

**Minutes of Meeting
Grafton Planning Board
October 22, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, October 22, 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 and Associate Member Christophe G. Courchesne. Absent from the meeting were Donald Chouinard and Richard McCarthy. Staff present was Town Planner, Stephen Bishop.

Chairman Parsons called the meeting to order at 7:03 p.m.

"MAGNOLIA FARMS" SUBDIVISION – POSSIBLE DEFAULT HEARING

Mr. Regan read the legal notice and Chairman Parsons opened the public hearing at 7:04 p.m.

Present for the hearing were Barry Murphy of Magnolia Farms, LLC, representing the developer Lawrence Moloney; and Attorney Frank Capezzeria of Murtha Cullina LLP, representing Webster Bank.

Mr. Bishop provided a brief background of the subdivision, specifically the number of concerns/issues that have been raised by the homeowners since the Planning Board had extended the construction deadline for the subdivision in April. Mr. Bishop stated that a letter authorized by the Board had been sent to Mr. Moloney and noted that although promises had been made to complete the list of items required immediately, Mr. Moloney has not made any attempts to address the issues. Mr. Bishop also noted there was also a Town Department return memo indicating there was a substantial amount of taxes due on the property.

Mr. Regan asked what the position of Webster Bank was with regard to the default hearing. Attorney Capezzeria stated that this is still an open question and he was in the process of viewing the files for the subdivision. Attorney Capezzeria requested the Board continue the public hearing in order to have time to acquire a general understanding of the situation, allowing the bank to review all the facets of a possible default and make an attempt to communicate with the developer for some resolution of the issues.

Mr. Hassinger noted that failure to complete the required items has demonstrated default on the part of the developer, and additionally will promote more problems if the items are not completed in a timely fashion due to approaching weather concerns.

Chairman Parsons remarked that there was much concern for the safety issues within this subdivision and the Board and public would be more comfortable if increased action can

be taken in the interim, noting that four weeks have already passed and nothing has been accomplished.

Barry Murphy of Magnolia Farms, LLC identified himself as representing the developer, Lawrence Moloney and submitted to the Board an itemized schedule of work to be completed by the developer.

Chairman Parsons informed the audience he would read the proposed schedule for the record: **MAGNOLIA FARMS INFRASTRUCTURE SCHEDULE:**

Cleaning of Sump Catch Basins, starting 10/19/07;

Cleaning of Retention Ponds, starting November, 2007

Repair Retaining Wall, starting November, 2007

Installation of Wood Guard Rail and Chain Link Fence, starting November 5, 2007

Installation of Granite Curbing, starting November, 2007

Finish Road Grades, Spring, 2008

Tree Plantings (depending on availability), starting November, 2007 / Spring, 2008

Street Lamp / Lights Turn on, starting December, 2007

Mr. Hassinger questioned Mr. Murphy as to why the work has not been done. Mr. Murphy stated the catch basin cleaning has already been started and they have people in place to begin work on the fence starting November 5, 2007.

Dennis Labounty of 16 Magnolia Lane inquired whether the Town has a backup plan for snowplowing the subdivision roadways in the event that the developer does not show up to plow the street again this winter.

The Board advised Mr. Labounty to notify the Board of Selectmen office or the DPW office if this happens this year.

Scott Rynkowski of 30 Magnolia Lane stated he had seen one storm drain cleaned and asked what the assurances will be to make sure this work is accomplished.

Mr. Murphy noted that they had some problems starting off with the basin cleaning, but are taking more time in trying to make sure it is done properly.

John Flaherty of 15 Magnolia Lane questioned whether the submitted list of date estimates were for the start or completion of the items, adding that unless the Board sets a firm deadline the items will never be completed. Mr. Flaherty asked the Board to accept the dates submitted as completion rather than start dates, for assurance the work will be performed.

Mr. Hassinger asked Mr. Murphy why neither Mr. Moloney nor his attorney were present at the hearing after being given a months notice. Mr. Hassinger added that Mr. Moloney's absence is a big problem for him.

Chairman Parsons informed Mr. Murphy that this is a significant issue and suggested that Mr. Moloney make this his priority for direct involvement. Chairman Parsons added that the Board and homeowners have been extremely lenient and patient concerning this situation.

Mr. Hassinger noted he was not willing to continue to November 26, but would consider continuing to November 5, and was extremely disappointed that his attorney, Joseph Antonellis was not present at the meeting.

Attorney Capezzeria stated that it was his understanding that Attorney Antonellis was traveling out of state, but was not able to comment on his current relationship with Mr. Moloney.

Mr. Regan asked if the Board continues the hearing for two weeks, what will be the expectation.

Mr. Hassinger stated that at the very least the developer needs to make some substantial effort.

Joseph Campezzzi of 14 Magnolia Lane informed the Board that he was a new homeowner within the subdivision and that he had seen some activity, but was not impressed with the schedule submitted.

Mr. Regan and Mr. Hassinger acknowledged that schedules have not typically been trustworthy and that they prefer to see prompt results.

Chairman Parsons addressed Mr. Murphy, stating that there is a message here; specifically that the schedule submitted needs to be greatly accelerated on the part of the developer.

Mr. Regan added that if the fence could be started, that would be a huge indication of effort.

Kevin Jackson of 18 Magnolia Lane asked the Board what is at stake for the developer if this warning is not heeded.

Mr. Regan stated that for one thing his financial backing would be in jeopardy and the Board would have to decide what path they will follow at that time.

Chairman Parsons added the Board will be looking for many items on the list to be checked off and completed within the next two weeks.

Andrea Flaherty of 15 Magnolia Lane asked the Board what will be done to check on the progress of the work.

Mr. Bishop stated there will be a site visit and inspection by Graves Engineering, who will certify if the work has been completed.

Chairman Parsons also added that the Board expects the effort to be accelerated, a good amount of the items completed, and a very stringent communication between Mr. Moloney and Mr. Bishop.

The Board discussed the abutters' collective concerns for the enforcement of the work to be completed by the developer.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to November 5, 2007 at 7:00 p.m. **MOTION** carried unanimously 3 to 0.

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

Mr. Regan read the legal notice and Chairman Parsons opened the public hearing at 7:45 p.m.

Present for the hearing was David Calarese of L. R. C. Development Services, Inc.

Mr. Bishop gave a brief overview of the subdivision site, stating he and Jeff Walsh of Graves Engineering had walked the site recently and had observed Guerriere & Halnon Engineering performing baseline elevation testing. Mr. Bishop added that Guerriere & Halnon have been retained to figure a drainage scheme for the ongoing concerns plaguing the site, specifically site stabilization and clay finds in the water as reported by the South Grafton Water District.

Mr. Calarese informed the Board they had moved most of the excess material to the rear of the subdivision and were screening loam to be spread within the next week. Mr. Calarese stated that Guerriere & Halnon Engineering had nothing on paper yet, but had indicated they would have a preliminary report regarding the left-hand side of the project within a week. Mr. Calarese also added they would start taking material out of the site since they now have a place to bring it, and will then begin to loom the lots. Mr. Calarese informed the Board he would try to have a drainage plan ready by the next meeting and was still trying to get the roadway in this year.

Mr. Hassinger informed Mr. Calarese that they had response inputs from three Town Departments: Conservation Commission, stating that the Order of Conditions for the project had expired; Treasurer's Office, stating the taxes were in arrears; and Sewer Department, stating they had not seen modifications to the plans since 6/25/05.

Chairman Parsons remarked that there were too many similarities with other unfinished subdivisions and it is important to come to the next hearing with some substantial work accomplished.

Christopher Valeri of 74 Ferry Street informed the Board that it was his understanding that the developer was supposed to submit a plan to the Board prior to establishing the 75 foot wall that is now at the rear of the subdivision, presenting a real danger. Mr. Valeri stated that his property has been torn apart and left with promises of finishing the work, but the work is not progressing as promised.

Tammi Valeri of 74 Ferry Street noted that there are children frequently playing on and with the rocks, and there is fear someone will be seriously hurt.

Mr. Regan asked about the plan that had been discussed at a previous hearing about getting together with Graves Engineering and the Town Planner to come up with a better plan for the subdivision terrain.

Mr. Calarese informed the Board that Guerriere & Halnon was currently working on a plan, which has not been calculated yet, since they have just finished collecting all the information needed.

Roger Lemoine of 64 Maple Avenue submitted photos of the flooded Ferry Street ballpark in 2006; photos of the truckloads of gravel, not loam, brought in to the site; and photos taken at the time of the last rainstorm. Mr. Lemoine pointed out to the Board that the latest rainstorm pictures appear to be the same flooding situation as in 2006, showing that the drainage in place is not working. Mr. Lemoine also noted that the homeowner on the right-hand side of the roadway was at least a 10% slope and appeared to be on a pedestal.

Mr. Calarese informed the Board they had brought in truckloads of loam to be screened and not gravel.

Mr. Valeri stated he recognized the sound of gravel, not loam, being dumped at the corner of the 75 foot wall.

Mr. Hassinger asked if there was currently a danger to the Town wells water.

Mr. Bishop informed the Board that some resolution was needed, including necessary controls to suspend the solids from the water before it travels offsite. Mr. Bishop added that the developer will try to get the site stabilized with the loaming and seeding, but if that is not possible there will need to be some other resolution to the ongoing problem. Mr. Bishop noted that this is hopefully what Guerriere & Halnon will resolve by coming up with a final design to satisfactorily handle the drainage problems, specifically the peak rate of flow and the solids to be dealt with.

Kevin Woodward of 114 Ferry Street expressed concerns on the redesign of the site, stating there had been a huge slope cut into his property. Mr. Woodward was also concerned of blasting consequences and just where the roadway was planned to be cut, as it was not clear with the condition of the site. Mr. Woodward also asked if the left side of the site would be a wall or sloped. Mr. Calarese stated the left side would be sloped.

Rita Woodward of 114 Ferry Street asked the Board about the responsibility of her land on the left hand side of the site with regard to the kids playing within the area. The Board suggested Ms. Woodward look into obtaining a lawyer's agreement with the developer.

David Savage of 72 Ferry Street requested the Board require multiple option plans for the site, since some may not be feasible and further design requirements could cause more delays in the project.

Walter Woynar of 331 Providence Road informed the Board that he walks daily along the site area able to see the drainage failures. Mr. Woynar asked the Board to consider the possibility that the South Grafton Water supply is being contaminated, since the water quality is deteriorating rapidly. Mr. Woynar also added that he felt there needs to be more communication between the developer and the abutters.

Mr. Calarese requested the Board continue the public hearing to November 5, 2007 at which time he hopes to have a new drainage plan completed.

Chairman Parsons informed Mr. Calarese that the Board strongly recommends the project gets cleaned up and the project should reflect some big improvements.

Kevin Woodward of 114 Ferry Street requested the Board require a date set for the start of the drainage plan.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to November 5, 2007 at 7:00 p.m. **MOTION** carried unanimously 3 to 0.

ACTION ITEM 2-A – REQUEST FOR MODIFICATION OF SITE PLAN – FOREST HILLS CONDOMINIUMS, PHASE VII – COMMONS DEVELOPMENT GROUP, INC. – JOHN MCBRIDE, PETITIONER

Present to discuss the request were petitioner John McBride and Kelly Killeen of Coler & Colantonio Engineering.

Mr. McBride reviewed the issue of a sidewalk shown on the as-built design plan not constructed around the Lordvale Boulevard cul-de-sac due to practical/safety reasons, and stated the Board has copies of requested waivers signed by five of the seven unit owners. Mr. McBride also noted there were copies of correspondence from the two unit owners who were opposed.

Mr. Bishop stated he had spoken to both of the opposed unit owners and that they were both aware of this agenda item.

Mr. McBride requested the Board approve the site plan modification for the sidewalk design to conform to the current as-built specifications.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger for discussion purposes, to grant the petitioner's written request to approve and allow the site plan modification to the as-built plan.

DISCUSSION: Mr. Hassinger stated he does not like the idea of building the project and then asking to change it after the work is completed.

MOTION carried 2 to 1 by roll call vote: Hassinger-no; Parsons-aye; Regan-aye.

ACTION ITEM 2-B – REQUEST FOR PERFORMANCE BOND REDUCTION – FOREST HILLS CONDOMINIUMS, PHASE VII – COMMONS DEVELOPMENT GROUP, INC., JOHN MCBRIDE, PETITIONER

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to reduce the bond currently being held as security to **\$188,240.16**, based on correspondence from Graves Engineering and the requirements of the Subdivision Rules & Regulations. **MOTION** carried unanimously 3 to 0.

Chairman Parsons received unanimous consent to take Action Item 2-D out of order.

ACTION ITEM 2-D – APPROVAL NOT REQUIRED PLAN – ANR 2007-15 – CRATER-FERRARO REALTY, LLC – WHEELER ROAD

Present was Kenneth Crater, President of Crater-Ferraro Realty, LLC, who informed the Board that he was placing a significant amount of holdings into a Conservation Restriction. Mr. Crater submitted GIS map copies to the Board to show clearly where the division would be.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to approve ANR 2007-15 and to authorize the Town Planner to sign the ANR plan on behalf of the Planning Board. **MOTION** carried unanimously 3 to 0.

Chairman Parsons received unanimous consent to take Action Item 2-C out of order.

ACTION ITEM 2-C APPROVAL NOT REQUIRED PLAN – ANR 2007-14 – GEORGE PRUNIER – BRENDAN DRIVE

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to approve ANR 2007-14 and to authorize the Town Planner to sign the ANR on behalf of the Planning Board. **MOTION** carried unanimously 3 to 0.

Chairman Parsons received unanimous consent to take Action Item 2-E out of order.

ACTION ITEM 2-E – CONSIDER DECISION – SP 2007-7 GRAFTON CENTER FIRE STATION – 22, 26 & 28 UPTON STREET – WIRELESS COMMUNICATIONS FACILITY – (ANTENNAE/TOWER)

MOTION by Mr. Courchesne, **SECOND** by Mr. Regan, to grant SP 2007-7 with the draft findings and conditions, as discussed and amended. **MOTION** carried unanimously 4 to 0 by roll call vote: Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

Chairman Parsons received unanimous consent to take Discussion Item 3-B out of order.

DISCUSSION ITEM 3-B – REVIEW SP 2007-3 DAVID MASON/MASON CONSTRUCTION, INC. – 129 FERRY STREET (DRAFT FINDINGS – PAGES 1 TO 6

The Board discussed and amended the draft Findings for Special Permit (SP 2007-3) with Mr. Bishop.

Mr. Bishop stated he would frame out a draft decision to be ready for the next Planning Board meeting.

ACTION ITEM 3-C – “BROOKMEADOW VILLAGE” SUBDIVISION – PERFORMANCE BOND QUESTION FOR TOWN COUSEL

Mr. Bishop discussed with the Board the response letter from Town Counsel regarding the request from Brookmeadow Village, LLC for the Board to waive the customary 20% hold back on completed work with Performance Bonds, since the developer has a separate bond in place with his contractor to secure the subdivision. Mr. Bishop noted that Town Counsel had basically stated that the Board’s consistency was best, to thank the developer for the added level of security, but it was the Board’s policy to add the 20% withholding.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to accept the written advice of Town Counsel, Anthony Penski with regard to the “Brookmeadow Village” Subdivision Performance Bond 20% withholding. **MOTION** carried unanimously 3 to 0.

Chairman Parsons received unanimous consent to take Minutes of Previous Meetings out of order.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to approve the open session minutes of September 10, 2007 as drafted. **MOTION** carried unanimously.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to approve the open session minutes of September 24, 2007 as drafted. **MOTION** carried unanimously.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to approve the open session minutes of October 1, 2007 as drafted. **MOTION** carried unanimously.

The bills were circulated and signed.

The Board asked Mr. Bishop about the Massachusetts Smart Growth Trust Fund being replenished questioned whether the Town would be able to take advantage of the new funding.

STAFF REPORT

Mr. Bishop informed the Board that the Town was moving forward on the Chapter 43D Smart Growth with Town Counsel starting to review the information and the signed contract by the Board of Selectmen returned this week for approval. Mr. Bishop added that the Town now needs to proceed with the Grafton Water District and Sewer Department to do their work to enter into the contract.

Mr. Bishop informed the Board that the Chapter 43D program will be hosting a regional meeting on Zoning Reform to be held at Tufts Grafton Campus on November 1, 2007 from 10:00 a.m. to 12:00 p. m. Mr. Bishop suggested the Board forward to him any specific issues they would like him to give testimony on.

Mr. Bishop updated the Board on the progress of the Assistant Planner position, stating the eleven applicants had been narrowed down to six, to which an additional email questionnaire has been sent asking specific questions. Mr. Bishop added that the Town Administrator, himself and Mr. Regan will cut the six remaining applicants to three finalists, who will be interviewed on Saturday, November 3, 2007 in the morning.

Mr. Bishop also informed the Board that Greg Burrill of Brookmeadow Village LLC will be requesting a public hearing with regard to the Mass Highway curb cut associated with the “Brookmeadow Village” Subdivision project on order to provide the public with a clear disclosure of what will be taking place and possible inconveniences.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to continue the Planning Board meeting past 10:00 p.m. **MOTION** carried unanimously.

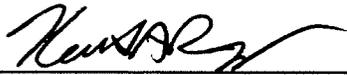
Chairman Parsons received unanimous consent to take Discussion Item 3-A out of order.

DISCUSSION ITEM 3-A – COMPREHENSIVE PLAN – BOARD OF SELECTMEN WORKSHOP, NOVEMBER 13, 2007

Mr. Bishop informed the Board that in their mailboxes there should be a working Comprehensive Plan outline submitted by Mr. Courchesne for the Board of Selectmen Workshop on November 13, 2007.. Mr. Bishop noted that he would draft a transmittal cover for the plan, suggesting the Planning Board expectations of the meeting.

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

The meeting was adjourned at 10:21 p.m.



Keith A. Regan, Clerk