



# Town of Pepperell Planning Board

1 Main Street, Pepperell, Massachusetts 01463-1644  
978-433-0336 Phone 978-433-0338 Fax  
[planning@town.pepperell.ma.us](mailto:planning@town.pepperell.ma.us)

## MINUTES

Monday, January 12, 2009

Pepperell Town Hall

**Members Present:** Nick Cate, Mark Marston, Rick McHugh, Steve Themelis

**Members Absent:** Dennis Kane

## CALL TO ORDER:

Mr. Cate called the meeting to order at 7:10pm.

## VOUCHERS:

- Payroll vouchers were endorsed. (01/17/09; 01/24/09)
- Town Engineer vouchers endorsed for \$5,167.50.

## ACCEPTANCE OF MINUTES:

- The Board M/S/V to approve the minutes of December 8, 2008.

## BUILDING &/OR OCCUPANCY PERMITS:

- None

## ANR PLANS:

- None

## APPOINTMENTS/HEARINGS:

- None

## ACTION ITEMS:

- 2008 Annual Report  
Mr. Themelis read the annual report aloud for the members and the Board M/S/V to forward the report as written to the Board of Selectmen for the 2008 Annual Report.
- FY2010 Budget Proposal  
The Board reviewed the request from the Finance Committee to submit a level funded budget for fiscal year 2010. Ms. Snyder explained that she had reviewed the level funded budget and realized areas where some budget amounts could be reduced while allowing for some increases to cover wages and supplies and still remain approximately 3% less than the level funding. She suggested forwarding a level funded and a proposed budget

to the Finance Committee. The Board agreed to forward the budget proposal for consideration.

- Heritage Estates Covenant Extension

This item was tabled to a later meeting for lack of response from the developer.

- Beaver Creek Bond Reduction

The Board reviewed the Town Engineer recommendations for release and voted to release \$32,978.

- Work Session – Decision SP2008-05 – MCGI Site Plan Extension

Ms. Snyder explained the situation of Town Counsel to the Board. She further explained that the applicant's attorney was requesting that the final decision be put on hold until Town Counsel is available. A letter from Attorney Bennett, representing the applicant, Mr. Burton, was presented in which an offer to submit a letter requesting extension of the time in which to make a decision. It was agreed that further information on the status of Town Counsel availability would be obtained before asking for an extension.

Mr. McHugh questioned the Board's validity in making a decision if the decision is not an actual special permit and only a site plan permit. He stated that he felt reluctant to make a ruling regarding the extension.

Mr. Cate explained that the request is only for an extension and with the application before them they must make some decision on that application. He stated the decision is to whether or not the applicant has the right to an extension and based on the opinion of town counsel they do. It was discussed that the use is no longer allowed and that the original decision was to lapse after two years but Mr. Cate said he still felt the board had authority to make a decision.

Mr. McHugh questioned if it was not the responsibility of the applicant for the burden of proof that just cause could be the reason for extension. He had some confusion on the ruling that the original decision was actually a site plan permit and not a special permit.

The Board looked at the bylaw section on site plan review and at the rules and regulations regarding site plan review. It was agreed that there is some discrepancy in interpretation and intent between the two and in the future it is possible that some changes might be necessary for the rules and regulations.

Mr. Marston stated that he felt the permit should not be extended since the use is no longer allowed and that he felt that is what the townspeople would want. He mentioned that a former member had told him once that when making a difficult decision to always make the decision that is best for the town and he feels this is not best for the town.

Resident, Carolyn Ahdab, questioned if the board could vote on something that is not allowed in the zoning bylaws. Mr. Cate briefly explained that the use of the property is grandfathered by the courts. Ms. Ahdab asked about review by the Board of Health with regard to water and sewer use for the property. She was informed that the Board of Health had reviewed the original application for the use and that the property has been earmarked for this use with all departments.

Mr. Cate stated that this use may be in the best interest of the town. He stated that possibly the previous changes to zoning that disallowed the use may have been a hasty reaction to this possible business and may have been the wrong solution years ago. He stated that it could be positive for the town with jobs and revenue sources.

The Board reviewed a draft decision that explains the discrepancies from the previous decision and offers specific conditions that must be met. They agreed to send the draft

decision to town counsel for his review and comments and will await a reply prior to making their decision.

**CORRESPONDENCE & DISCUSSION:**

Correspondence was reviewed. The Board looked at photos sent in from Greta Donahue regarding her property that abuts the North Village Estates.

**CLOSE MEETING:**

With no further business to discuss the meeting was adjourned at 9:00pm.

**APPROVED:**

\_\_\_\_\_  
Nicholas A. Cate

\_\_\_\_\_  
Mark F. Marston

\_\_\_\_\_  
Dennis A. Kane

\_\_\_\_\_  
Richard C. McHugh, Jr.

\_\_\_\_\_  
Stephen C. Themelis