

**Minutes of Meeting  
Grafton Planning Board  
April 9, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, April 9, 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, Robert Hassinger, Peter Parsons and Associate Member Christophe G. Courchesne. Absent from the meeting was Clerk, Richard McCarthy. Staff present was Town Planner, Stephen Bishop.

Chairman Regan called the meeting to order at 7:06 p.m.

**SP 2007-4 VERIZON WIRELESS (CELLCO PARTNERSHIP & BELL ATLANTIC MOBILE OF MASS. CORPORATION, LTD**

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

Chairman Regan read the legal notice and opened the public hearing at 7:09 p.m.

Present for the hearing were James Valeriani, Attorney for Verizon Wireless, Stephen Russell of Verizon Wireless Vital Site Services and Marianne Kusa-Ryll, Recording secretary for Justice Hill Reporting.

Attorney Valeriani gave the Board a brief overview of the previous special permits and users co-located on the existing 90 foot wireless facility tower. Attorney Valeriani stated Verizon would be co-locating its wireless facility at the existing 90-foot monopole located at 20 Indian Path. Attorney Valeriani noted Verizon would be installing 12 panel antennas (three sets of 4-panel) at a height of 80 feet on the monopole and a 12 by 30 foot shelter with a small motion detector light at the base of the tower.

Mr. Hassinger noted the tower at 20 Indian Path had been permitted in 1997 at a substantially lower height and had been designed for expansion with co-locators. Mr. Hassinger stated that Verizon was the third co-locator on the monopole. Mr. Hassinger also asked Attorney Valeriani if he was aware of Police Chief Crepeau's memo requesting the Board condition approval upon Grafton Police and/or Fire Department permission to install, attach or erect any public safety equipment on or in the equipment shelter, at no charge, that may be needed in the future.

Attorney Valeriani informed the Board that Verizon did not own the pole, but was under a lease agreement, and could not agree to any conditions.

Chairman Regan asked Mr. Bishop if the Board should be increasing the amount of the bonds held for the removal of the towers.

Attorney Valeriani again noted that Verizon had an agreement for the shelter and equipment, but the tower was not owned by them.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried unanimously.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to direct Staff to draft a decision, taking into consideration all the information received and the conditions discussed. **MOTION** carried unanimously.

**SP 2007-3 DAVID MASON/MASON CONSTRUCTION (APPLICANT/OWNER)**  
**- 129 FERRY STREET – COMMERCIAL BUILDING**

Chairman Regan read the legal notice and opened the public hearing at 7:27 p.m.

Present for the hearing were Owner/applicant David Mason of Mason Construction; his attorney Laura Mann; and Engineer Mark Santora of MSPE, Inc.

Attorney Mann briefly addressed the Board, stating Mr. Mason was proposing a 96' by 100' one-story building with 39 parking spaces, to be used for trade contractor storage of equipment and associated materials and a maximum of 20 employees to be present at one time during peak operation hours. Attorney Mann noted the site is located within the water supply protection overlay and will comply with the DEP Stormwater management for the district. Attorney Mann also brought to the attention of the Board a private easement more than 20 years old on the property that was never recorded and stated they will address this easement if it is of concern to the review engineer.

Mr. Santora reviewed with the Board the Site plan submitted and the review comments from Graves Engineering dated April 6, 2007. Mr. Santora stated the parcel was mixed redevelopment, a portion of which is exempt from stormwater development regulations. Mr. Santora also noted there would be careful recharging of the stormwater runoff since they are within the aquifer protection overlay district and they would only be recharging roof top run-off for those specific reasons.

Mr. Chouinard asked Mr. Mason how many units would be in the building. Mr. Mason replied that will depend on how many requests and how much each one will require, but they should be approximately from 1,500 to 2,000 square feet for each unit. Mr. Chouinard also inquired about the parking. Mr. Santora stated they were over and above the required parking calculations.

Mr. Hassinger stated he was having trouble understanding where the water flows, how much ends up where the slope is, and to which catch basin it flows.

Mr. Hassinger asked about sprinklers in the building and Mr. Santora replied he did not think they were required, but if the Building Inspector informs them sprinklers are required, they will address the issue. Mr. Santora also added that the floor drains were

pitched to the center of the building and the Board can condition the washing of vehicles to be done outside of the buildings.

Chairman Regan inquired how the applicant was working around Section 7.4.C.9 concerning prohibited uses within the Water Protection Overlay District. Attorney Mann stated most of their uses will fall under Section 7.4.A.j. Mr. Santora informed the Board the applicant was not proposing any of the prohibited uses and that they would not be storing any petroleum or other petroleum products.

Chairman Regan informed the applicant that most equipment requires repair and maintenance and since no form of vehicle repair is allowed within the Water Protection Overlay District, he is concerned with how this will be enforced. Mr. Santora noted they were aware of the very limited uses in the area.

Mr. Hassinger suggested the applicant submit a list of activities that would or would not be used at the site, so that everyone is clear about all of the uses and there is no uncertainty.

Chairman Regan informed the applicant Graves Engineering will need to revisit the site to clear up any issues discussed by the Board.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to accept the applicant's written request to continue the public hearing to June 11, 2007. **MOTION** carried unanimously.

Chairman Regan noted he was appointing Mr. Courchesne to be eligible to vote on Special Permit 2007-3.

**MODIFICATION OF DEFINITIVE PLAN APPROVAL – “MAZZA FARMS”  
SUBDIVISION – ABU CONSTRUCTION, INC. - OFF UPTON STREET**

Chairman Regan read the legal notice and opened the public hearing at 7:51 p.m.

Present for the hearing were owner/developer Anthony Abu of Abu Construction, Inc.; his attorney James Tashjian; and Eric Gilmore of Gilmore Building Company, previous Project Manager of the subdivision.

Mr. Gilmore informed the Board that the Nitrogen Aggregation plan had finally been approved by the State, for which the septic systems work was dependent on.

Mr. Abu also noted that due to this time consuming process, the market conditions for home sales has dropped significantly and has slowed the completion of the subdivision as planned.

Chairman Regan asked Mr. Gilmore about the guardrail's rusty appearance and was told the guardrail was purchased with the idea of blending into the environment.

Leo Schillinger of 10 Nantucket Place expressed concerns to the Board that as a four year home owner in the subdivision, it still had not been completed. He stated they have worked with the developer, had concerns that market conditions were not a valid issue to continue requesting construction extensions, and wondered what the options were at this point. Mr. Schillinger suggested the Board extend the construction date for a shorter period of time rather than a full year for a better update on the subdivision progress made.

Chairman Regan asked whether the street lights had been turned on as yet.

Mr. Abu informed the Board his intention was to finish building on the remaining lots in order to extend the granite curbing, the railing, and get the power company to turn on the street light to accommodate the present residents of the subdivision. Mr. Abu noted that in the event that he was unable to continue building on the remaining lots due to market conditions, he would do a grading of the lots to complete the esthetic look of the subdivision.

Mr. Hassinger stated he would like to see the street lights on as soon as possible and asked Mr. Abu how many lights there were in the subdivision and where they were. Mr. Abu stated there was a light in the cul-de-sac only. Mr. Hassinger noted the Board of Selectmen use guidelines and a street light is normally required at the intersection of the subdivision road to the main street. Mr. Hassinger suggested the issue be brought to the attention of the Board of Selectmen as it may be an oversight.

Mr. Bishop suggested that Mr. Abu keep him up to date on the progress and status of the subdivision so that he will be able to update the Planning Board.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried unanimously.

Mr. Bishop noted the last time the bond had been reviewed by Graves Engineering was January 9, 2002.

Mr. Hassinger stated he would like to see the developer return after Labor Day, when the days are beginning to shorten and street lights are needed.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to accept the applicant's written request to extend the construction deadline for "Mazza Farms" Subdivision to the end of September, 2007. **MOTION** carried unanimously 4 to 0.

**SECTION 10: FISHERVILLE SMART GROWTH OVERLAY DISTRICT (FSGOD) PROPOSED AMENDMENT TO THE ZONING BY-LAWS**

Chairman Regan read the legal notice and opened the public hearing at 8:11 p.m.

Mr. Bishop informed the Board that the proposed amendment, which incorporated the final comments from DHCD, was distributed to them in early March for their review.

Mr. Bishop noted the Town had voted to adopt the Smart Growth Overlay District at the November, 2006 Special Town Meeting, but had done so without a letter of eligibility from DHCD. Mr. Bishop remarked that Section 10 was back before the Board for approval with the changes approved by the DHCD.

Mr. Bishop noted that DHCD wanted to make clear that one of the initial issues was the way the by-law was written in referencing the Design Standards as Appendix A. Mr. Bishop reviewed the handful of revisions made by Don Schmidt of DHCD. Mr. Bishop stated the Design Standards need to be removed from the by-law and redefined under the Section 10.2 Definitions. The Design Standards also need to be dated so there is a standard for the DHCD to hold to. Mr. Bishop stated that changes were also reflected in Section 10.5.G, Section 10.7.C 5, Section 10.13, Section 10.14.A, and Section 10.14.E.

Mr. Hassinger expressed concerns that the way in which the Board is handling this Chapter 40 A, Section 5 is not the usual way the Board handles this referral. Mr. Hassinger noted the Board has to put the date of the document, locking it in, and how can it be changed later. Mr. Bishop added the language is followed by “as amended”.

Mr. Hassinger noted the minutes to reflect that the language is unclear to him. Mr. Hassinger also stated that the language previously stated what and how you could amend, and that ability was important when the Board went into this proposed amendment. Mr. Hassinger remarked that DHCD is telling you what the guidelines are and you have to buy into them.

Mr. Bishop noted they mirror the 40R regulations.

Mr. Hassinger stated an agreement with DHCD is different than accepting what DHCD approves. Mr. Hassinger stated he would like the language to be adjusted, reflecting on what DHCD says about the amendment.

Mr. Bishop remarked that unfortunately there were time constraints and he would need some time to work with Don Schmidt in discussing any adjustments to the language.

Chairman Regan stated it was not explicit that you can amend the standards.

Mr. Courchesne noted it was ambiguous to him and that the awkward use of a date in parenthesis makes no sense to him.

Mr. Bishop again remarked that Don Schmidt has stated that there will be a quick turnaround as soon as the revised language is approved and will be acknowledged with a letter of eligibility.

Mr. Hassinger suggested recommending against approval with the possibility of reconsideration if there is feedback on adjusting the language.

Mr. Bishop cautioned there will be repercussions coming back if the 40R does not receive approval for Town Meeting. Mr. Bishop stated there can possibly be some tweaking of the language depending on how willing the Planning Board is to work within this timeframe.

Chairman Regan inquired if they still have special counsel on this matter. Mr. Bishop replied no.

Mr. Courchesne noted that the Board needs some direction on what exactly they are adopting if they approve the language; what will be the significance of the language dated with the Planning Board vote date; and how can the Board vote the Design Standards if they are not the PAA.

Mr. Hassinger questioned whether we need a whole new adoption or whole new amendment.

Mr. Hassinger stated the Board proceed as he had suggested and ask for some competent Counsel.

Mr. Parsons noted that the substance of change in one area seems to be the cause of significant concern.

Mr. Bishop stated there was some time to work with, but needed to know the explicit changes requested in order to have a discussion with Don Schmidt.

Mr. Hassinger added he would like to let the public look at the proposal.

Chairman Regan asked Mr. Bishop what he recommended.

Mr. Bishop suggested the Board continue the public hearing to the April 23, 2007 Planning Board meeting to see if some comfort level can be obtained on the process.

Chairman Regan stated there can be no bylaw until the PAA is established.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, to continue the public hearing to April 23, 2007 at 7:00 p.m. **MOTION** carried unanimously.

### **PUBLIC MEETING**

### **TUFTS UNIVERSITY/CUMMINGS SCHOOL OF VETERINARY MEDICINE (APPLICANT) – REGIONAL BIOSAFETY LABORATORY – (RBL) – GRAFTON SCIENCE PARK**

Chairman Regan opened the public meeting at 8:45 p.m.

Present for the public meeting were Tufts University Dean, Deborah Kochevar; Attorney Robert Sudmyer of Bowditch & Dewey; John Furman, Civil Engineer from Vanasse Hangen Brustlin, Inc.; Jack McDonald, RBL project manager; Jean Poteete, Senior Campus Planner; Joseph McManus, Tufts Dean of Administration & Finance and Kim Parker, Tufts Biosafety Officer.

Dean Kochevar addressed the Board, stating Tufts had addressed the correspondence and comments of the March 26, 2007 public meeting. Dean Kochevar stated VHB had submitted documents supporting the total number of parking spaces needed to be 19; measures to address the Police Chiefs security recommendations; details of fire protection system; signage details; site lighting details; documentation of the transportation of select agents and toxins outside and within the Tufts/Cummings campus; the wastewater/disinfection process for daily and unlikely circumstances; and the process used for the site selection in Grafton Science Park. Additionally, Mr. McDonald, submitted paperwork to the Board addressing the question of sound levels.

Mr. Hassinger noted that on the landscape plan there was no reference to the building entry site.

Chairman Regan stated that April 23, 2007 was the deadline to vote the decision for the RBL.

Mr. Bishop noted there was a draft decision in the Board's mailboxes, which should be used as a working copy and outlines the issues the Board needs to review.

Attorney Sudmyer requested a draft of the revised decision prior to the April 23, 2007 Planning Board meeting.

Mr. Hassinger suggested that to facilitate the sign issue, Mr. Bishop take a look at the information issued to make sure it complies.

Mr. Furman discussed the 6" gravel thickness for the paved section of the parking area and noted that this gravel thickness was recommended by the geotechnical engineer. Mr. Bishop requested Mr. Furman forward this information to him to reference in the decision.

Mr. Bishop also inquired about the total number of persons at the site over a 24-hour shift. Ms. Poteete informed the Board that the police/security shifts would be 24/7 and there would be two shifts for other personnel.

Chairman Regan stated the Board was comfortable with the 21 parking spaces shown on the plan.

Mr. Bishop stated the remainder of the items in Graves Engineering review comments were all acknowledged.

Chairman Regan received unanimous consent to take **ACTION ITEMS 3-D & 3-E** out of order.

**ACTION ITEM 3-D – CONSIDER DECISION - SP 2006-5 INDUSTRIAL TOWER & WIRELESS, LLC – CINGULAR WIRELESS & T-MOBILE (CO-APPLICANTS) – 51 BROWNS ROAD**

**ACTION ITEM 3-E CONSIDER DECISION – SP 2007-1 INDUSTRIAL TOWER & WIRELESS, LLC – CINGULAR WIRELESS & T-MOBILE (CO-APPLICANTS) – 160R UPTON STREET**

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

Chairman Regan informed Mr. Bishop the Board would need some direction on the decisions.

Mr. Hassinger stated it should be clear that they can pick one of the two applications before them and this information needs to be on the record.

Chairman Regan noted the Board needs to find that there is a gap in the coverage and determine if there is a need. Mr. Hassinger added that the extent of the needs is to be resolved with one site.

Mr. Cody stated that if the Board approves one site, they will withdraw the other application.

Mr. Hassinger noted the Board needs a decision to say how to facilitate the decision-making process and a letter from the applicant stating they do not need both locations.

Mr. Parsons stated it was the applicant's preference for the site, since it was their intent to give the Planning Board a second alternative in approving a site.

Chairman Regan noted he did not want to put the Planning Board in the position to have two decisions possibly appealed.

Mr. Bishop noted the Board had already expressed some preference on a site and could eliminate on that basis. Mr. Bishop stated there were findings to be made, which would be the basis of approval or denial and waivers to be considered.

Mr. Bishop also remarked that either application will satisfy the need, but the height will be an important aspect of either site.

Chairman Regan stated the Board should wait to vote on the decision to discuss justification of the height, with the possibility of a 100-foot height, referencing the 20 Indian Path tower to allow for an extension.

Mr. Chouinard requested Staff provide him copy of the 1997 Decision for the 20 Indian Path wireless communications facility.

Chairman Regan received unanimous consent to place the decision on the May 21, 2007 Planning Board meeting agenda.

Chairman Regan received unanimous consent to take **ACTION ITEM 3-A** out of order.

**ACTION ITEM 3-A – REQUEST FOR DETERMINATION OF COMPLETENESS – “MAPLEVALE ESTATES” SUBDIVISION – PULTE HOMES, LLC (PETITIONER)**

Present was Timothy Dorman of Pulte Homes, LLC.

Chairman Regan inquired what was left to be completed for the Subdivision.

Mr. Dorman stated a few maintenance issues remained and that they were on the agenda for the April 17<sup>th</sup> Board of Selectmen meeting.

Mr. Bishop informed the Board that there was only one really outstanding issue of landscaping, but that the developer could put a bond in place for the completion of the landscaping items remaining and the Board’s comfort on these issues.

Mr. Bishop noted the Board could require a one-year warranty landscaping bond and update/recommend to the Board of Selectmen that the Planning Board will be voting on the Determination of Completeness at their April 23, 2007 Planning Board meeting on one outstanding landscaping issue to be warranted by a determined bond amount.

Mr. Bishop informed the Board he would draft a recommendation of status to the Board of Selectmen, telling them where the Planning Board stands and request they delay laying out the roads for the “Maplevale Estates” Subdivision until the Planning Board makes a recommendation on the Determination of Completeness.

**REQUEST FOR RELEASE OF PERFORMANCE BOND – “FOREST HILLS CONDOMINIUMS, PHASE VI” – COMMONS DEVELOPMENT (PETITIONER)**

**REQUEST TO EXTEND CONSTRUCTION DEADLINE – “FOREST HILLS CONDOMINIUMS, PHASE VII” – COMMONS DEVELOPMENT (PETITIONER)**

Jack McBride of Commons Development Corporation was present at the meeting.

Mr. McBride submitted an update of the project status of Forest Hill Condominiums as required by Condition #22 of the Planning Board decision and plans of the Lordvale cul-de-sac sidewalk as designed and as built.

Mr. McBride informed the Board they had completed all of the required work covered by the Phase VI performance bond, including the Detention Basin #3, and were requesting the release of the balance of the bond.

Mr. McBride also addressed the issue in Graves Engineering comments concerning the sidewalk plan change resulting from slopes too steep to install a sidewalk.

Mr. Parsons suggested the applicant submit a letter from the abutters stating that the lack of a sidewalk is not an issue for them.

Mr. Chouinard asked if we had the value of the sidewalks and if not, we could get the amounts from Graves Engineering. Mr. Chouinard also inquired if there is a record of this sidewalk issue, including a Planning Board vote.

Mr. McBride also requested the Board grant an extension to the construction deadline for Phase VII. Mr. McBride stated the road was complete, but that the market was slow at this time and reviewed the status of Phase VII, stating that Buildings #61 through #67 had completed construction with most units occupied and Buildings #69 through #71 in various stages of construction. Mr. McBride noted this was also the last phase of the development.

**MOTION** by Mr. Parsons, **SECOND** by Mr. Hassinger, to grant the petitioner's written request to extend the construction deadline for one year. **MOTION** carried unanimously.

Chairman Regan received unanimous consent that with regard to the Performance Bond release, the petitioner provides a letter from the Home Owners Association and the individual homeowners affected stating they have no issues with the changes to the sidewalk plan. The Board directed Mr. McBride to communicate with Mr. Bishop in resolving this issue.

Chairman Regan received unanimous consent to take **ACTION ITEM 3-F** out of order.

**ACTION ITEM 3-F – MODIFICATION OF INSTALLATION OF BOUNDS FOR “OAKMONT FARMS” SUBDIVISION**

Mr. Bishop informed the Board a request had been received from Normand Gamache of Guerrierre & Halnon Engineering to modify the granite bounds for the Detention Basin off Milford Road due to the presence of ledge. Mr. Gamache proposes to install iron rods embedded in ledge with mortared stone in lieu of the granite bounds. Mr. Bishop stated that DPW Superintendent Roger Hammond and Graves Engineering have reviewed the request for the modification and concurred with Mr. Gamache, but recommended that pipe be used instead of iron rods.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve the petitioner's written request to modify the installation of bounds for the “Oakmont Farms” Subdivision with pipes. **MOTION** carried unanimously.

**ACTION ITEM 3-G – “MISCOE FARMS”**

Mr. Bishop informed the Board he had conferred with new Town Counsel Tony Penski, who stated he had spoken with the attorney from Framingham Co-operative Bank and saw no problem with the Board’s move made at the last Planning Board meeting. Attorney Penski also stated that based on that and the appropriateness of the Planning Board’s vote; it should be memorialized with a letter to Kevin Dooley and the bank. Mr. Bishop noted that Mr. Dooley would be filing for bankruptcy this week and may be trying to negotiate a deal, but will definitely need to negotiate with Ms. Dunn for the pole.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to direct Staff to draft a letter to Kevin Dooley and Framingham Co-operative Bank’s attorney stating they will be starting default proceedings. **MOTION** carried unanimously.

**MINUTES OF PREVIOUS MEETINGS**

**A. & B. – Recording Secretary Minutes for February 26, 2007. (Two sets)**

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to acknowledge receipt of the detailed recording for recording secretary minutes for SP 2006-5 and SP 2007-1 Industrial Tower & Wireless, LLC and SP 2007-2 FiberTower Corporation, without making a determination on the accuracy of the contents. **MOTION** carried unanimously.

**C. Regular Session minutes for March 26, 2007**

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Chouinard, to approve the open session minutes for March 26, 2007 as drafted. **MOTION** carried unanimously.

**STAFF REPORT**

**A. “Ferry Ridge” Subdivision** – Mr. Bishop stated he did not believe that Ferry Ridge had resumed their work as yet, but Mr. Chouinard noted he had seen about 25 L.R.C. trucks hauling stone traveling up North Street.

Mr. Bishop updated the Board on the Urban River Visions Advisory Board and requested the Board appoint Mr. Parsons to be a Planning Board representative on this Committee.

Chairman Regan received unanimous consent to appoint Mr. Parsons as the Planning Board representative to the Urban River Visions Advisory Board.

Chairman Regan informed the Board that Joseph McManus of Tufts University has offered to pay for a floor pass for Gail McGrail to attend the BioWorld Conference and will also pay for a Planning Board representative who would like to attend.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, to move into **Executive Session**, with the intent of returning to open session for the purpose of adjournment only. **MOTION** carried unanimously by roll call vote: Hassinger-aye; Chouinard-aye; Regan-aye; Parsons-aye.

The Board entered **Executive Session** at 10:14 p.m.

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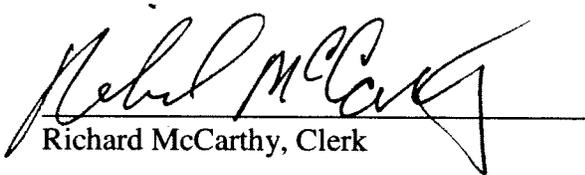
**EXECUTIVE SESSION**

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The Board returned to open session at 10:24 p.m.

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

The meeting was adjourned at 10:25 p.m.

  
Richard McCarthy, Clerk