

**The Chair called the meeting to order at 7:04 pm.**

**I. Roll Call**

**Present: Joe Cardello, Ed Magill, Bruce Santa Anna, Steve Parent, Gene Simone, Dr. Lucien Benoit. Also present: Town Planner Michael Phillips and Assistant Solicitor Bob Rossi.**

**II. Approval of Minutes—April 3, 2008 and May 1, 2008**

**Dr. Benoit made a motion to approve the minutes of April 3, 2008, as corrected. Mr. Parent seconded the motion, with all in favor.**

**Dr. Benoit made a motion to approve the minutes of May 1, 2008, as corrected. Mr. Parent seconded the motion, with all in favor.**

**III. CVS/Dowling Village—Site Plan Modification (Entrance Modification)**

**Location: Assessor's Plat 21, Lot 50**

**John Bolton, attorney for the applicant, addressed the Board. The applicant is proposing modification to the internal median at the main entrance to the development. Because it does not affect curb cut to the right of way, this would be considered a minor modification under subdivision regulations. The purpose of the modification is to provide more efficient internal traffic flow. The Board also discussed the curb**

requirements from the approved plan. Mr. Bolton stated that he would have the applicant check the plans to see if granite or cement curbs were approved. Mr. Phillips stated that he had checked the plans, and it appears that all internal curbing is concrete on the plan.

The Chair asked if there is still access around back for deliveries. Mr. Bolton stated that there was. Mr. Bolton added that they are only looking to modify temporary opening, and it will revert to the approved opening as shown on the plans as of the date that the Certificate of Occupancy is issued for the first building in subsequent Phases of the development.

Dr. Benoit made a motion to approve the site plan modification, with the stipulation that the modification is temporary and will be closed before any certificates of occupancy are issued for Phase II. The Chair clarified that the modification is for the opening only, and does not approve any lane changes on 146A. Mr. Santa Anna seconded the motion, with all in favor.

**IV. Hearing to Determine the Adequacy of Road and other Public Improvements - Elizabeth Avenue and Saranac Street;**

**Phase I & II Elizabeth Avenue Development**

**Developer: Liz Development Group, LLC**

Michael Kelly, representing Liz Development, stated that he will present his comments after listening to Board. Mr. Phillips gave a

**history of the issues surrounding the adequacy of the road in the Elizabeth**

**Avenue Development. In January 2008, a meeting was held with Mr. Mesolella, Mr. Rossi, Mr. Lowe, and members of the Town Council, to discuss measures for correcting the deficiencies. During this meeting a general agreement was reached which called for remedial plans to be done by early spring, with construction of improvements to follow in the early part of the summer. No plans were ever submitted. Mr. Rossi drafted a letter, outlining a deadline of May 20, 2008 for submittal of plans. There had been communication between Mr. Mesolella and Mr. Rossi, with ample opportunity given for him to produce drawings and present scheduling. Mr. Rossi stated that nothing has been received to date.**

**Mr. Phillips asked the town's engineer to explain his observations of the inspection and the deficiencies noted. Engineer Richard Hencler addressed the Board. He stated that he had driven out to Elizabeth Ave. to conduct an inspection, and that he has also consulted photographs, including ones taken in front of 142 Elizabeth Ave. He noted ponding in front of the driveway, as well as in other parts of both Elizabeth Ave. and Saranac Ave. He concluded that catch basins don't take water and sections of streets puddle up, the grade is higher than the road around some catch basins, the grading in many areas is improperly pitched, pavement is breaking away from the existing roadway, and there are depressions near many**

manholes.

Ray Pendergast, Public Works Director, addressed the Board. He stated that his report reflects somewhat the observations of the engineer. He stated that his letter explains his observations. Mr. Rossi asked that the items from report be read into the record. Mr. Pendergast read the letter. The Chair asked about the cross-section of the road and whether the road construction was done per subdivision regulation. Mr. Pendergast stated that he doesn't know the exact measurements of the road cross-section, but agreed that the road is not built properly. The Chair asked Mr. Pendergast to look at the picture of the ponding. The photograph was taken the day after paving, in November 2007, and it did rain that day. Mr. Pendergast stated that he felt that the photograph was a fair representation of the ponding before 142 Elizabeth Ave. Mr. Santa Anna asked if his report was done separately from the engineer's report. Mr. Pendergast replied that it had been and that the same observations had been reached by both Mr. Pendergast and his staff.

Mr. Phillips stated that there have been numerous discussions of the problems, which started when the gravel base went down without the proper crown and with catch basins set too high in some instances. The town discussed the problems and possible solutions with Mr. Mesolella, but no plans were ever submitted. The Chair gave a summary of the problems, and the lack of action, stating plans usually come in too late in the year when paving companies close. It

appears that there has been no action from the developer to improve the roads.

Mr. Kelly asked Mr. Pendergast if the town worked on the roadbed before paving. Mr. Pendergast responded that Allard Construction had cleaned out the sides of the roadbed to prepare for paving, but he does not think that the town did any work on the roadbed itself. Mr. Phillips believes that the town may have agreed to clear and prepare before paving, not to construct the roadbed, but to prepare the shoulder. He stated that it is the developer's responsibility to set catch basins. Mr. Kelly stated that the town accepted responsibility for preparing the roadbed and that the February 6, 2003 Planning Board minutes indicate the discussion of how the road would be treated due to the varying widths. The developer had

asked for a waiver for sidewalks and discussed four options. Mr. Kelly stated that one of the options included drainage and grading and the possibility that widening needed to be addressed. He stated that further discussion was held on the town being responsible for widening the road. Mr. Kelly stated that at the March 11, 2003 meeting, the matter was voted on, and as part of the decision, the developer agreed to pave to a width of 20 feet, after the town prepared the roadbed. He stated that under this decision, drainage and grading were to be addressed by the town. Mr. Kelly stated that Mr. Mesolella was not aware of the town's obligation at the time of the

**agreement met earlier this year.**

**Mr. Kelly stated that upon an agreement of satisfactory credit for doing the town's work, he will be in a position to address the other issues, but that the developer cannot complete construction until the town prepares the roadbed, as they were supposed to do. The Chair asked for copies of the minutes that state that the town will do the grading and drainage, but stated that any agreements on those issues still do not allow the developer to pave a road that does not meet the town's regulatory specifications.**

**Mr. Phillips stated that going back to Phase I which include Smith St., Briden St., and Elizabeth Ave. My understanding of what was meant by “preparing the road base” was that the Town would pop rocks out from the pavement put down a leveling course where needed and prepare shoulders where the road was to be widened. At the time of the Phase I approval there was no mention of sewers being installed on Elizabeth Avenue; so there was an expectation that there would be a pavement structure to prepare for final paving. The reality is that after blasting for sewer lines in Elizabeth Avenue and Saranac Street there was no pavement structure left to prepare. The developer changed the conditions. Mr. Phillips showed plans of Phase II, including sewers and Graves Ave. (Improvement Plan, Nov. 16, 2004, Drawing C-4, sheet 5/11, prepared by PARE Engineering.) Mr. Kelly stated that he understands what Mr. Phillips is saying but still the developer is entitled to some credit. Mr. Rossi stated that the**

evidence presented before the Board alleges that work and grading is substandard, and questioned why the town would be liable to pay for substandard work. He stated that the request of the developer is not legally based.

Mr. Kelly stated that the developer is prepared to address issues and give the product the town wants after credit is given. The Chair stated that the developer is now changing the conditions of when plans for fixing the road will be submitted, and added that the town does not want to pay for substandard work. Mr. Rossi stated that the town's responsibility was rendered an impossibility, because the road has been paved over and done in a substandard way. Mr. Mesolella said there is a clarity issue with the town's participation. He stated that there was an expectation of cost affiliated with the work, and the town was obligated to prepare the roadbed. He stated that if the town didn't do that and the developer did, then he is entitled to credit for the work. He stated that the substandard work is a separate issue. Mr. Mesolella stated that when he had talked with Mr. Rossi and Mr. Phillips, they told him what his responsibility was, but never discussed the town's obligations. He stated that he is prepared to fix the road, then talk about the town's responsibilities later. He added that they did not tell him all of the facts since he came into the project. Mr. Mesolella added that there would probably be litigation, but he would like to get a discussion started on getting this matter resolved. He stated that last fall (2007), he was under pressure to get the road in before Thanksgiving, so they rushed to get it done.

**Mr. Rossi stated that the issue being discussed at this meeting is the bond and the work that has been performed. Mr. Kelly stated that they will discuss this and are willing to sit down, but if the town calls the bond then they'll discuss it during litigation. Mr. Rossi stated that pulling a bond involves a process, and at the meeting in January, the matter was to be resolved. The developer is now bringing up unrelated issues, which may have been caused by the developer. According to his own statement, the work is substandard; therefore he should be saying how it's going to be fixed. The developer has a responsibility to take action.**

**Dr. Benoit asked Mr. Mesolella if he was willing to make improvements to the satisfaction of the Board, and follow up on any credit issues later. He also asked if they will put it in writing with a date certain. Mr. Mesolella stated that he is prepared to do that. He stated that he will talk to his contractor (DiGregorio) and will put a date in a letter. The Chair is concerned that it seems to be an open-ended offer. Mr. Rossi stated that the same offer was given in January, with no response.**

**The Chair asked if the Board can make a motion to call the bond, and then take it back if developer cooperates. Mr. Kelly stated that if they call the bond, then litigation will occur. Dr. Benoit asked if the information can be submitted to Mr. Phillips within 30 days. Mr.**

**Mesolella said that he could do this. Mr. Phillips said that he knows there's a plan out there for corrective action, and has spoken with the engineer. Mr. Mesolella stated that he's happy to share information, and give his engineers permission to share plans. The Chair agreed that calling in the bond takes a long time, and stops work from getting completed, but this has taken too long. He asked if they could see plans as soon as Monday, since they've been waiting to see some action. Mr. Mesolella stated that he is reluctant to give a date because of a third party involved. He said there is a potential resolution, but coordination needs to get back on track. Dr. Benoit suggested that 30 more days far outweighs 4-5 years.**

**The Chair asked if the information from the engineer could be submitted to Mr. Phillips within 2 weeks. Mr. Mesolella stated that it could be within days. He also asked the Board to clarify exactly what they want to see within the next few weeks. Mr. Santa Anna said they would like to see the scope of work to be completed. The Chair asked Mr. Mesolella to submit a letter from the engineer, a letter to the contractor to move forward with the work, and show that they have started on the work. He said that the Board needs to see positive action and progress. Mr. Mesolella agreed to do this and agreed to direct the engineers to send any plans, designs, and letters stating a timeframe for work and directive that work can begin to Mr. Phillips. Dr. Benoit asked if everything can be finalized in 30 days. Mr. Mesolella stated that he is not sure, but he understands that they're pretty well along and will try to move along as expeditiously as**

possible. Mr. Mesolella will report back at the Board's next meeting on June 26.

Dr. Benoit made a motion to continue to the next scheduled meeting. The Chair reiterated that the Board will need to see a lot of action. Mr. Mesolella agreed to forward copies of any correspondence to Mr. Phillips. Mr. Parent seconded the motion. Planning Board vote was as follows: AYE: Mr. Magill, Mr. Santa Anna, Mr. Parent, Dr. Benoit. The Chair abstained from voting. Motion passed, with a vote of 4-0.

#### **V. Site Plan Review- Section 5.6.3.10 Wireless Communications Facilities Metro PCS**

**Massachusetts, LLC, New antennas on existing towers**

**Locations: 187 Iron Mine Hill Road & 575 Smithfield Road**

Jackie Slaga, attorney for the applicant, addressed the Board to provide a quick overview. Ms. Slaga stated that the request is fairly straightforward. The applicant would like to add new antennae to existing towers at 187 Iron Mine Hill Road and 575 Smithfield Road. Metro PCS is a new carrier, and the FCC licensed them to build a network. Coverage maps, and a structural report stating that the proposed site can accommodate the proposed installation have all been submitted to the Board. Ms. Slaga also submitted a photo rendering of the proposed flush-mounted antennae.

The Board discussed the wind loading standards for the antennae and whether the standards took into account snow and ice. Ms. Slaga stated that the antennae are designed to current standards, but she does not know the exact requirements of those standards. The Chair suggested increasing the wind loading even if it exceeds the current standards. Ms. Slaga stated that she can provide documentation of the standards that these towers were measured against. The Chair asked Mr. Phillips if the Board could require higher standards or if it is determined by the building code. Mr. Phillips stated that he is not sure, since it is federally regulated.

Mr. Magill asked if there are any proposed standards for future towers and antennae. Ms. Slaga stated that many standards have been recently upgraded due to Hurricane Katrina, and she can provide the Board with more information. Dr. Benoit stated that the Board had raised some legitimate concerns, and suggested waiting for information on wind loading, current requirements and proposed standards before approving the request.

Dr. Benoit made a motion to continue to the next scheduled meeting, pending submission of requested information. Mr. Parent seconded the motion, with all in favor.

Mr. Phillips asked if the next meeting could be scheduled on June 26, as it would allow the Board to vote to ratify the Branch River buildout/traffic study which is before the Town Council on June 23.

**The Board agreed to meet on June 26.**

**VI. Adjournment**

**Mr. Magill made a motion to adjourn at 9:08 pm. Mr. Parent seconded the motion, with all in favor.**

**Respectfully submitted by;**

**Angela Pugliese**

**Planning Board Recording Secretary**