



Legal Briefs

What should the planning board do when an abutter claims that the applicant for a land use approval doesn't have title to all the land shown on the plan?

It is advisable for the planning board to refrain from becoming involved in a dispute between an applicant and an abutter over private property rights. Resolution of private property disputes is not within the jurisdiction of a land use board. *Short v. Rye*, 121 N.H. 415 (1981). Every applicant implicitly claims to have the property rights to do what they propose to do, whether it's location of boundaries, title to the land, or restrictions imposed by easements that run through the land. When a property rights issue is raised by an abutter, unless the answer is indisputable, the board should explain that the board must assume that the applicant has the property rights to develop the property as presented and to fulfill conditions of approval that the board may impose. Property rights disputes are resolved by civil action in the superior court.

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February 2010*