

**Minutes of Meeting
Grafton Planning Board
June 11, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, June 11, 2007 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Peter Parsons, Vice-Chairman, Robert Hassinger, Clerk Keith Regan, Donald Chouinard, Richard McCarthy and Associate Member Christophe G. Courchesne. Staff present was Town Planner, Stephen Bishop.

Chairman Parsons called the meeting to order at 7:00 p.m.

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

Chairman Parsons opened the public hearing at 7:01 p.m.

Present for the hearing were applicant/owner, David Mason, his attorney Laura Mann and his engineer Mark Santora.

Mr. Bishop informed the Board there were 5 to 6 pages of review comments from Graves Engineering with regard to the application. Mr. Bishop also noted the hearing had been continued for a period of time and a recap of the project would be appropriate.

Mr. Santora addressed the Graves review comments with the Board, including the storm water management system and stated they would be removing and replacing the existing drainage system, along with other improvements.

Mr. Santora stated that with regard to the easement, he would defer to the Planning Board to require how they would prefer the issue be handled.

Mr. Santora noted they would also be using polyethylene piping for the drainage rather than the typical reinforced concrete.

Mr. Bishop informed the Board that Stephen Risotti, interim DPW Superintendent has been out of the office and he has not had a chance to get his input/feedback on the issues of the drainage pipe and the easement.

Mr. Hassinger expressed previous concerns/issues of problems with similar drainage and suggested that the Town should go with the easement if the opportunity is there.

Attorney Mann noted that Mr. Mason has no problem granting the easement, however since the easement runs onto adjacent property, he can only speak for his property.

Mr. Chouinard asked about any outdoor storage and was told there was no outdoor storage.

Mr. Chouinard noted that with regard to screening/buffering, the Board will need to know what is on site to effectively clarify screening & buffering conditions.

Mr. Santora stated the building was very large and was able to house heavy equipment, trucks, etc.

Mr. Regan expressed concerns for prohibited uses within the 7.4.C section of the Water Protection Overlay, specifically fertilizer and herbicides from landscaping vehicles, additionally gas and diesel fuel from the trucks present, and reminding the applicant these uses are usually associated with trade contractor equipment which will be stored in the building.

Mr. Chouinard also noted contractors performing salting and sanding of roadways typically do repair and maintenance work on their vehicles where they are stored.

Mr. Hassinger referred to special permits granted in the past which did not demonstrate what was actually permitted and the Planning Board was blamed for the resulting actions.

Mr. Regan stressed the point that the bylaw is in conflict with the use of the building, specifically the fact that contractors store equipment for the purpose to work on their vehicles, which re-enforces the idea that the main use of the site is directly in conflict with the bylaw.

Mr. Santora insisted that it was not the case and that they are proposing a building for mixed use, which will be within the zoning bylaws for the area.

Mr. McCarthy disagreed with Mr. Santora, stating the application clearly states that the applicant is using the building for trade contractor storage of equipment and associated materials.

Attorney Mann stated the applicant is within the Use Regulations of Section 7.4.A.j, Business, professional and general offices.

Mr. Hassinger reminded the applicant that although the site is zoned Industrial, the use cannot be in conflict with the Water Protection Overlay restrictions. Mr. Hassinger suggested the Board receive some input and guidance from the Zoning Enforcement Officer on this application.

Mr. Chouinard questioned what will happen after the building is built and where the enforcement will come from if there are violations now or from future sale of the building.

not be responsible for future use of the building if it is sold.

Mr. Courchesne suggested Mr. Bishop discuss the zoning issues discussed with the Zoning Enforcement Officer, specifically to clarify what is considered storage of petroleum products. Mr. Courchesne noted that he definitely considered the storing of large construction vehicles to be storage of petroleum products.

Mr. Hassinger also noted that depending on the use, there may be more requirements for the building.

Mr. Parsons asked if there had been any communication with the railroad about the project.

Mr. Santora stated they were not discharging anything on the railroad property, so there was not need to contact them.

Mr. Hassinger asked Mr. Bishop about any ruling on how far discharge is to be. Mr. Bishop answered that as far as he knows, the ruling only applies to discharging to abutting properties.

The Board suggested the applicant request a continuance, to have time to discuss the zoning issues with Mr. Berger.

Attorney Mann asked when the Board would obtain the information from Mr. Berger.

Mr. Bishop stated Mr. Berger was on vacation this week, but would be back for one week next week, and he would try to obtain some guidance from him for the Board.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to accept the applicant's written request to continue the public hearing to July 9, 2007 at 7:00 p.m. **MOTION** carried unanimously.

**MODIFICATION OF DEFINITIVE PLAN APPROVAL – “ABBY WOODS”
SUBDIVISION – FIRST SECURITY REALTY TRUST (APPLICANT/OWNER)
– OFF 18 CARROLL ROAD**

Mr. Regan read the legal notice and Chairman Parsons opened the public hearing at 7:35 p.m.

Present for the hearing was applicant/owner Abbas Rad and his attorney Joseph W. Allen.

Attorney Allen informed the Board that he was representing Mr. Rad for First Security Trust and requested a construction extension of no less than three years, citing financial conditions that have not been conducive for commencing the project.

Mr. Parsons pointed out that the original date of approval for this project was May, 2004 and typically the developer has 2 years from the Special Permit approval to commence construction. Mr. Parsons reminded the applicant there has been no activity, other than the placing of hay bales, at this subdivision site.

Mr. Regan informed the applicant that the original decision is dated 2004 and the only request for any construction extension is this hearing tonight in 2007. Mr. Regan noted that these dates and time frames do not coincide with any Planning Board requirements or decision conditions. Mr. Regan noted also that the correspondence within the file indicates that Staff has had to take time to track the applicant down to reapply to meet pending deadlines, none of which has been complied with until this hearing tonight. Mr. Regan stated that the applicant has lost his special permit approval by non-compliance with the conditions of the special permit, therefore has no Definitive approval and can not request an extension without having approval.

Mr. Regan stated he saw no reason to extend the subdivision approval and the Board has typically had problems with projects handled in this manner. Mr. Regan added the applicant was given enough time, there has been no actions taken to move forward, and sees this situation as warning signs of problems experienced by the Board in the past.

Attorney Allen stated he did not see any harm to the community in extending the construction deadline for the subdivision.

Mr. Regan informed Attorney Allen that the applicant did not comply with the conditions of his subdivision approval. Mr. Regan added that the approval had required waivers which may or may not be able to be granted at this time, since how they are granted and Planning Board members change over time.

Mr. Hassinger indicated to Attorney Allen that the approval has already been automatically rescinded according to the language within the conditions in the Definitive decision.

Mr. Parsons added that if nothing has been done in two years, that is a red flag to the Board that there are problems and noted that Mr. Regan had brought up some very valid points regarding this project.

Mr. Hassinger restated that the applicant does not have a Special Permit now, so the Board cannot grant a Definitive extension. Mr. Hassinger also suggested the applicant wait until he is actually ready to begin the project before reapplying.

Chairman Parsons received unanimous consent to advise the applicant to reapply in keeping within the best interests of the Town.

~~MOTION by Mr. McCarthy, SECOND by Mr. Chouinard, to close the public hearing.~~

**MODIFICATION OF DEFINITIVE PLAN APPROVAL – “NICHOLS WAY”
SUBDIVISION – MAGILL ASSOCIATES, INC. (APPLICANT/OWNER) – OFF
HUDSON AVENUE**

Mr. Regan read the legal notice and Chairman Parsons opened the public hearing at 7:50 p.m.

Present for the applicant/owner was Attorney Joseph Antonellis.

Attorney Antonellis informed the Board that all of the work is completed, but the remaining issue is the submission of final “as-built” plans for street acceptance. Attorney Antonellis acknowledged that Graves Engineering will probably have to make an additional inspection to ensure that the streets are ready for acceptance.

Mr. McCarthy asked Mr. Bishop if there were any other issues with the subdivision. Mr. Bishop stated there was nothing he was aware of. Mr. Bishop informed Mr. Antonellis that there is a process in place for street acceptance which requires a complete review and sign-off of Town departments with relation to the subdivision.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to close the public hearing. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Chouinard, **SECOND** by Mr. McCarthy, to grant the applicant’s written request for a one-year extension. **MOTION** carried unanimously 5 to 0.

**SP 2007-5 TOWN OF GRAFTON, GRAFTON FIRE STATION BUILDING
COMMITTEE (APPLICANT) – NEW FIRE STATION – 26 UPTON STREET**

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

Present for the hearing were Selectman John Carlson for the Town of Grafton/Fire Station Building Committee and William Murray of PLACES Site Consultants, Inc.

Mr. Murray informed the Board they had not submitted any additional information to Graves Engineering yet, but will be when all review work is completed. Mr. Murray also stated Grafton DPW was unable to find the traffic study for the Grafton Common/Route 140 area, which was suggested to be used for the traffic impact study. Mr. Murray requested the Boards opinion on this matter.

Mr. Carlson asked Mr. Bishop if the Planning Office had the traffic study used for the 2004 Fire Station project proposed for Worcester Street, which was withdrawn.

Mr. Bishop stated Staff would try to locate the study.

Mr. Murray stated he had submitted copies of the 21-E Study for 26 Upton Street and also for the Cumberland Farms site, as requested and that the applicant will be back before the Board on June 25 for the wireless facility public hearing for the fire antennae/tower.

Mr. Hassinger asked where the beryllium soil concentrations came from, which were cited in the Irwin Engineers report.

Mark Santora of 123 Old Westboro Road informed the Board that five or six metals were found in the soil when the 21-E was performed by the DEP and if the concentration is not above a certain percentage, it is risked out with the soil analysis. Mr. Santora also added there was speculation it may have come from the railroad.

Mr. Courchesne stated that beryllium often pops up in background soils, but depending on the level of concentration, it is not considered an issue.

Board of Selectmen John Carlson added that beryllium was also found during the Lake Ripple dredging project, but was considered to be in the area and not a threat.

Mr. Regan asked Mr. Murray if the applicant had met with the Conservation Commission yet. Mr. Murray stated they had and the foremost concern was for any hazardous waste items on site.

Chairman Parsons asked if there were any other pending issues with the site.

Mr. Bishop remarked there was only the Conservation Committee, who needed to supply their written comments to the Planning Board. Mr. Bishop noted Staff would also check in the office files for the Traffic Study requested.

Mr. Regan added that there may be a reference to the Traffic Study in the Grafton Common Design file.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to accept the applicant's written request to continue the public hearing to June 25, 2007 at 7:00 p.m. **MOTION** carried unanimously.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-A** next in order.

ACTION ITEM 2-A – CONSIDER DECISION – SP 2007-6 CHERYLEE WOOD – 161 MILLBURY STREET – COMMON DRIVEWAY

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to grant Special Permit (SP 2007-6) with the Findings and Conditions, as discussed and amended. **MOTION** carried unanimously 4 to 0.

order.

CONSIDER DECISION – MODIFICATION OF SP 2001-2 – ROBERT GIBSON – 137 UPTON STREET – 31 MODULAR KENNELS

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to grant the Modification of Special Permit (SP 2001-2) with the draft findings and conditions, as discussed and amended. **MOTION** carried unanimously 5 to 0.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-C** next in order.

ACTION ITEM 2-C – CONSIDER DECISION – SRP 2007-2 – GILMORE BUILDING CO./MISCOE BROOK PRESERVE – 36, 40, 44 ADAMS ROAD – COMMON DRIVEWAY OPENINGS.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to grant Scenic Road Permit (SRP 2007-2) with the draft findings and conditions, as discussed and amended. **MOTION** carried unanimously 4 to 0.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-D** next in order.

ACTION ITEM 2-D – REQUEST FOR DETERMINATION OF OUTSTANDING ITEMS – “OAKMONT FARMS” (NORTH SIDE) – GUERRIERE & HALNON, INC. (PETITIONER)

Mr. Bishop informed the Board that Graves Engineering has reviewed the subdivision for Construction Completeness and noted four outstanding issues that must be discussed and resolved with the Planning Board prior to issuing a Determination of Completeness.

Mr. Gamache of Guerriere & Halnon, Inc. reviewed the material submitted concerning the four issues consisting of fences constructed within the right-of-way by landowners at #1 Eagle Rock Terrace and #17 Chipper Drive; fences constructed across the Sewer Easement at the rear of #37 and #40 Seaver Farm Lane; a shed placed in the Sewer Easement on #15 Blackstone Lane; and 6” high street name signs.

Mr. McCarthy questioned why the Planning Board is being asked to resolve these issues. Mr. Bishop stated the issues were previously raised by Graves Engineering and the language in their final review stated they were issues needing to be resolved by the Planning Board.

Mr. Hassinger also questioned whether these issues are the responsibility of the Planning Board and suggested the Town not accept the subdivision until the developer accepts

Mr. Gamache requested the Planning Board provide a letter of explanation to be used in securing the easements, but was told it was the responsibility of the developer to secure the easements.

Mr. Bishop stated it is in the applicant's best interest to remove the impediments from the easements and to remind the abutters that they are infringing on the Town's easements. Mr. Bishop again stated the Town will not accept the subdivision with any infringements on the easements.

Chairman Parsons received unanimous consent to take **STAFF REPORT – ITEM D – BROOKMEADOW VILLAGE** out of order while Mr. Gamache is present for any possible questions the Board may have.

Brookmeadow Village – Mr. Bishop informed the Board that they had already had a pre-construction meeting with Brookmeadow Village developer. Mr. Bishop stated that they had posted an erosion control bond with the Treasurer and put up hay bales and a silt fence, conditions required preceding work commencement. Mr. Bishop noted that he had spoken with the Fire Department, who had pointed out that street signs are required on all roads at rough grade; and they were working to resolve the issues for the Route 122 & Main Street intersection improvements, specifically on how to move forward on the issues of application, funding and construction of improvements.

Mr. Gamache requested Mr. Chouinard's phone number to contact him regarding setting up a meeting on the orientation of the ball fields.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-E** next in order.

ACTION ITEM – 2-E – CONSIDER DECISION – SP 2007-1 INDUSTRIAL TOWER & WIRELESS, LLC (APPLICANT) WIRELESS COMMUNICATIONS FACILITY 160R UPTON STREET – 150-FOOT MONOPOLE AND GROUND EQUIPMENT

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

Mr. Hassinger stated the language for the decision for 51 Browns Road was not developed as well as in the 160R Upton Street decision to make the Board's statement.

Mr. Bishop suggested the Board re-open the 160R Upton Street decision to review the language.

Mr. Hassinger stated he did not see any need since the decision accomplishes what the Board wanted to say.

Mr. McCarthy asked whether Consultant David Maxson ever gave the Board a

Mr. Hassinger stated that Mr. Maxson never gave the Board a specific height, but had stated that there was no significant difference between 100-feet and 140-feet.

Chairman Parsons argued that the higher height would be utilized and that the lower height does not satisfy the by-law for supporting co-location. Chairman Parsons noted he was struggling to accept contradicting the ability to co-locate and suggested granting the applicant 120-feet and voluntarily withdrawing the other site.

Mr. Regan noted he felt there would be problems with re-considering a vote that has already been decided.

Chairman Parsons argued the decision was just procedurally voted and added the Board has a responsibility to the residents and businesses that is not met by only allowing the bare minimum for a tower.

Mr. Hassinger stated there will have to be a motion for reconsideration.

Chairman Parsons requested motion for reconsideration of the decision vote for Industrial Tower & Wireless for 160R Upton Street.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard for the purpose of discussion, to reconsider the vote for the 160R Upton Street Decision.

DISCUSSION: Mr. Hassinger stated the Board had left the door open for the applicant to make a request for co-location with this application, which was not done, so 100-feet should suffice.

Mr. McCarthy noted that T-Mobile was also listed as a Co-applicant on the application and the Board should provide them with the best decision we can.

Mr. Hassinger argued that the question is whether the Board should even be taking this vote up for re-consideration.

Chairman Parsons asked again for those in favor of re-opening the Decision for 160R Upton Street.

Mr. Hassinger-no; Mr. Regan-no; Mr. Chouinard-no; Chairman Parsons-aye; Mr. McCarthy-aye. Majority rule 3 to 2 to not re-open the Decision for 160R Upton Street.

Chairman Parsons requested a vote on whether to allow the previous vote to stand on the Decision for 160R Upton Street.

Mr. H. [unclear], Mr. [unclear], Mr. [unclear], Mr. [unclear], Chairman Parsons, Mr. [unclear]

160R Upton Street.

The Board discussed whether they needed to vote again due to the absence of Mr. McCarthy at the last meeting when the Decision was voted, or can the Board rely on the previous vote.

Chairman Parsons declared Special Permit (SP 2007-1) Industrial Tower & Wireless for 160R Upton Street approved at 100 feet, with Conditions.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-F** next in order.

ACTION ITEM 2-F – CONSIDER DECISION – SP 2006-5 INDUSTRIAL TOWER & WIRELESS, LLC (APPLICANT) – WIRELESS COMMUNICATIONS FACILITY – 51 BROWNS ROAD – 150-FOOT MONOPOLE AND GROUND EQUIPMENT

The Board discussed the Findings and directed Mr. Bishop to add language stating that based on evidence provided, the Planning Board confirmed that they preferred the 160R Upton Street site and that the negative visual impact was greater on the 51 Browns Road location.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to **DENY** Special Permit (SP 2006-5) after consideration of the exhibits submitted and based on the Findings stated within the Draft Decision, specifically that an alternative location at 160R Upton Street was already granted, being chosen over this location due to better a visual impact and with waivers easier to grant. The Board also recognizes the prospect of co-location for another applicant. **MOTION** carried unanimously 4 to 0 by roll call vote: Mr. Chouinard-aye; Mr. Hassinger-aye; Mr. Regan-aye; Mr. McCarthy-aye.

Chairman Parsons received unanimous consent to take **ACTION ITEM 2-G** next in order.

APPROVAL NOT REQUIRED PLAN (ANR 2007-8) – IBRAHIM & RASMIA KHALID (APPLICANT/OWNER) – 11 CHIPPER DRIVE

Mr. Bishop informed the Board that endorsing the ANR for 11 Chipper Drive is simply a procedural vote according to Town Counsel.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to approve ANR 2007-8 and authorize the Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously.

order.

ACTION ITEM 2-H – REQUEST FOR RELEASE OF SURETY – ADAMS CROSSING

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to release the bond currently being held as security, due to the Town’s acceptance of Robin Drive in the “Adams Crossing” Subdivision. **MOTION** carried unanimously.

Chairman Parsons received unanimous consent to take **DISCUSSION ITEM 3-A** next in order.

DISCUSSION ITEM 3-A – TREELINE CONSTRUCTION PROJECT – 130 WESTBOROUGH STREET, MILLBURY – PROPOSAL TO STORE AND PROCESS ROCK, CONCRETE AND MASONRY MATERIALS.

Mr. Bishop gave the Board a brief background about Treeline Construction, Inc., stating they were a recycling center for construction materials. Mr. Bishop stated he had spoken with Millbury Town Planner, Lori Connors, who informed him they had no significant issues with the operation, and brought a related by-law to her attention concerning the project. The Board discussed the impact on Grafton business of a trucking weight restriction and general truck traffic laws. The Board discussed encouraging the Board of Selectmen to issue a weight limit restriction comparable to the Worcester weight limit restriction.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to direct Staff to draft a letter to the Board of Selectmen noting the issues discussed. **MOTION** carried unanimously.

Mr. McCarthy left the meeting at 10:00 p.m.

Chairman Parsons received unanimous consent for the Board to motion on extending the meeting past 10:00 p.m.

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to extend the Planning Board meeting after 10:00 p.m.

DISCUSSION: Mr. Chouinard stated he would remain at the meeting until 10:20 p.m.

MOTION carried unanimously.

Chairman Parsons received unanimous consent to take the **MINUTES OF PREVIOUS MEETINGS** next in order.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to approve the minutes of May

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to approve the Executive Session minutes of May 21, 2007 as drafted, to be held in confidential status until the matter is resolved. **MOTION** carried unanimously.

Chairman Parsons received unanimous consent to take the **STAFF REPORT** next in order.

STAFF REPORT

6-A. Ferry Ridge – Mr. Bishop informed the Board that Kevin Kiley, who had been the mediator with the residents will be leaving LRC Development for another employer, the developer David Calderese had sent a letter to the Board of Selectmen requesting street light approval, and that the developer will be back before the Planning Board on July 9 requesting a construction extension to their Definitive Plan approval. Mr. Bishop noted there has not been a significant amount of work at the subdivision site to date.

6-B. Webber Hills Preserve – Mr. Bishop stated there had been a complaint from an abutter of the project concerning stormwater/drainage issues. Mr. Bishop informed the Board that after familiarizing himself with the project and discussions with Engineer Stephen Risotti and the Building Inspector, it seemed that the project conditions had fallen through the cracks with the developer. Mr. Bishop stated a meeting was set up with the developer to get the project back on track and in compliance with the Special Permit issued by the Planning Board. Mr. Bishop noted the project will continue to be monitored for compliance.

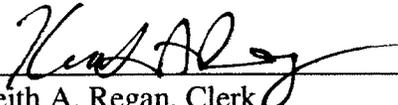
6-C. Peters Estates – Mr. Bishop informed the Board that the applicant, Ronald Etre had requested plan endorsement by the Board in order to move forward with the project. Mr. Bishop noted that since only four out of the nine requirements for endorsements had been completed, no endorsement could be granted until all requirements have been submitted, including a letter of acceptance from the State regarding the Affordable Housing units. Mr. Bishop noted that Mr. Etre will continue to work with the Planning Office to fulfill the remaining requirements.

6-E. Maplevale Estates – Mr. Bishop stated that since Pulte Home's request for Road acceptance had been defeated on the Town Meeting floor, he had met with Acting DPW Superintendent Stephen Risotti concerning the outstanding issues on Ferry Street. Mr. Risotti had stated that the street opening bonds had lapsed and that there were several issues with the final condition of the roadway, for which there was no clear paper trail to resolve what has taken place with the roadway.

6-F. 43-D Process – Mr. Bishop informed the Board that he was meeting next week with the Town team for technical assistance. Mr. Bishop stated he had spoken with Jean Poteete, who informed him they will be using the Shrewsbury Template as a model for the final application of submission to the State.

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

The meeting was adjourned at 10:23 p.m.



Keith A. Regan, Clerk