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**Minutes of Meeting
Grafton Planning Board
September 10, 2007**

A regular meeting of the Grafton Planning Board was held on Monday, September 10, 2007 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Peter Parsons (arriving at 7:30 p.m.), Vice-Chairman, Robert Hassinger, Clerk Keith Regan, Donald Chouinard, Richard McCarthy and Associate Member Christophe G. Courchesne. Staff present was Town Planner, Stephen Bishop.

Due to the delayed arrival of Chairman Parsons, Vice-Chair Hassinger called the meeting to order at 7:03 p.m.

SP 2007-8 GRAFTON WATER DISTRICT – CONCRETE WATER STORAGE TANK & BOOSTER PUMPING STATION – 67 UPTON STREET REAR

The Planning Board stated they would close the hearing since correspondence from the Attorney General's office had been received confirming zoning approval for Article 52.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried 4 to 0, with Chairman Parsons absent.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to direct Staff to draft a decision, taking into consideration all the information received and the findings and conditions discussed. **MOTION** carried 4 to 0, with Chairman Parsons absent.

RZN 2007-1 CITIZEN PETITION FOR MAY 2007 ANNUAL TOWN MEETING – PROPOSED AMENDMENT TO THE GRAFTON ZONING MAP – CHARLES ATCHUE – 42 WESTBORO ROAD – RESIDENTIAL-20 TO INDUSTRIAL

Mr. Bishop informed the Board that this proposed amendment was before the Economic Development Commission at this time and would be forwarding their recommendation to the Planning Board following their discussions.

Mr. Bishop also reminded the Board that this proposed rezoning amendment requires a majority vote of the Board only.

Vice-Chair Hassinger received unanimous consent to table the hearing until the arrival of Chairman Parsons to allow his input and discussion.

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

Vice-Chair Hassinger explained to Mr. Mason that there were currently only four voting members present at the meeting and he could request to table the hearing until the arrival of Chairman Parsons. Mr. Mason requested to wait for Chairman Parsons to arrive.

Vice-Chair Hassinger received unanimous consent to table this public hearing until later in the meeting.

Vice-Chair Hassinger received unanimous consent to begin taking the Action items on the agenda.

ACTION ITEM 2-A – REQUEST FOR CONFIRMATION OF COMMON DRIVEWAY – “CORTLAND MANOR” SUBDIVISION –

Mr. Bishop informed the Board that Mr. MacEwen was not present at the meeting yet.

Vice-Chair Hassinger received unanimous consent to table Action Item 2-A until later in the meeting.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-C out of order.

ACTION ITEM 2-C – ANR 2007-11 – PAULINE CARLSON – 76 KEITH HILL ROAD

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to endorse ANR 2007-11 and authorize the Town Planner to sign the ANR on behalf of the Planning Board. **MOTION** carried 4 to 0.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-E out of order.

ACTION ITEM 2-E – ANR 2007-12 – GRAFTON FIRE STATION BUILDING COMMITTEE – 26 UPTON STREET

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to endorse ANR 2007-12 and authorize the Town Planner to sign the ANR on behalf of the Planning Board. **MOTION** carried 4 to 0.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-D out of order.

REQUEST FOR BOND REDUCTION – “NORTH GRAFTON ESTATES “(A/K/A “BRIDLE RIDGE” SUBDIVISION AND “NORTH GRAFTON ESTATES II” SUBDIVISION

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

“North Grafton Estates I” (a/k/a “Bridle Ridge”) Subdivision:

Mr. Bishop reviewed the proposed bond reduction figures with the Board. The Board asked Mr. Bishop if the various homeowner issues/complaints had been resolved. Mr. Bishop informed the Board that the homeowners involved with the issues had acknowledged the subdivision has been constructed to the Definitive plan.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to reduce the bond currently being held as security to \$479,334.72, based on correspondence from Graves Engineering and the requirements of the Subdivision Rules & Regulations. **MOTION** carried 4 to 0.

“North Grafton Estates II” Subdivision:

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to reduce the bond currently being held as security to \$454,874.40, based on correspondence from Graves Engineering and the requirements of the Subdivision Rules & Regulations. **MOTION** carried 4 to 0.

ACTION ITEM 2-F – “OAKMONT FARMS” SUBDIVISION – EASEMENTS/RIGHT OF WAY

Mr. Bishop informed the Board that the correspondence had been submitted by Normand Gamache of Guerriere & Halnon, but he had not arrived at the meeting yet.

The Board briefly discussed the issues of encroachments on the easements and rights-of-way, noting that the Sewer Department correspondence had stated they did not have a problem with the fences or sheds present on their easements.

Vice-Chair Hassinger stated he would not be comfortable with any encroachments unless the Town had a written agreement stating the homeowner was solely responsible for the removal of the fencing or shed from the easement.

Mr. McCarthy stated all of the encroachments should be removed to prevent any future problems/issues for the Town.

Vice-Chair Hassinger received unanimous consent to table Action Item 2-F until Mr. Gamache arrived to present his client’s position.

Vice-Chair Hassinger received unanimous consent to take **Action Item 2-B** out of order.

REQUEST FOR DETERMINATION OF MINOR MODIFICATION FOR SPECIAL PERMIT 97-6 AT & T WIRELESS SERVICES – 43 ESTABROOK ROAD

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

The Board reviewed the information submitted for the changes to the existing tower.

Mr. Bishop informed the Board that the petitioner had not arrived at the meeting yet.

Vice-Chair Hassinger received unanimous consent to table Action Item 2-B until later in the meeting.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-H out of order.

“BROOKMEADOW VILLAGE” SUBDIVISION – RELEASE OF COVENANT

Mr. Bishop informed the Board that this item had been withdrawn from the agenda and placed on the agenda for the September 24, 2007 Planning Board meeting.

Vice-Chair Hassinger received unanimous consent to take Discussion Item 3-A out of order.

DISCUSSION ITEM 3-A – ASSISTANT PLANNER POSITION

Mr. Bishop provided the Board with a history of the creation of the job description and the requirements being sought in filling the position.

Mr. Parsons joined the meeting at 7:30 p.m.

Mr. Bishop added that this Town Administrator had decided the position would be a more professional Planning position, changing the classification to Assistant Planner rather than Planning Assistant, with expectations of a person desiring a career in Planning and with a broader experience in Mass. Law environment.

Mr. Bishop noted the job posting closed on September 28, 2007, at which time he would review the applications with the Town Administrator.

Mr. Regan stated that the Planning Board Chairman has been involved with the selection of both previous assistants. Mr. Regan also asked if the change would require reclassifying, if the position was voted at Town Meeting.

Vice-Chair Hassinger stated he thought there was a Personnel Subcommittee to handle this change and suggested Mr. Bishop let the CMRPC know of the position.

Chairman Parsons apologized for being late and requested Vice-Chair Hassinger to continue with the meeting agenda.

Vice-Chair Hassinger received unanimous consent to take SP 2007-3 David Mason/Mason Construction out of order.

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

Vice-Chair Hassinger opened the public hearing at 7:38 p.m.

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

Vice-Chair Hassinger reminded the Board that Mr. Courchesne had been appointed as a voting member due to the absence of Mr. McCarthy.

Mr. Bishop informed the Board that correspondence from Town Counsel, Bowman & Penski, and from Attorney Mann regarding the proposed restrictions had been put in their mailboxes for review.

Attorney Mann recapped the public hearings and reviewed the letter from Town Counsel, specifically the second page concerning repair and maintenance of motor vehicles. Attorney Mann noted they may consider adding language to compromise, requiring all repairs inside the building where special floor drains will be installed to accommodate any fluids in the MDC trap.

Mr. Bishop added a certificate from the owner, consistent to a maintenance plan should be forwarded to the Planning Board and Building Inspector annually, to ensure the maintenance issue is addressed.

Vice-Chair Hassinger noted the Town's need for a system for follow-ups, as the Building Inspector does not follow up on permits to be sure they adhere to conditions.

Mr. Regan stated there was no way to monitor what types of repair & maintenance will be taking place on which vehicles.

Mr. Santora noted the bylaws state that you can't have a repair business in the WPOD, but doesn't say you can't repair your own vehicle and suggested the Board use the compromise language submitted by Attorney Mann.

Mr. McCarthy stated he was concerned with the possibility of just one thing going wrong, which could contaminate the water supply.

Mr. McCarthy asked Mr. Santora if he had any financial interest in this project. Mr. Santora stated no and that he is merely advocating for the applicant and has concerns for the water supply with protective steps taken.

MOTION by Mr. Courchesne, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried 5 to 0.

MOTION by Mr. Chouinard, **SECOND** by Mr. Parsons, to direct Staff to draft a decision, taking into consideration all the information received, and the findings and conditions discussed. **MOTION** carried 5 to 0.

RZN 2007-1 CITIZEN PETITION ARTICLE FOR MAY 2007 ANNUAL TOWN MEETING PROPOSED AMENDMENT TO THE GRAFTON ZONING MAP – 42 WESTBORO ROAD – CHARLES ATCHUE

Vice-Chair Hassinger returned to the public hearing at 7:57 p.m.

Present at the hearing were owner Charles Atchue; his attorney Peter Keenan; and his engineer Norman Hill of Land Planning.

Mr. Bishop reminded the Board that Attorney Keenan had presented their argument to the Board at the last public hearing and the Board had requested Town Counsel's review of the argument. Mr. Bishop also noted that the Economic Development Commission, who had this rezoning article on their agenda tonight, had submitted their written recommendations to Mr. Regan this evening.

Mr. Bishop suggested that he read the submitted recommendation from the EDC to the public as testimony for the public hearing:

"The EDC has discussed the request to rezone the parcel at 42 Westboro Road. We voted unanimously in favor of re-zoning this parcel to Industrial. EDC would also like to recommend that the Planning Board take into consideration the aesthetics of any plans proposed, as well as the thoughts of any abutters."

Attorney Keenan, speaking for Mr. Atchue, stated they were very happy with Town Counsel's opinion, which was a consensus of their own that the proposed amendment was not "spot zoning". Attorney Keenan also noted that they had met with the EDC prior to the Planning Board meeting, answering all their questions and explaining their plans, hence resulting in the positive response letter from the EDC this evening.

Attorney Keenan informed the Board that they viewed the proposed amendment as a five step process as EDC, Planning Board, Finance Committee, Town Meeting and Attorney General approval.

Attorney Keenan reviewed the use regulations and uses permitted, stating the area was ideally suited for Industrial purposes with the available railroad spur and hoped that the Board would vote to approve the proposed rezoning.

Vice-Chair Hassinger asked for public comments and there were no comments.

Vice-Chair Hassinger questioned how this rezoning benefits our Master Plan.

Attorney Keenan responded that the goal of the Master Plan was to promote economic development, adding that at one point the entire area in question was industrial uses, but had evolved into a "residential island" within an industrial zone.

The Board again discussed their concerns with no knowledge of specific use of the property, impacts on the abutters in the surrounding residential area, and the general aesthetics of the area dependent on the use submitted for the area.

Chairman Parsons stated that there will be some concerns for the area, which we should try to mitigate before any permitting is allowed.

Mr. Regan asked what the zoning was before 1986 and Mr. Atchue stated it was Industrial. Mr. Atchue added that he is having difficulties with his residential property within this industrial area surrounding it and submitted photos of the area to the Board. Mr. Atchue stated that there are at least 14 trailer trucks at the end of the property driveway on any given day.

Mr. Regan was concerned whether changing the zoning will change the obligation to the railroad under the Federal government.

Mr. Atchue noted that there have been no complaints from the public at the public hearings or to him personally.

Mr. Courchesne explained to Mr. Atchue that the Board of Selectmen are looking for a recommendation from the Planning Board on this package before us, adding that it is very challenging to look to Town Meeting for the presentation/recommendation of something unknown.

Mr. Atchue stated he was giving the Town the opportunity to work hand-in-hand with him with this property, instead of someone else taking over.

Mr. McCarthy noted that he sees an applicant willing to do something with his property and to put it on the tax rolls for the benefit of the Town.

The Board discussed the pros and cons of revenue versus expense, public benefit and creating jobs.

Mr. Chouinard stated that as far as he was concerned, industrial is what it is intended to be.

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to close the public hearing.
MOTION carried 4 to 0.

Mr. McCarthy stated he felt there was enough public benefit to recommend the proposed zoning change, based on the application, specifically, the railroad spur, the net gain to the Town versus the applicant selling the land to another party, and the alternative possibility of the railroad taking over the property.

Mr. Regan noted that the railroad spur invites a certain kind of use, which may not be desirable.

Mr. McCarthy stated the Town could work with Mr. Atchue on the proposal or the applicant could sell the property to someone else who will not be concerned with what the use might be or the benefit to the Town.

Mr. Hassinger added he was concerned about any concerns of the people around the site.

Mr. Parsons stated he was concerned for all of the townspeople as a community and what was the greater good for the entire community.

Mr. Regan argued there was a risk, specifically with concern for the welfare of the abutters, for the onerous uses that would be allowed there, and questioned if the worst use is worth the trade off for the financial net.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to recommend the proposed rezoning of 42 Westboro Road, with the caveat that the Board does not know what the end use of the property will be, the absence of abutter input and inadequate Master Plan reference. **MOTION** carried 4 to 0 by roll call vote: Chouinard-aye; Hassinger-no; Parsons-aye; Regan-aye; McCarthy-aye.

Vice-Chair Hassinger received unanimous consent to take Action item 2-A out of order.

ACTION ITEM 2-A – REQUEST FOR CONFIRMATION OF COMMON DRIVEWAY – “CORTLAND MANOR” SUBDIVISION –

The Board tabled this item due to no one at the meeting yet to present the item.

ACTION ITEM 2-B – REQUEST FOR DETERMINATION OF MINOR MODIFICATION FOR SPECIAL PERMIT 97-6, AT & T WIRELESS SERVICES – 43 ESTABROOK AVE.

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

Jonathan McNeal, Real Estates Consultant for AT & T submitted project information plans to the Board and presented the requested change in panels for the tower.

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to approve the petitioner’s written request for the minor modification to the tower at 43 Estabrook Ave. **MOTION** carried unanimously 5 to 0.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-G out of order.

ACTION ITEM 2-G – “MAGNOLIA FARMS” SUBDIVISION – LACK OF DEVELOPER RESPONSE

Mr. Bishop informed the Board that he has been dealing with a number of homeowners on the Subdivision with regard to a number of issues, specifically three steep drops created by retaining walls within the subdivision. Mr. Bishop stated that he has been

unsuccessful in reaching the developer with regard to these issues, even through his lawyer. Mr. Bishop noted that after his attempts to try to resolve the issues working with the residents have proven no results, and it is now appropriate to bring the matter before the Board.

The homeowners submitted a letter and photographs of the safety hazards to the Board.

The Board discussed the possibility of taking the Bond and how much work remained within the subdivision.

Vice-Chair Hassinger suggested the Board should call a public hearing of possible default of the developer.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy to direct Staff to start the process of default for the developer. **MOTION** carried unanimously.

Mr. Bishop stated he would speak with the Town Administrator about any short term action that can be taken to reduce the safety hazards. Mr. Bishop also noted he would contact Attorney Antonellis and make sure the bank is made aware of the developer problem.

Vice-Chair Hassinger received unanimous consent to take Action Item 2-F out of order.

ACTION ITEM 2-F – “OAKMONT FARMS” SUBDIVISION – EASEMENTS/RIGHT OF WAY.

Normand Gamache was present to ask the Board to reconsider the fence issues of encroachment on the easements.

The Board stated unanimously that all encroachments/obstructions need to be removed immediately in order to eliminate any issues for the Town down the road and that all easements need to be free of any encumbrances.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Parsons, **SECOND** by Mr. Regan, to approve the open session minutes of August 13, 2007, as drafted. **MOTION** carried unanimously.

BILLS

The bills were circulated and signed.

STAFF REPORT

Mr. Bishop informed the Board of his discussions with the Town Administrator concerning the new requirements for stormwater regulations within municipalities,

stating he had suggested the need for professional services to coordinate any regulation reformation.

Mr. Bishop reminded the Board about the Citizen Planner Trainer Collaborative registration for anyone interested in attending.

Mr. Bishop also updated the Board on his visit to the Brookmeadow Village site and Peters Estates Subdivision, stating both were progressing with clean development sites

Mr. Bishop noted that Pulte Homes had come forward to do a curb to curb overlay for Ferry Street and would be trying to complete the task prior to October Town Meeting.

Mr. Regan questioned whether the Board of Selectmen was expecting someone from the Planning Board at their meeting to discuss the Master Plan. Mr. Bishop stated he would inquire about their agenda.

Vice-Chair Hassinger received unanimous consent to return to the agenda to take Action Item 2-A out of order.

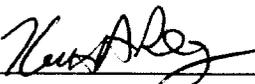
ACTION ITEM 2-A – REQUEST FOR CONFIRMATION OF COMMON DRIVEWAY – “CORTLAND MANOR” SUBDIVISION –

Brian MacEwen of Graz Engineering, Inc. informed the Board that the Building Inspector required Planning Board direction on what exactly was approved for the common driveways and access to Lot 11 for the “Cortland Manor” Subdivision. Mr. MacEwen noted that they had revised one common driveway and revised two added common driveways, but did not indicate on the plan that Lot 11 had access. Mr. MacEwen added that he was also looking to have the Board approve the change in the plan as a minor modification to the subdivision plan.

Mr. Hassinger informed Mr. MacEwen that he needed to present the Board with a revised plan and the change documented on paper, at which time they will decide whether the change constitutes a minor modification or requires more action.

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

The meeting was adjourned at 9:55 p.m.



Keith A. Regan, Clerk