, 2020, August 31, 2020, September 25, 2020, and September 29, 2020 along with other submissions on public file in connection with the Special Permit application package. The Tyngsborough Planning Board also received departmental comments, including but not limited to opinions by the Zoning Board of Appeals and Conservation Commission.
3. The legal notice was published in the Lowell Sun on January 2 and January 9, 2020, and re-noticed in the Lowell Sun on July 23 and July 30, 2020.
4. Public hearings were held on the Site Plan Special Permit Application before the Tyngsborough Planning Board on January 16th, February 6th, April 2nd, April 16th, May 7th, May 21st, July 2nd, July 16th. The public hearing continued with a reconstituted Board on August 6th, 2020, August 20th, September 3rd, September 17th, October 1st, and October 15th, 2020.
5. At the public hearing, the applicant and their engineer made presentations regarding the project. Citizens in attendance were able to speak for or against the Special Permit application. Members of the Tyngsborough Planning Board and its consultants were able to ask questions and comment on the Special Permit Application.

II. FINDINGS:

1. The Board finds that the Applicant has fully complied with the submittal requirements for the application for a Site Plan Special Permit established under Sections 1.16.14, 1.16.20, 1.16.21 and 1.16.22, and the Special Permit Requirements for Development in a Floodplain District under Section 2.13.00, 2.13.32, 2.13.50, and 2.13.60, and Multifamily Development under sections 4.12.00, 4.12.21, and 4.12.30 of the Tyngsborough Zoning Bylaws as well as the Planning Board's own Rules and Regulations, as more fully detailed herein and subject to the conditions imposed by this Special Permit.
2. The Board acknowledges the receipt of correspondence from Town Departments and that they do not negatively impact this decision.
3. The proposed plan and application submittals are in compliance with Tyngsborough Zoning Bylaws Sections 1.16.00, 2.13.00, and 4.12.00.
4. Under Section 1.16.14 of the Bylaws, the Board shall only issue a Special Permit where such relief:

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- a. Is in harmony with the purpose and intent of the Bylaws;
 - b. Will not be detrimental or injurious to the neighborhood in which it is to take place;
 - c. Is appropriate for the site in question; and,
 - d. Complies with all applicable requirements of the Bylaws.
5. The Board further finds that there shall be Conditions reasonably related to the issuance of the Special Permit that specifically pertain to the application and provide for limitations and safeguards to protect the neighborhood and intent of the Bylaws. Those conditions are as follows:

III. SPECIAL PERMIT CONDITIONS

1. A pre-construction meeting shall be scheduled with the Town at least 2 weeks prior to start of construction. Meeting should be coordinated with the Planning or Engineering Departments.
2. Developer to submit an elevation as-built stamped by a professional land surveyor of each foundation to the Planning Department to be verified against site plan specifications by Planning Board's or designated Review Engineer prior to issuance of framing permit(s).
3. Preservation of mature trees along Pawtucket Blvd. Location of preserved trees to be plotted on a plan submitted to Tyngsborough Tree Warden and Conservation Commission.
4. Structural stormwater BMPs shall be installed prior to the issuance of any occupancy permits within a particular phase. Phases will be defined as north or south of the boulevard entrance.
5. Prior to backfilling, all stormwater BMPs to be inspected by Planning Board's or designated Review Engineer.
6. Temporary stormwater erosion controls shall be employed during construction.
7. Construction materials shall be stored/stockpiled outside of the 100-year floodplain zone.
8. Floodplain shall be identified in condominium association's master deed ~~and covenant~~.
9. Use of salt on walkways or roadways shall be prohibited. Alternatives to be approved by the Conservation Commission.
10. In compliance with 2.13.50(6): Flood resistant materials to be used for foundation construction, all exterior structures and accessory elements to be anchored to prevent floatation and lateral movement.
11. A hydraulic connection shall be maintained through the berm of the landscaping strip.
12. In compliance with section 1.20.41, developer shall designate four (12% of 32) units as affordable in perpetuity and comply with the entirety of section 1.20.00 (Inclusionary Zoning Bylaw). Affordable units shall be indistinguishable from market rate units with the exception of interior finish, fixtures and appliance. They shall be constructed and provided concurrently and proportionately with the development of the market rate units.
13. Subject to units connecting to public water and sewer. Applicant can petition to the board for modification otherwise.

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14. As-built inspections of dwelling units must be completed prior to issuance of occupancy permits.
15. As-built site plan stamped by a professional land surveyor for entire development shall be submitted prior to issuance of the final occupancy permit. Specific information shall include, but not be limited to, roadway centerline and edge of pavement grades, stormwater BMP grading, garage and first floor elevations, roof drainage pipe locations and inverts, berm location and the location of the hydraulic locations that run through it.
16. Units 9 & 10 as depicted on the Site plan shall be converted to the “townhouse” style floorplan, identical to units 11, 12, 13, and 14 with a slab foundation.
17. Units in the floodplain must use slab foundations. The use of basements are limited to areas not in the floodplain. Units that straddle the border of the floodplain (units 5, 6, and 7) shall use a combination of basement and slab. Basements shall be limited strictly for the use of water and sewer utilities and storage only. Basements shall not be used as living space. This condition shall be included in the Master Deed.

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IV. APPEALS:

Appeals of this decision, if any, shall be made pursuant to M.G.L. c. 40A and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

The application is on file along with a detailed record of the proceedings of the Board on this Special Permit application.

The following members of the Planning Board voted to approve the Applicant's request for the Special Permit and Site Plan Special Permit:

TYNGSBOROUGH PLANNING BOARD

DocuSigned by:
Kimberly O'Brien
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Kimberly O'Brien

DocuSigned by:
Charles F. Doughty II
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Charles F. Doughty, II

DocuSigned by:
David E. Robson, Sr.
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David E. Robson, Sr.

DocuSigned by:
Steve O'Neill
...

Steve O'Neill

DocuSigned by:
Jon Michalek
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Jonathan Michalek

October 15, 2020

*Signatures are made in accordance with M.G.L. c. 110G and pursuant to the Board's electronic signature authorization vote recorded at the Middlesex North Registry of Deeds on July 7, 2020 in Book 34316, Page 44.

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TO BE FILED WITH THE TOWN CLERK

Then personally appeared _____ one of the above named members of the Planning Board of the Town of Tyngsborough, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board before me to be recorded with the Town Clerk.

_____ Notary Public

_____ Commission Expires

TOWN CLERK

I hereby certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal has been filed, that it has been dismissed or denied.

_____ Town Clerk

_____, 20__

APPLICANT RECORD DECISION

Having received certification from the Town Clerk, it shall be the responsibility of the applicant to have recorded both the Notice of Decision with conditions, as required, along with an approved site plan for the special permit at the North Middlesex Registry of Deeds and indexed under the name of the owner of record. Fee for recording shall be the owner/applicant's responsibility.

NOTICE TO BUILDING COMMISSIONER

No building permits or certificates of occupancy shall be issued until the attestation below is made.

Received and entered with the North Middlesex Registry of Deeds,
Book ____ Page ____

Registry of Deeds Signature

Date of Recording