



# TOWN OF ABINGTON

## PLANNING BOARD

TOWN HALL  
500 GLINIEWICZ WAY  
ABINGTON, MA 02351  
781-982-0069

Abington Planning Board  
Meeting Minutes  
December 1, 2008

The Abington Planning Board held a meeting on Monday, December 1, 2008 at the Abington Town Hall at 6:00 P.M. The members present were Chairman, Wayne Smith (WS), Bruce Hughes, (BH), Tim Barry, (TB), Jeff Rangel, (JR) and Bob Soper, (BS). Dan Crane, (DC), the Town Planner and Michael Perrault, (MP), PMP Associates was also present.

**CALL TO ORDER:** The meeting was called to order at 6:00 P.M.

### **FORM A APPLICATIONS:**

There were no Form A applications.

### **APPROVAL OF MINUTES:**

Motion to approve the minutes of November 3, 2008 as amended by BS second BH voted with JR abstaining.

### **TOWN PLANNER REPORT:**

DC provided the Board with the Master Plan update. There is only one chapter left to be completed. He will have a draft of the entire Master Plan for the January meeting. The Master Plan is intended to serve as a policy guide. The Master Plan will then be distributed to Boards, Committees and Department Heads. He hopes to receive feedback from them and then the Board can hold a public meeting on the updated master plan in February.

### **CORRESPONDENCE:**

The Board received a schedule of meetings for 2009. They approved the schedule.

### **JOHN L. SULLIVAN WAY:**

WS read the law suit dismissal notice that was received from the applicant. MP has reviewed the plans and stated that there are minor changes. Mr. Seoane will provide a signed amended order of conditions and final drainage calculations. The Board will place the endorsement of the plans on their January agenda.

**CENTURY ESTATES MINOR MODIFICATIONS TO APPROVED PLAN:**

MP advised the Board members that he has reviewed the initial set of modified plans and drainage calculations. PMP is satisfied that the change corrects the current problem.

Motion to the accept the modification of the Century Estates subdivision plan by BH second BS voted.

**SITE PLAN REVIEW 310 BEDFORD ST. CELL TOWER VERIZON WIRELESS:**

Carl Gehring from Verizon Wireless has presented a plan to co locate an antennae on the lattice tower at 310 Bedford St. He did receive a height variance and special permit from the ZBA. They are also planning to place a pre fabricated 12x30 ft equipment shed on the site.

MP is familiar with the site. He would like them to show the clearing 10ft off the fence. He is also concerned with the generator noise. They may have to install a barrier if the neighbors are bothered by the noise.

Carl Gehring stated that they had an acoustical scientist review the noise level and it is acceptable. WS stated that as part of the approval the Board can require that the generator only run certain hours.

MP stated they will need finished plans for buildability.

Motion to approve the site plan contingent upon compliance with the PMP Associates letter dated 11/25/08, that the parking area drive will be improved and materials to be used specified, that the generator will only run from 10am – 2 pm Monday thru Fridays, construction drawings will be provided and reviewed prior to a building permit being issued and that the 10ft clearing from the fence be shown by TB second BS voted.

**DEFINITIVE SUBDIVISION ROSE PLACE CON'T:**

WS started the hearing by informing all present that the Board had received an opinion on the right to use Wilbur St. from Kopleman & Paige, the Town's legal counsel. The opinion had arrived this morning and no one had had a chance to review it in its entirety. Copies of the opinion were provided to Counsel for the applicant and the abutter, Hatch.

JR stated he felt this was a much more detailed analysis than the Board had received previously.

MP stated he felt the Board should allow the applicant to continue the hearing. He also pointed out that if the Board were to deny solely on the merits of Counsel's letter than any technical problems with the subdivision would not be included and they should be. PMP Associates has already completed a review with a list of items that need to be addressed and some of them have.

Azu Etoniru the engineer for the applicant feels that their Counsel has to do more work.

There was general conversation between WS and JR about the timeline of both the preliminary plan submission of February 12, 2007 and the definitive plan submission, which was on July 28, 2008 and the fact that the project in both forms has been before the Board for a long time.

Ron Whitney, Attorney for the abutter, Hatch stated that his clients have already incurred costs and that Town Counsel has determined that the developer does not have a right to use the way.

Milton Morrison, on behalf of Ms. Glazier, the applicant stated that the Board asked them to come in with a Wilbur St. access and he would like to know if the plan meets approval excluding legal access. WS stated that they needed 2<sup>nd</sup> egress because the roadway was in excess of 600 ft. and the applicant came in with a new plan. Mr. Morrison asks for a 60 day extension for their Counsel to review the letter and provide additional information.

Cynthia Amara, Counsel for the applicant stated that there are a lot of equities to consider, her perusal of the letter does not say that the Board has to deny.

WS said that the Board members just received the letter, he doesn't feel that it is fair to either party to make a decision tonight.

JR stated that a 60 day extension seems fair enough.

WS also advised both Attorney's that there is no guarantee that the Board would turn any additional information over to Town Counsel.

JR said that he feels that the Kopleman & Paige letter is well researched.

WS said that the decision can be appealed in either case. He also said that the applicant would have to get permission from the Board of Selectmen to work in a paper road.

There was general discussion about legal opinions and the plan timeline before the Board.

Motion to deny by JR. Motion received no second.

Ron Whitney, Attorney for the abutter, Hatch stated that nothing is gained by allowing an additional 60 days. He provided a title search and all additional information to Town Counsel to plead their case. Town Counsel has found in their favor.

WS said that if the situation was reversed Attorney Whitney would be the one asking for a 60 day extension. He is trying to be as fair as he can.

Milton Morris, on behalf of Ms. Glazier said that per the previous Town Counsel letter he thought they had a legal right to access the project through Wilbur St. This access was pushed on them. They thought it was a public way.

Azu Etoniru, the applicants engineer echoed Mr. Morris's thoughts. He asks the Board for time to conclude the engineering aspects of the plan for the Board's review.

BH stated that there are multiple legal opinions and he doesn't see why there should be a 60 day extension.

WS stated he doesn't see the harm in extending the hearing for an additional 60 days. The Board needs to have all the items included in any approval or denial. This would include engineering items in addition to legal right to use the road.

DC stated that MP makes a compelling argument that the applicant be provided an opportunity to resolve the engineering issues.

Azu Etoniru stated he could have the plan in by the deadline for the Jan meeting for engineering review.

BH stated that the Board can review the engineering items in January and have a final hearing on the plan in February.

Ron Whitney, Attorney for the applicant believes this is yes or no decision before the Board. He asked if there was a deadline date for additional documents regarding the legal access? He would like to be able to review them.

BS stated that the Board requested this opinion from Town Counsel and as far as he is concerned it is final. He also stated that the roadway is over 600 ft which is in violation of the subdivision rules & regulations.

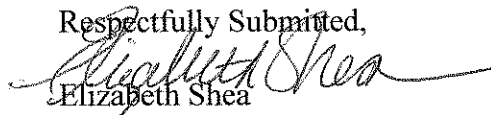
TB stated that the Board members represent the interest of the Town. He believes it makes sense to allow the engineering issues to be reviewed.

Motion to grant an extension of the hearing to February 13, 2009 and that the applicant's legal counsel provide any additional documentation regarding the legality of the roadway

access to Ron Whitney, abutter Hatch's counsel no later than January 15, 2009 by JR  
second BS voted.

Motion to adjourn at 8:15 P.M. by TB second BH voted.

Respectfully Submitted,

  
Elizabeth Shea  
Recording Secretary