



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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MINUTES  
May 13, 2002

**Continued Public Hearing: Common Driveway Special Permit, 138 East Street, Map 22, Parcels 62B & 63D, Theodore Treibick, applicant**  
**Request for an amendment (waiver) of Rules and Regulations regarding Special Permits for Personal Wireless Service Facilities (Section I) [Request of American Tower, et al.]**  
**Discussion of proposed amendments to Subdivision Rules and Regulations**  
**Request for a release from Restrictive Covenant of remaining lot in Hart Farm Estates Definitive Subdivision Plan, and substitution of deposit of money as performance guarantee [Request of Michael Kenny]**  
**Request to certify completion of High Woods Lane Common Driveway Special Permit, Map 6, Parcels 63-1, 63-2, 63-3, 63-4 and 63-5 [Request of West Street Partners, LLC]**  
**Request for a release from Restrictive Covenant of remaining lots in Wilkins Lane Definitive Subdivision Plan, and substitution of deposit of money as performance guarantee [Request of William Costello]**  
**Release of project review fee balances for completed application**  
**Discussion of possible review engineers**  
**Zoning Board of Appeals Meeting 5/14/02**  
**Subdivision approval extensions**  
**Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29**

Vice Chair Michael Epstein called the meeting to order at 7:30 p.m. in the Heald Room at Town Hall. Board Members Louise Hara (Clerk), Dan Holzman, Tom Lane (Treasurer) Kate Reid and Phyllis Zinicola were present. Michael Abend (Chair) was not present this evening. Planning Administrator George Mansfield and Administrative Assistant Anja Stam were present. Reid left the meeting at 9:00 p.m.

Most Board members did not have a copy of the minutes of April 22, 2002 with them because they had been sent to the Board via e-mail approximately two weeks ago. Therefore the Board decided to review the minutes at the next PB meeting. The Board also directed the AA to return to the practice of including the minutes in each meeting packet.

## Bills and Budget

Bills were circulated and Mansfield noted that the unresolved bill from Earth Tech is included for the Board's information but should not be signed.

Mansfield then informed the Board that there had been no response to the Request for Proposals on Wireless Review. Epstein suggested that FY02 money should be encumbered for this purpose if it is not spent by the end of the fiscal year. Holzman offered to call Donald Haes at MIT to encourage him to respond to the RFP.

## Upcoming Meeting Schedule

It was noted that the Board of Selectmen is considering a potential Special Town Meeting date of June 10<sup>th</sup>, which is the next scheduled Planning Board meeting. The PA was directed to schedule the meeting for June 11<sup>th</sup> if the Special Town meeting is scheduled on June 10<sup>th</sup>. The AA was also directed to schedule a PB meeting for June 24<sup>th</sup>.

Epstein also asked the AA to forward a copy of the Board's organization for 2001-2002 to all members. The Board was asked to review current appointments and liaisons, and to consider preferences for 2002-2003.

**Continued Public Hearing: Common Driveway Special Permit, 138 East Street, Map 22, Parcels 62B & 63D, Theodore Treibick, applicant**

Lawrence Barton of 160 Elizabeth Ridge Road was present. Epstein informed him that the applicant sent a fax dated 5/13/02 requesting a continuance and that no testimony would be taken. **Reid moved and Hara seconded a motion to continue the public hearing to 7:45 p.m. on June 10, 2002 or to the next regularly scheduled meeting if that meeting is cancelled.** The motion carried 6-0.

**Request for an amendment (waiver) of Rules and Regulations regarding Special Permits for Personal Wireless Service Facilities (Section I) [Request of American Tower, et al.]**

Mr. Barton was present for this discussion as well.

The Board reviewed a letter dated April 19, 2002, received from McDermott, Quilty & Miller LLP, representing American Tower and several wireless service providers. In this letter, American Tower, et al. requested permission to submit a Special Permit application for a Personal Wireless Service Facility at 662 Bedford Road, prior to obtaining the required variances from the Board of Appeals. Reid recalled that the Planning Board purposely drafted the Wireless Rules and Regulations to require the variances first so that they would be in place before proceeding with the Special Permit process. The Board felt that it would waste a considerable amount of time, effort and expense of both the applicant and the Town to proceed with the Special Permit and later have the variances denied. The PA was directed to call attorney Peter Morin to inform him that the Planning Board is taking no action on this matter.

**Discussion of proposed amendments to Subdivision Rules and Regulations**

Epstein wished to schedule a public hearing regarding the proposed amendments to the Subdivision Rules and Regulations. He asked the PA to schedule future PB meetings as discussed earlier and then determine if Sandy Brock of Judith Nitsch Engineering would be available for any of those dates. Once a public hearing date is determined, Mansfield was asked to post the required notice in the *Mosquito*.

Mansfield was also asked to draft a memo to the Board of Selectmen regarding private maintenance of public roadways and inclusion of a "betterment process" in the Town Bylaws.

**Request for a release from Restrict Covenant of remaining lot in Hart Farm Estates Definitive Subdivision Plan, and substitution of deposit of money as performance guarantee [Request of Michael Kenny]**

In a letter dated 4/26/02, Michael Kenny requested the release of Lot 8 in exchange for providing the Town with sufficient funds to complete the subdivision. He suggested a passbook savings account as a possible mechanism for providing this performance guarantee. Through correspondence with the Town Treasurer, Mansfield determined that the funds could be secured in a passbook account requiring both parties to sign, but in the event the Town would require funds due to default, Carlisle would not be able to access the account without signatures from both parties. Reid suggested contacting Marcia Rasmussen of the Concord Planning Board where that town has similar mechanisms, but has access to the performance guarantee funds. Zinicola was also familiar with similar situations and said that a bank is able to set up a "control account" which would allow the Board, but not the applicant, access to funds if necessary.

Mansfield had a sample "Form J – Performance Secured by Bank Passbook" form obtained from the Massachusetts Federation of Planning Boards. The PA was directed to contact the Concord Planning Board and then Michael Kenny regarding the preferred method of obtaining the performance guarantee. The Board suggested that Kenny be responsible for providing the guarantee and filling out "Form J."

**Reid moved to inform Michael Kenny that the amount of money to be submitted in lieu of the covenant encumbering Lot 8 is \$99,229.00 as stated in the letter from Stamski and McNary dated April 18, 2002, provided that all documentation associated with the passbook account is satisfactory to the Planning Board.** Zinicola seconded the motion and it carried 6-0.

**Request to certify completion of High Woods Lane Common Driveway Special Permit, Map 6, Parcels 63-1, 63-2, 63-3, 63-4 and 63-5 [Request of West Street Partners, LLC]**

The Planning Board's review engineer, Dale MacKinnon of EarthTech, was present.

Mansfield explained that he has had no verbal contact with the developer. In response to West Street, LLC's letter dated 4/9/02, Mansfield received a review letter from MacKinnon dated 4/30/02 and Mansfield sent a letter to the developer dated 5/3/02.

MacKinnon explained that he stopped by the High Woods site this evening to review performance of the drainage system with the recent heavy rains. He noted that water is still weeping out near the intersection of High Woods Lane and West Street, while no flow is going through the culvert to the level spreader. MacKinnon suggested that water in the upper area should be directed to the level spreader to minimize the water flowing down to West Street. Epstein asked him to write a revised letter to the Planning Board stating his observations and suggestions for improvement. MacKinnon also suggested that the Board require the design engineer to certify the final as-built plan before submitting it to the PB's engineer for review. The Board asked MacKinnon to include this recommendation in the letter as well.

The PA was directed to send a letter to West Street, LLC advising them that the PB was unable to certify completion. The Board then reviewed each of the items in MacKinnon's letter to the PB dated 4/30/02 with the following conclusions: #1 – complete; #2 – area should be reseeded as indicated; #3-5 – complete; #6 – MacKinnon will update report as discussed this evening; #7-12 – developer should address these items as indicated; #13 – complete; #14 – MacKinnon will recommend certification of as-built plan by design engineer before submittal for final review by PB's engineer. MacKinnon agreed to submit a new letter to the Board with these revisions, and the PA was directed to forward a copy of this letter to the developer with a cover letter.

*(Reid left the meeting.)*

**Request for a release from Restrictive Covenant of remaining lots in Wilkins Lane Definitive Subdivision Plan, and substitution of deposit of money as performance guarantee [Request of William Costello]**

Epstein moved to inform William Costello that the amount of money to be submitted in lieu of the covenant encumbering the remaining lots is \$26,000, provided that all documentation associated with the passbook account is satisfactory to the Planning Board. Lane seconded the motion and it carried 6-0.

(See additional discussion on Page 3 under "Subdivision Approval Extensions.")

**Release of project review fee balances for completed application**

Epstein moved and Lane seconded a motion to release the balance of funds remaining in the 53G project review account for a Common Driveway and Conservation Cluster Special Permit for Nancy Rockstrom. The motion carried 6-0.

**Discussion of possible review engineers**

The Board asked the PA to send a Request for Qualifications to the review engineers listed in Stam's memo to the Board dated 2/21/02.

**Zoning Board of Appeals Meeting 5/14/02**

Mansfield noted that the ZBA would be holding a Public Hearing tomorrow evening regarding the proposed wireless facility on the Woodward/Anderegg property. He suggested that the PB be represented at this meeting. Holzman agreed to attend.

**Subdivision approval extensions**

Mansfield noted that subdivision approval for Pine Meadow expired in November 2001 and for Wilkins Lane in October 2001 without requests for extension. The PA was directed to draft a letter to William Costello notifying him of this situation, and

Epstein will review the draft. Mansfield was also directed to ask Town Counsel if approval of these subdivisions were to be rescinded, how would that action affect lots that have or have not been sold.

Hara then moved to reconsider the vote taken earlier this evening regarding the Release of lots from Restrictive Covenant of Wilkins Lane. Epstein seconded the motion and it carried 4-0-1 with Holzman abstaining. Epstein then moved and Hara seconded a motion to take no action on the Release of lots in Wilkins Lane in light of expiration of the subdivision completion date. The motion carried 5-0.

**Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29**

Mansfield reported that Town Counsel Richard Hucksam recommends that the Planning Board take no action on a copy of a 5/2/02 letter from Attorney Dacey to Attorney Zaroulis.

At 9:30 p.m. the Board unanimously adjourned the meeting.

Respectfully submitted,



Anja M. Stam  
Administrative Assistant