

**Minutes of Meeting
Grafton Planning Board
January 8, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, January 8, 2007 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Keith Regan, Vice-Chairman, Donald Chouinard, Clerk Richard McCarthy (arrived 7:55 p.m.), Robert Hassinger, Peter Parsons and Associate Member Christophe G. Courchesne. Staff present was Town Planner, Stephen Bishop and Planning Assistant, Samantha Hobson.

Chairman Regan called the meeting to order at 7:01 p.m.

**SP 2006-15 GRAFTON WATER DISTRICT - 44 MILLBURY STREET -
GRAFTON - WATER STORAGE TANK - 67 UPTON STREET REAR**

Mr. Parsons read the legal notice and Chairman Regan opened the public hearing at 7:02 p.m.

Chairman Regan read a letter from Matthew Pearson, Manager of the Grafton Water District, stating they wished to withdraw without prejudice their application for SP 2006-15.

Chairman Regan also noted the withdrawal was a result to the Building Inspector's memo stating the water storage tank could not be allowed under any use listed in the Use Regulations schedule.

Mr. Hassinger stated the Board needed to discuss whether to accept the withdrawal with or without prejudice and that he had some concerns regarding the completeness of the application. Mr. Hassinger noted he had received only a site plan application, not a special permit application, no written request to waive the application fees under a Town of Grafton submission and no deposit of review fees into the peer review account. Mr. Hassinger stated there is not an automatic waiver of fees for a privately owned municipality within the Town and would have to be considered on an individual basis.

Chairman Regan noted Mr. Hassinger's concerns were well taken, but since the application cannot even be submitted at this time, it is best to allow the applicant to withdraw.

Chairman Regan appointed Mr. Courchesne as a voting member for this public hearing.

MOTION by Mr. Chouinard, **SECOND** by Mr. Parsons, to accept the applicant's written request to withdraw without prejudice, Special Permit SP 2006-15. **MOTION** carried 4 to 1 by roll call vote: Hassinger-no; Chouinard-aye; Regan-aye; Parsons-aye; Courchesne-aye.

Chairman Regan noted that since the Building Inspector could not allow the use under the current Use Regulations, the applicant can submit an amendment to the Use Regulation Schedule to be included in the spring Town Meeting warrant.

MODIFICATION OF DEFINITIVE PLAN APPROVAL – “FERRY RIDGE ESTATES” SUBDIVISION – INDIVIDUAL LOT, L.L.C. (APPLICANT/OWNER) – FERRY STREET AND SUTTON TOWN LINE

Mr. Parsons read the legal notice and Chairman Regan opened the public hearing at 7:18 p.m.

There was no one present at the hearing representing the developer, LRC Development.

Chairman Regan noted that a memo had been received from the Treasurers Office indicating the back taxes had been paid for this project.

Mr. Bishop informed the Board that he had visited the site and there was a massive amount of cut rock still on site affecting a number of abutters to the subdivision site. Mr. Bishop also noted that he had visited the site on December 20, 2006 with Jeffrey Walsh of Graves Engineering and there were still serious erosion control issues to be addressed in the interim and long-term management of the site.

Mr. Bishop stated that a fine clay has become problematic and that the developer needs to address a massive problem by starting to move materials off-site.

Christopher Valeri of 74 Ferry Street stated he was the closest of the abutters and informed the Board the developer needs to address the needs of the abutters immediately. Mr. Valeri noted the developer was trespassing on their property (lawns, driveways) without their consent, was unfriendly towards them in general and has not returned their phone calls.

Mr. Hassinger asked Mr. Valeri if he had any written agreement with LRC Development. Mr. Valeri stated he had only a verbal agreement from the developer stating that he would clean up their sites to make his property more attractive for future sales.

Mr. Hassinger stated he was very concerned with the amount of rock and asked if the huge amount of rock was part of the site development, such as rip-rap or a water control wall. Mr. Hassinger also questioned what the Town by-law states regarding how close walls can be to property lines.

Mr. Valeri stated the site was dormant all summer and September was the last time they saw anyone working at the site.

David Savage of 72 Ferry Street informed the Board that prior to the site work for the subdivision he was able to view his lawn from the deck, but now can only view rock. Mr. Savage stated the developer informed him he would come in and beautify their lots

by leveling and grading them to improve the look of his subdivision. Mr. Savage stated he requested the developer provide him with some revised plans and a signed agreement, but has received nothing. Mr. Savage noted he has water running freely in drainage ditches on both sides of his home and has never given the developer any kind of easement.

Eric Maiuri of 70 Ferry Street stated he would like to state for the record how unsafe all the yards are right now and how very close all of these huge rock piles and site work is to their homes. Mr. Maiuri noted all of this has affected the value of their homes and property and would cause a hardship if they were forced to try to sell their homes at this point in time.

Tammi Valeri of 74 Ferry Street informed the Board that there were currently kids riding four wheelers on this site, which is on her property and was concerned about the responsibility if someone gets hurt.

Mr. Savage wished to note to the Board that LRC Development did come back and drop off concrete culverts at the site, but many were cracked and damaged. Mr. Savage stated the Town may want to observe the installation of these culverts to make sure they are intact and not damaged when they are installed.

Mr. Hassinger noted that Graves Engineering should be made aware of these damaged materials so that they can be present when they are installed.

Mr. Valeri expressed concerns about the original blueprints never showing the drainage as it has been excavated.

Chairman Regan noted that some of the drainage changes were a result of the erosion control requirements requested to be in addition to the submitted drainage plans for the subdivision by the Planning Board.

Mr. Chouinard asked what the amount of the original bond was for the project.

Mr. Bishop stated there was a covenant instead of a performance bond for the subdivision.

Mr. Valeri requested the Board's advice on what options they have as abutters in this situation, noting that the Town would be unable to take on such a massive project.

Mr. Savage noted these were clearly not the Definitive plans they viewed in June, 2005.

Mr. Bishop added that the Definitive plans represent the finished subdivision, not the site while it was under construction.

Mr. Savage noted they did not seem to be following the original slope design.

Mr. Maiuri requested the Planning Board use its authority to grant contingency to remedy this situation with the developer.

Stephen Lemoine of the South Grafton Water District asked the Board about the developer's plans for ground water discharge, since the water seems to be following the existing Town drainage pipe and ending up in the Town well.

Mr. Bishop stated there needs to be a current reevaluation of erosion control, a series of detention basins installed, and a potentially complete revision in the present plan. Mr. Bishop also noted that the underground detention basins will be a maintenance problem and the developer needs to come up with a much better solution than is in place for stabilizing the site.

Mr. Chouinard stated he would like to get Graves Engineering into a meeting to discuss the condition of the site.

Mr. Hassinger expressed concerns of a sufficient bond amount to handle the abutters' claims against the subdivision and the current situation of the subdivision if the Town has to take over the subdivision.

Mr. Bishop stated the process for default conditions would be different, with the Board rescinding approval since no land has been transferred yet. Mr. Bishop informed the Board they would be taking over approximately 15 acres of property with its problems and liabilities, along with all the materials on site and the serious erosion problem.

Mr. Bishop suggested he contact LRC Development to see if they are willing to sit down with himself and Graves Engineering to review stabilizing the site and the removal of the materials on the site.

Ms. Valeri asked the Board if they could provide them with any information on the developer's limited liability insurance.

Chairman Regan stated Mr. Bishop would meet with the developer and try to obtain that information.

Mr. Bishop noted he would like to give LRC Development the chance to make themselves available to the Planning Board to work out the issues and added that the Planning Board can require additional requirements and measures to effect immediate problems.

Mr. Lemoine informed the Board that Guerrierre & Halnon Engineering was working on a stormwater plan for LRC development.

Mr. Valeri also noted that the bond figure needs to reflect their property repair.

MOTION by Mr. Parsons, **SECOND** by Mr. Chouinard, to continue the public hearing to January 22, 2007 to give the Planner time to contact and discuss the current situation with LRC Development. **MOTION** carried unanimously.

Mr. McCarthy joined the Board at 7:55 p.m.

SP 2006-6 STORM FRONT REALTY TRUST (APPLICANT/OWNER) – 123 FERRY STREET – CONTRACTOR/TRADESMAN OFFICES & STORAGE

Chairman Regan opened the public hearing at 7:56 p.m.

Present at the hearing were Developer Francis Noel and his attorney Richard Welsh.

Attorney Welsh informed the Board that Mr. Noel has sold the rear portion of the Ferry Street site to the South Grafton Water District, is preparing an ANR plan of the site and is requesting to withdraw, without prejudice, the special permit application SP 2006-6 for a commercial building.

MOTION by Mr. Parsons, **SECOND** by Mr. Chouinard, to accept the applicant's written request to withdraw, without prejudice, special permit application SP 2006-6. **MOTION** carried unanimously.

MODIFICATION OF DEFINITIVE PLAN APPROVAL – “MISCOE FARMS” SUBDIVISION – K. D. BUILDERS, INC. (APPLICANT)

“MISCOE FARMS” SUBDIVISION – POSSIBLE DEFAULT OF ITS PERFORMANCE SECURED BY LENDER’S AGREEMENT – K. D. BUILDERS, INC.

Mr. Bishop informed the Board that Mr. Dooley had stated he was trying to secure another attorney and he would not be present at the hearing.

Mr. Bishop also stated that the fence is encroaching upon the Open Space and will not meet the Open Space requirements as it stands currently, so this issue will need to be resolved.

Mr. Hassinger noted that the street lights were not on within the subdivision.

Mr. Bishop stated the Tripartite agreement was very clear concerning the reasons for placing a developer in default of a subdivision. Mr. Bishop noted the first part required the developer be sent a list of items/issues, in which he has 15 days to remedy. The second part requires the Planning Board to make a determination that the subdivision has been abandoned.

Mr. Hassinger requested input from Town Counsel on how to proceed and to give the Board advice on the process to use

Mr. McCarthy suggested Mr. Bishop inform Mr. Dooley and Ms. Dunn on what the Planning Board intends to do and this may force them to work out a deal between themselves.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, to continue both the public hearings to January 22, 2007 at 7:00 p.m. **MOTION** carried unanimously.

Chairman Regan received unanimous consent to take **ACTION ITEM 6-C** out of order.

ACTION ITEM 6-C REQUEST FOR RELEASE OF SITE STABILIZATION & EROSION CONTROL BOND – RICHARD BEZDEGIAN – 56 CREEPER HILL ROAD

Mr. Bezdegian informed the Board he had fulfilled the requirements of the Conservation Committee's memo concerning the erosion control.

The Board informed Mr. Bezdegian that they would need a letter from the Conservation Commission stating that their requirements had been met and the Board would then take this matter as an agenda item at the next meeting.

Chairman Regan received unanimous consent to take **ACTION ITEM 6-D** next in order.

ACTION ITEM 6-D – REQUEST FOR PERFORMANCE SECURITY REDUCTION – “MAPLEVALE ESTATES” SUBDIVISION PHASE I AND II – OFF FERRY STREET AND MAPLE AVENUE – PULTE HOMES (PETITIONER)

Mr. Courchesne recused himself to the audience due to a conflict of interest.

Present for Pulte Homes was Tim Dorman, who asked about the possibility of retaining less than 20% of the bond as required in the Subdivision Rules & Regulations.

Chairman Regan informed Mr. Dorman that the 20% amount retained was non-negotiable.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to accept the applicants written request to reduce the bond currently being held as security for Phase I to \$517,076.40 and for Phase II to \$443,288.40, based on correspondence from Graves Engineering and the requirements of the Subdivision Rules & Regulations. **MOTION** carried unanimously.

Chairman Regan received unanimous consent to take **ACTION ITEM 6-F** out of order.

ACTION ITEM 6-F – APPROVAL NOT REQUIRED PLAN – (ANR 2007-1) – 187 OLD WESTBORO ROAD – DANIEL DAVIS (APPLICANT) – ABU CONSTRUCTION, INC. (OWNER)

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve ANR 2007-1 and authorize the Town Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously.

Chairman Regan received unanimous consent to take **ACTION ITEM 6-A** out of order.

ACTION ITEM 6-A – CONSIDER DECISION – TUFTS AMENDED MASTER PLAN

Mr. Bishop informed the Board they should have in their mailboxes a Tufts Decision package consisting of a memo from the Town Planner describing the changes made to the draft decision since the November 27, 2006 version, a draft decision amended January 3, 2007, the original decision for the master plan approval, a letter from Attorney Sudmyer dated December 13, 2006 regarding project plan review language, a letter from Attorney Joseph Cove dated December 24, 2006, and a memo from Tufts with the attached PILOT agreement.

Mr. Bishop noted the Draft amended 1/3/07 reflects review comments suggested by Mr. Courchesne in red and review comments suggested by Attorney Sudmyer in blue. Mr. Bishop also noted and reviewed with the Board his memo listing the description of changes that have been made to the draft decision for since the last version dated 11/27/06.

Mr. McCarthy asked the effective date of Condition #13 (signatures). Attorney Sudmyer stated 7 (seven) years from the date of the signatures.

Mr. Chouinard expressed concerns for the Master Plan being extended for seven years and the PILOT agreement with the Board of Selectmen signed for ten years and asked why they were not coordinated for the same extended time frame.

Mr. Hassinger stated he had a problem with the date difference also.

Mr. Regan inquired who is referred to as the applicant and was told that Tufts is the referred to applicant.

Mr. McCarthy noted an issue that had recently come to his attention with regard to the Tufts sign at the corner of Route 30 and Willard Street. Mr. McCarthy stated that in accompanying his son who is learning to drive, there is no line of sight looking to the left unless the driver pulls out past the stop line on the road to see past the sign.

Deborah Kochevar, Dean of Tufts University, Grafton Campus, agreed with Mr. McCarthy, stating she had experienced the same problem and assured the Board the sign would be adjusted.

Chairman Regan inquired about a condition in the 1999 Master Plan regarding the effects of destroying historic structures and was informed this subject is triggered by local or state historical regulations.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to accept favorable findings for F-1 through F-13. **MOTION** carried unanimously 4 to 0 by roll call vote: Hassinger-aye; Chouinard-aye; Regan-aye; McCarthy-aye.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to vote on Condition #1 in the Decision as a separate item.

DISCUSSION: Mr. Hassinger was concerned about locking down only what the State requires, stating what happens if the State changes its requirements.

Attorney Sudmyer noted “as it may be amended” was in place after M.G.L Chapter 40A, Section 3 to provide for the State regulations.

Mr. Hassinger stated he would like the section of Condition #1 to be reworded by changing “as it may be amended” to read “or as M.G.L. chapter 40A, Section 3 may be amended” inserted after “to verify compliance with bulk and height of structures, yard size, lot area, setbacks, open space, parking and building coverage requirements”. Mr. Hassinger also noted he would like the record to reflect the Planning Board’s understanding of this condition by amending this draft as discussed.

Mr. McCarthy **WITHDREW** his **MOTION**.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to approve the Tufts University Amended Master Plan with the findings and conditions, as discussed and amended, and including Condition #1 as part of the Decision Motion. **MOTION** carried unanimously 4 to 0 by roll call vote: Hassinger-aye; Chouinard-aye; Regan-aye; McCarthy-aye.

Gail McGrail, Chair of the Economic Development Commission, thanked the Board for their time and efforts for the Amended Master Plan and extended an invitation to the members of the Planning Board to a panel discussion/dinner on January 12, 2007 at 4:00 p.m. regarding EDC issues with the Grafton Science Park.

Chairman Regan received unanimous consent to take **ACTION ITEM 6-E** out of order.

ACTION ITEM 6-E – REFERRAL – WITHDRAWAL FROM CHAPTER 61-B – 39 GEORGE HILL ROAD – CHRISTOPHER & WILLIAM LAMBERT, TRUSTEES/ESTATES OF LILLIAN F. LAMBERT, (OWNER)

Mr. Hassinger recused himself as an abutter.

The Board discussed the Lambert property stating the parcel, with its frontage and acreage, has potential with the reasonable price of \$500,000.00 for limited development by either the Town or the Grafton Land Trust; should be recognized for the value of the Boy Scout's Camp Lambert; is recognized by the Open Space & Recreation for the camp and trails; and connects with conservation land in Upton.

The Planning Board noted that it was forwarding its recommendation being unaware of the buyer's intentions for this parcel of land.

MOTION by Mr. McCarthy, **SECOND** by Mr. Parsons, to recommend that the Town exercise its rights with regard to Chapter 61 and consider purchasing the Lambert property. **MOTION** carried 4 to 0 by roll call vote, with one member abstaining: Hassinger-abstain; Chouinard-aye; Regan-aye; McCarthy-aye; Parsons-aye.

Chairman Regan received unanimous consent to take **MINUTES OF PREVIOUS MEETINGS** out of order.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Chouinard, **SECOND** by Mr. McCarthy, to approve the regular session minutes of December 11, 2006, as drafted. **MOTION** carried unanimously.

Chairman Regan received unanimous consent to take the **STAFF REPORT** out of order.

STAFF REPORT

Mr. Bishop informed the Board that the Grafton Water District will be submitting a request for a zoning change at the May Town Meeting regarding the water storage tank.

Mr. Bishop also noted he would be working with the Board on more detailed Design Standards regarding the Fisherville Smart Growth 40-R project. Mr. Bishop suggested the Board view the Plymouth and Kingston design standards, which have been reviewed and approved by DHCD. Mr. Bishop stated he should have a package put together for the Board to view at a later Planning Board meeting.

Chairman Regan received unanimous consent to move to **EXECUTIVE SESSION**.

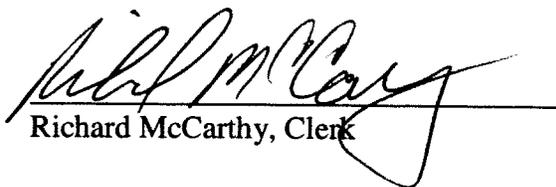
MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to move into **EXECUTIVE SESSION** with the intention of returning to open session for the purpose of adjournment only. **MOTION** carried unanimously.

EXECUTIVE SESSION

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MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, to adjourn the meeting.
MOTION carried unanimously.

The meeting was adjourned at 9:42 p.m.


Richard McCarthy, Clerk