

**Minutes of Meeting
Grafton Planning Board
November 26, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, November 26, 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 and Assistant Planner Ann Morgan.

Mr. Chouinard left the Board to attend the Board of Health meeting.

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

MODIFICATION OF DEFINITIVE PLAN APPROVAL - "HIGHFIELDS ESTATES" SUBDIVISION - MAGILL ASSOCIATED, INC. (APPLICANT/OWNER) - EXTEND CONSTRUCTION DEADLINE

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

Attorney Joseph Antonellis was present representing applicant/owner John Magill.

Mr. Bishop reviewed with the Board the information received from Graves Engineering, specifically stating there were two parts for completing the Highfields Estates project with part one being the loop road and part two being the remainder of Magill Drive and Fox Pointe Trail. Mr. Bishop also noted the developer was required to redesign the roadway/culvert due to the location of a vernal pool in the area.

Attorney Antonellis addressed the Board and briefly gave an overview of Mr. Bishop's comments, adding that the developer was working simultaneously on different parts of the Highfields project. Attorney Antonellis informed the Board he was presently working on the Conservation restriction with Irene Delfino, the Commonwealth representative and that although the market is slow at this time, the developer is working towards street acceptance at the 2008 Fall Town Meeting.

The Board reviewed the Town Department memos with Attorney Antonellis, specifically Conservation and the Police Department comments. Mr. Regan asked about street lights in the subdivision and Mr. Hassinger stated he would like this to be a priority in getting the street lights "in" and "on".

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

MOTION by Mr. McCarthy, **SECOND** By Mr. Regan, to grant the applicant's written request to extend the construction deadline for one year to October 23, 2008.

DISCUSSION: Mr. Regan requested Mr. Bishop to obtain an update on the street lights for the "Highfields Estates" subdivision.

Attorney Antonellis stated he would speak to John Magill about the street lights also.

MOTION carried unanimously 4 to 0.

**SP 2007-10 DENNIS MONAHAN (D/B/A D. M. BUILDING & REMODELING),
APPLICANT; CHARLES & DEBRA HILL, OWNERS – 143 MILLBURY
STREET**

Mr. Regan read the legal notice and Chairman Parsons opened the hearing at 7:15 p.m.

Chairman Parsons appointed Mr. Courchesne as a voting member since Mr. Chouinard had not yet returned from the Board of Health meeting.

Present at the hearing was Dennis Monahan.

Mr. Bishop reviewed the application with the Board, noting they needed to make a determination on adequate parking and if the building, which is connected by a breezeway, is accessory to the main structure.

Mr. Monahan stated there was parking available for six vehicles.

Mr. Hassinger noted that the apartment dimensions were nearly that of the actual house dimensions, demonstrating a duplex rather than an accessory apartment, and which is not allowed in an R-40 zone.

Mr. Courchesne read the definition of an accessory apartment in the Zoning By-laws, noting the definition definitely states the substructure is to be contained within the main structure.

Mr. Regan asked Mr. Monahan if he would provide information on the dimensions of the house and a drawing including the parking.

Mr. McCarthy noted the drawing appears to be a second house.

Mr. Hassinger informed the applicant that he can request to continue the public hearing and provide more information to the Board.

Chairman Parsons asked Mr. Monahan if he was aware of the Conservation Commission comments requiring a N.O.I filing and being within an endangered species habitat.

Chairman Parsons suggested he contact the Conservation Commission with regard to these comments before he proceeds any further with the special permit application.

Mr. Courchesne informed Mr. Monahan that he should come back to the Board with a design substantially within the definition in the Zoning By-laws.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to December 10, 2007 at 7:15 p.m. **MOTION** carried unanimously 5 to 0.

Mr. Chouinard returned to the Board at 7:26 p.m.

SP 2007-11 BELL ATLANTIC MOBILE OF MASSACHUSETTS CORPORATION LTD., D/B/A VERIZON WIRELESS (APPLICANT) – TUFTS UNIVERSITY, CUMMINGS SCHOOL OF VETERINARY MEDICINE (OWNER/LAND) – GLOBAL SIGNAL ACQUISITIONS III LLC (OWNER/TOWER)

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

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

Present for the hearing were Attorney Daniel Klasnick and Greg Nawroski representing Verizon Wireless.

Mr. Bishop reminded the Board that Mr. Hassinger had sent him an email questioning the Zoning by-law requirement of funds being deposited for the purpose of retaining a recording secretary to record testimony taken on wireless facility applications. Mr. Bishop noted that Mr. Hassinger felt the Board should address the applicant's request for a waiver of this requirement prior to accepting any testimony at the public hearing. Mr. Hassinger's recollection was that the Board had decided at a past public hearing that this process would be taken prior to taking any testimony, which requires four votes to waive the requirement.

Mr. Regan stated he had no problem with an applicant who intends to co-locate within an existing tower, which is a unique and different case.

Chairman Parsons noted that the Board should want to support co-location and from that perspective he has no problem with the waiver request.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to grant the applicant's written request to waive the requirement for a recording secretary, for the reasons stated. **MOTION** carried unanimously.

Attorney Klasnick stated he appreciated the Board's deliberation on the waiver request.

Attorney Klasnick reviewed the Verizon Wireless application to co-locate within an existing tower at 200 Westboro Road, which had been previously set up for future co-locations.

Mr. Chouinard asked if any additional carriers would be co-locating on this tower and Attorney Klasnick stated he did not know that information.

Mr. Hassinger expressed concerns that there were no contour lines on the plan.

Attorney Klasnick noted the applicant had also requested additional waivers, including relief from the site plan requirements, since the application was for co-location within an existing tower.

The Board questioned Attorney Klasnick concerning the presence of a generator with an associated 230 gallon fuel tank, specifically about any spillage from the tank.

Mr. McCarthy asked about the possibility of hooking into gas lines on the Tufts property to prevent the spillage possibility and noise from the generator.

Attorney Klasnick informed the Board that the generator/fuel tank setup was the standard procedure used successfully nationwide by Verizon Wireless and added that the fuel tank had containment to handle a 125% spillage.

Chairman Parsons asked for comments/input from the audience and there were none.

Mr. Regan expressed concerns for the tax status of the parcel the tower is on and was curious to know the economic viability of the tower generating revenue.

Chairman Parsons informed Attorney Klasnick he could request the hearing be continued to provide the additional requested information, specifically tax status and the generator storage and containment of fluids.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant the applicant's written request to continue the public hearing to December 10, 2007 at 7:15 p.m. **MOTION** carried unanimously.

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

Mr. Regan read the legal notice and Chairman Parsons opened the public hearing at 7:56 p.m.

Present for the hearing were owner, applicant David Calarese and his engineer, Peter Lavoie of Guerriere & Halnon, Inc.

Chairman Parsons stated there were numerous inputs from multiple Town Departments/Boards.

Mr. Bishop informed the Board that due to significant drainage from the site, there had been a concerted effort to open a new public hearing concerning the redesign of the drainage system by Peter Lavoie of Guerriere & Halnon, Inc.

Mr. Bishop also cautioned the Board that Graves Engineering review comments had only arrived this afternoon and no one has thoroughly reviewed them as yet. Mr. Bishop noted he had met on site with Jeff Walsh of Graves Engineering and Toma Duhani, DPW Superintendent. Mr. Bishop added that Mr. Duhani will have comments regarding offsite issues after he reviews the Graves Engineering review comments.

Mr. Chouinard expressed concerns about Graves Engineering review comments, specifically stating that the diameters of the connecting pipes did not match in size and all the runoff was causing the continual flooding of the ball field across the street.

Mr. Lavoie stated he would not be submitting any comments to the Conservation Commission until he speaks with the DPW. Mr. Lavoie added that he has redesigned the drainage plan not to increase any runoff offsite.

Mr. Lavoie also noted he had received Graves Engineering comments November 26 and has made the changes to his drainage plan according to these review comments.

Mr. Hassinger expressed concerns for the need of a positive statement that the developer is not using perchlorate for blasting purposes, due to its obvious contamination effects.

Walter Wojnar of 331 Providence Road informed the Board that the developer has not taken the time to communicate with the homeowners on a regular basis.

Philip Gauthier of 17 Main Street stated he is concerned for the runoff from this project onto Ferry Street, especially with the cold weather coming, he wants to know who will salt and sand the roadway area this winter, and that he is still unable to locate any catch basins along the roadway. Mr. Gauthier also noted the Board needs to acquire all the paperwork from the South Grafton Water District since it is within the WSPO, and to be sure there is no perchlorate being used with the blasting to contaminate the Town wells with the runoff. Mr. Gauthier explained the blasting procedure which is permitted and regulated by the Fire Department has very strict rules.

Tammy Valeri of 74 Ferry Street informed the Board that they will be in their home for three years in February and have been dealing with LRC Development throughout that time. Ms. Valeri stated they have been promised many things, specifically that their

yards would be loamed and seeded this year, which has not occurred and that there are damages the homeowners have incurred which have not been taken care of.

Mr. Calarese stated they have been crushing rock on site for the last four months and have been waiting six weeks for an engineer to start a redesigned drainage plan to take care of the runoff associated with the project.

Christopher Valeri of 74 Ferry Street reminded the Board that the homeowners had attended a Planning Board meeting recently when they were promised grading, loaming and seeding for their homes this year.

Mr. Calarese denied that promise and stated that grading of the yards was all that had been promised.

Mr. Hassinger noted there were provisions within the Subdivision Rules & Regulations for site stabilization to be performed before the winter months.

Mr. Gauthier suggested the Planning Board make arrangements to tour the site with the DPW director to see the problems/issues of the project first hand.

Mr. Valeri also noted that the wall of dirt to the rear of the project was also a problem.

Mr. Bishop remarked that solutions have been discussed to remedy the situation, but nothing has been done and no programs have been put in place to control and stabilize any runoff from the project site.

Mr. Hassinger asked Mr. Bishop what recourse the Board has when the Subdivision Rules & Regulations are not being complied with.

Mr. Bishop noted there were funds on deposit in the Treasurer's Office for the purpose of erosion control of the subdivision.

Mr. Lavoie stated he has all of the erosion issues taken into consideration with his erosion control plan.

Mr. Calarese stated that as soon as they can get the materials, they will put the plan in place.

Mr. Courchesne and Mr. McCarthy expressed concerns that the Board has been hearing excuses for immediate erosion control measures and homeowner issues for way too long and results are needed immediately.

Mr. Hassinger requested Staff make all the necessary preparations and paperwork so that the Board may take action at their next meeting to remedy the problems/issues.

Mr. Regan noted he would like Staff to reiterate this request with the DPW Director, Toma Duhani, as the Board has been working with a subdivision plan from the previous DPW director.

Mr. Bishop informed the Board that Mr. Duhani is scheduled to attend the December 10 Planning Board meeting at 7:00 p.m. and will coordinate the “Ferry Ridge Estates” subdivision continuance with that time frame.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the applicant’s written request to continue the public hearing to December 10, 2007 at 7:00 p.m. **MOTION** carried unanimously.

ACTION ITEM 2-A – REQUEST FOR PLANNING BOARD DETERMINATION OF MODIFICATION TO SP 2000-7 ROBERT NIXON, LAUREL HILL LANDSCAPING, (PETITIONER)

Robert Nixon informed the Board that he was requesting Planning Board approval, as a minor modification, to erect a 12’ x 24’ storage shed on his property to be used seasonally as a small office from April to November. Mr. Nixon added that he would need electrical connections, cable for a computer and would be employing a secretary.

Mr. Chouinard asked about sewer facilities and Mr. Nixon stated he would have a porta-potty on site.

Mr. Hassinger asked about any paving for parking. Mr. Nixon stated he would be installing brick pavers around the storage unit for client parking.

Mr. Hassinger also asked about the road opening and Mr. Nixon stated the only road opening was onto Keith Hill Road.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to make a determination that the request is a minor modification to Special Permit (SP 2000-7) and to grant the applicant’s written request to erect the storage shed/office. **MOTION** carried unanimously.

ACTION ITEM 2-B – REQUEST FOR PLANNING BOARD DETERMINATION OF MINOR MODIFICATION FOR COMMON DRIVEWAY SUBMITTALS – “CORTLAND MANOR” SUBDIVISION – BRIAN MACEWEN, GRAZ ENGINEERING, (PETITIONER)

Mr. MacEwen explained to the Board that when the submittal for the multiple common driveways was made and approved by the Board in September, 2003, it had omitted including Lot 11 as part of the Lot 12 & Lot 13 common driveway configuration, which resulted in the Building Inspector being unable to issue a building permit for Lot 11 at this time. The plan now reflects the modified easement and grading to include Lot 11 as well as Lots 12 & 13. The previous common driveway Planning Board approval was also

conditioned on the approval of the Fire, Sewer & Water Departments, for which approval letters have been submitted to meet this condition.

The Board briefly discussed the plan revisions with Mr. MacEwen and Mr. Bishop.

MOTION by Mr. Regan, **SECOND** by Mr. Chouinard, to determine the plan revision to be a minor modification and to grant the petitioner's written request to make the common driveway revisions to the definitive plan, with the stipulation that the locator error on the plan be corrected. **MOTION** carried unanimously.

CONSIDER DECISION – SP 2007-3 DAVID MASON / MASON CONSTRUCTION, INC. – 129 FERRY STREET

Mr. Bishop informed the Board he had prepared the draft decision based on the Planning Board's direction, including a copy of Town Counsel's review email, and a copy of a request received in the Planning Office today to reopen the public hearing.

Mr. Courchesne stated Finding #15 was a problem with "tenses" and Mr. Hassinger noted that the Finding #15 statement needed additional refinement.

The Board discussed the receipt of the request to open the public hearing coming into the Planning Office after the agenda had already been posted for the meeting.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to take up the request to re-open the public hearing as an emergency item. **MOTION** carried unanimously.

Mr. Hassinger noted that if the Board grants the request, the applicant will end up with constructive approval of the special permit.

Mr. Bishop stated an appropriate written request will stop the clock from running.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to deny the applicant's written request to re-open the public hearing for the reasons discussed, including the timeliness of voting the decision. **MOTION** carried unanimously.

Mr. McCarthy left the Planning Board meeting at 9:18 p.m., since he was ineligible to vote on the decision.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to make favorable findings for Findings F-1 thru F-14. **MOTION** carried unanimously 5 to 0 by roll call vote: Chouinard-aye; Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

The Board discussed rewording Finding #15 to be sufficient for the Boards consideration.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to reword Finding #15 to state the public hearing for this application was closed on September 10, 2007, as there were no further requests to submit additional information. **MOTION** carried 5 to 0 by roll call vote: Chouinard-aye; Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

Mr. Courchesne stated the late request filing should be mentioned in discussion within an additional Finding, documenting the details. The Board created a new Finding to deal address the late filing request from the applicant's consulting engineer.

Chairman Parsons received unanimous consent to establish the new Finding #16, stating a late request to re-open the public hearing to address issues detailed in Findings F6, F7 & F10. The Board wished to note the request was taken as an emergency item in accordance with the Town Charter and that it was denied based on concerns for the decision time requirements for the application and that any additional information provided on items detailed in the request would not change the Board's consideration of the application.

The Board also discussed changing the language of the newly renumbered Findings 17 & 18 to more clearly state their consideration of the exhibits submitted.

MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to change the language within Findings 17 through 26 to read...the Applicant has not shown...with negative findings, **MOTION** carried unanimously 5 to 0 by roll call vote: Chouinard-aye; Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

MOTION by Mr. Courchesne, **SECOND** by Mr. Chouinard, to approve Findings F27 to F30 with unfavorable findings. **MOTION** carried unanimously 5 to 0 by roll call vote: Chouinard-aye; Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

Chairman Parsons noted the Board needed to vote to extend the meeting beyond 10:00 p.m.

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

DISCUSSION: Mr. Chouinard stated he would remain until 10:15 p.m.

MOTION carried unanimously.

The Board continued deliberation on the decision for 129 Ferry Street.

MOTION by Mr. Courchesne, **SECOND** by Mr. Regan, to deny Special Permit (SP 2007-3) for the reasons discussed:

1) The site is located within the Town's Water Supply Protection Overlay District and in close proximity to the South Grafton Water District wells. The Board was unable to determine the potential environmental impacts of the project due to conflicting proposed uses and specifically, could not adequately assess the impacts of the proposed uses on the Town's groundwater resources.

2) In considering the proposed uses for the site, including the on-site repair & maintenance of construction equipment and storage of petroleum and associated

products, the Board determined such uses posed an unacceptable risk of accidental spills and discharges threatening the Town's water supply and derogating from the intent of the WSPOD.

3) The Site Plan failed to satisfy the requirements of the Zoning By-laws with more than 25% of the lot area rendered impervious without Building Inspector authorization; no satisfactory information regarding the interior uses of the proposed building with relation to calculation of required parking spaces; and no submission of a traffic study or request to waive the requirement.

MOTION carried unanimously 5 to 0 by roll call vote: Chouinard-aye; Hassinger-aye; Parsons-aye; Regan-aye; Courchesne-aye.

**DISCUSSION ITEM 3-A - GRAFTON LAND TRUST – PEASE PROPERTY
CHAPTER 61A WITHDRAWAL**

Edmund Hazzard and Kenneth Holberger of the Grafton Land Trust were present to discuss the Pease property with the Board.

Chairman Parsons suggested that on a future note Town Departments/Boards should communicate with one another prior to rendering input to the Board of Selectmen.

Mr. Hassinger stated he felt there was a problem with the distribution of the information.

Mr. Hazzard distributed a map of the Pease property in question.

Mr. Holberger noted that the Land Trust had reviewed the property prioritization for the Town to consider.

Mr. Hassinger stated that since the property has frontage lots, there is no loss to the Town, and the Town should not let the opportunity pass by while waiting for another opportunity.

Mr. Chouinard left the Planning Board meeting at 10:19 p.m.

The Board continued to discuss the possible funding for this purchase and agreed with Mr. Hazzard and Mr. Holberger that the Community Preservation Commission may not be a source of funding for this purchase.

The discussion ended with all in agreement that if it is thought to be a reasonable proposition to the Town and there is no impediment in spending the money, the issue

should be brought to the attention of the Board of Selectmen at their meeting on December 4.

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

The meeting was adjourned at 10:35 p.m.


Keith A. Regan, Clerk