

**Minutes of Meeting
Grafton Planning Board
June 9, 2008**

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A regular meeting of the Grafton Planning Board was held on Monday, May 19, 2008 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Christophe Courchesne, Vice-Chairman, Keith Regan, Clerk Peter Parsons, Robert Hassinger and Richard McCarthy. Staff present was Town Planner, Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Courchesne called the meeting to order at 7:00 p.m. and received unanimous consent to take Public Hearing 1-D out of order for the benefit of any abutters present for the "Brigham Hill Estates" Subdivision Definitive Plan Approval hearing. Chairman Courchesne stated that the applicant, who was unable to attend this evening, had submitted a written request to continue the public hearing in order to allow time to address the multiple Town Department comments that had come to his attention.

Mr. Hassinger disagreed with continuing the public hearing without taking the testimony of the persons in attendance for the hearing, stating the applicant has had plenty of time to address the application comments and that the public is better served in opening the public hearing as scheduled.

Mr. Bishop noted that Attorney Mark Donahue was here to speak on behalf of the applicant.

Attorney Donahue informed the Board that they would be conducting some offsite meetings with a few groups of people to address some of the comments and would request the Board continue the public hearing to the July 14 meeting.

MOTION by Mr. Parsons, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to July 14, 2008 at 7:00 p.m., with the possibility of the time being moved ahead when the agenda is posted. **MOTION** carried unanimously 5 to 0.

Mr. McCarthy requested Chairman Courchesne delay the opening of Special Permit (SP 2008-2) Riverview Park, due to Mr. Chouinard's attendance at the Board of Health meeting.

Chairman Courchesne received unanimous consent to delay the Riverview Park public hearing and take the next hearing out of order.

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 7:08 p.m. Applicant Imad Sandakly was present at the hearing.

Mr. Hassinger noted as a point of order that after reviewing the submitted application materials, much of the required information from the By-laws has not been provided by the applicant and there is a question whether the application meets the requirements to even take any testimony.

Chairman Courchesne informed the applicant that a point of order has been raised concerning whether or not to take testimony and there appears to be legitimate questions on a number of issues.

Chairman Courchesne stated for the record the Board could request a continuance from the applicant and have the required information submitted for that continued hearing date or the Board could close the public hearing and deny the application due to an incomplete submission.

Mr. Hassinger noted the applicant could also withdraw without prejudice.

Chairman Courchesne informed the applicant of his options and asked how he wished to proceed.

Mr. Hassinger stated the applicant can speak with Mr. Bishop to fix the problems with the submitted materials.

Mr. Bishop remarked that he had spoken with Mr. Sandakly already concerning his application and the materials required for submission to the Board.

Chairman Courchesne explained to the applicant that his application was not adequate under the By-law and that he has the option of the Board taking testimony on the partial application submitted or requesting a continuation to allow time to provide the By-law requirements and address the unresolved issues.

Mr. Sandakly stated this was a summer project for his children and he did not want to drag out the hearing.

Mr. Parsons, informing Mr. Sandakly that since the current status of his application is not adequate and he is unable to address the issues tonight, suggested that he either withdraw the application without prejudice or request a continuance now and come back to the Board with the required By-law required submissions.

Chairman Courchesne also informed the applicant that if he chose to withdraw and reapply, he would need to meet new legal ad requirements before a hearing could be scheduled, in addition to resubmitting a complete application according to the By-law requirements with an engineered site plan and written waivers.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant the applicant's written request to continue the public hearing to June 23, 2008 at 7:00 p.m., with the possibility

of the hearing being at a later time when the agenda is posted. **MOTION** carried unanimously 5 to 0.

SP 2008-8 GRAFTON SUBURBAN CREDIT UNION / EDWARD P. LOPES, (APPLICANT/OWNER) - MODIFY SITE PLAN TO RELOCATE EXISTING SIGN – SECTION 4.4.4 SIGN DIMENSIONAL RELIEF TO INSTALL NEW SIGN – 86 WORCESTER STREET –

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 7:28 p.m. Present for the hearing were Edward P. Lopes of Grafton Suburban Credit Union and David Glispin and Gary Cunningham of Sunshine Sign Company, Inc.

Mr. Lopes informed the Board the Credit Union is seeking a modification of their Site Plan to remove the existing freestanding sign and replace it with a new illuminated sign. Mr. Lopes stated they are also requesting a Special Permit under Section 4.4.4 of the Zoning By-law for dimensional relief to install another electronic sign near the ATM that exceeds the requirements for overall area & height. Mr. Lopes added the sign changes are being made specifically to enhance the efforts to substantially increase business and advertise the services available. Mr. Lopes noted the signs will not affect abutters or the roadway line of sight.

Chairman Courchesne asked for public comment on the application and there was no one present who wished to comment.

Mr. Bishop informed the Board that the signs were reviewed by the Zoning Enforcement Officer and that the freestanding sign met the requirements for location and size. Mr. Bishop noted that the issue of scrolling or message boards is not consistent with the Zoning By-law and can be brought to the attention of the applicant, but the Planning Board is not in a position to enforce that By-law

Mr. Hassinger asked exactly what numbers were being used to determine the sign area, stating that the Board has some role in the sign's total area configuration with regard to the maximum area the Zoning By-law allows.

Mr. Lopes stated he did not know that information, but would find out.

David Glispin of 238 Brigham Hill Road, President of Sunshine Sign Company noted the information was in the application package that was submitted. Mr. Glispin also added that the new modern sign had been tastefully designed to replace the older outdated sign.

Mr. Lopes informed the Board that Grafton Credit Union will be a “good corporate citizen” and will ask for what we are able to have approved and move forward from there to obtain the changes that are needed.

Mr. Glispin reminded the Board that the signs are software controlled, allowing plenty of flexibility in the sign functions.

Mr. Hassinger noted that scrolling/messaging signs are a distraction to drivers for the multiple messages being displayed sequentially on the signs, and detracts from the respect in what the By-law states.

Mr. Glispin questioned how the electronic sign is defined in the By-law. Mr. Regan stated the by-law stated there was no scrolling. Mr. Glispin argued the sign is time sequence defined and can have a time limit set.

Mr. Regan expressed concerns for two parking spaces which appeared to have a restricted view when backing out and requested some information be provided on that observation.

Mr. Hassinger questioned whether the relocated sign was in compliance with the zoning by-law setback. Mr. Lopes stated he was pretty positive that everything was in compliance. Mr. Cunningham reviewed all of the application submitted and noted that discussions with the Building Inspector had confirmed that all elements were in compliance.

Chairman Courchesne requested a determination from the Building Inspector to substantiate the compliance of the submitted application package and suggested that it makes sense to continue the public hearing for submittal of the additional requested information.

MOTION by Mr. Parsons, **SECOND** by Mr. Regan, to accept the applicant's written request to continue the public hearing to June 23, 2008 at 7:00 p.m., with the possibility of the hearing being at a later time when the agenda is posted. **MOTION** carried unanimously 5 to 0.

**SP 2008-6 GRAFTON CROSSING / REGINALD D. ANDERSON
(APPLICANT/OWNER) - 135 WESTBOROUGH ROAD - CONVERT EXISTING
COMMERCIAL BUILDING TO A MULTI-USE BUSINESS**

Chairman Courchesne opened the public hearing at 7:55 p.m. Present for the hearing were owner/applicant Reginald Anderson and his engineer Michael Yerka of Yerka/Bacon Engineering, LLC

Mr. Bishop informed the Board Mr. Anderson had submitted a revised parking/traffic flow plan, but that it had not yet been reviewed by Graves Engineering.

Mr. Anderson stated that he was trying to open a family entertainment center in addition to the three current businesses that are using $\frac{3}{4}$ of the seating area with no problems inside or with the parking. Mr. Anderson also noted that he has been advised that the front area of the site, which has had an occupancy permit allowing 356 persons for 34

years with no problems, is grandfathered. Mr. Anderson also noted that the reason a Special Permit is required is for the mini-golf, which is generally outside, not inside.

Mr. Parsons informed Mr. Anderson that there has not been as much caution in the past as now due to safety controls with regard to children oriented business additions.

Chairman Courchesne suggested the applicant consider his options at this point to respond to the lingering concerns of the Planning Board or to proceed with the revised plan as proposed, once reviewed by Graves Engineering.

Mr. Yerka briefly reviewed the revised plan with the Board noting the significant changes of elimination of the deck, segregated area for deliveries, one way drive to improve traffic flow and a no parking area reserved for turning only

Mr. Hassinger expressed concerns for a sign and its location on the revised plan. Mr. Yerka stated they would return to the Board for a sign and location at a later date.

Mr. Hassinger also expressed concerns for meeting the requirements of Section 1.5.5.a ingress & egress and the difficulty of approving the project with a 200 foot curb cut.

Mr. McCarthy suggested the applicant simply put in some curb stops, make a few simple changes and then submit the revised plan.

MOTION by Mr. Parsons, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to June 23, 2008 at 7:00 p.m., with the possibility of the hearing being at a later time when the agenda is posted. **MOTION** carried unanimously 5 to 0.

**SP 2008-2 TOWN OF GRAFTON – RIVERVIEW PARK – ATHLETIC FIELD,
PLAYGROUND AREA GRAVEL DRIVE & PARKING LOT - OFF 176
PROVIDENCE ROAD**

Chairman Courchesne opened the public hearing at 8:20 p.m. Present for the Town of Grafton were Town Engineer Stephen Risotti and Engineer Donald Rose of Coler & Colantonio Engineering, Inc. for the Town, and Attorney Christopher Toomey representing Esprit Realty.

Mr. Bishop informed the Board that the Planning Office has received correspondence from Town Counsel regarding their legal position on the definition of "premises", a list of proposed conditions supplied by Esprit Realty, correspondence from Donald Chouinard, Chair of the Recreational Fields Committee, and correspondence from Attorney Christopher Toomey, representing Esprit Realty, regarding Proposed conditions for Special Permit (SP2008-2)/Site Plan Review – Riverview Park.

Mr. McCarthy questioned why the Planning Board is involving itself in anything other than standard conditions for a Special Permit, adding that the Town should be dictating the conditions as used in other parks located in the Town.

Mr. Hassinger stated cautioned the Board with regard to the problems associated with the delay of projects such as these with appeals and litigation if an agreement cannot be worked out beforehand.

Mr. Regan noted the hearing has been continued for two months and he has not seen any robust form of agreement for this project.

Chairman Courchesne asked Mr. Bishop to briefly update the public on the emails concerning the Board of Selectmen's response. Mr. Bishop stated that the Board of Selectmen had emailed concerns regarding a maintenance agreement and associated conditions.

Chairman Courchesne stated there appears to be conditions agreeable to the abutters and the Fields Committee position adding Board has enough information to make a decision, and asked if there is anyone who would like to speak to the petition.

Richard Dion of 170 Brigham Hill Road wished to point out that at the last hearing there were persons here from the Riverview Apartment and there were none here tonight. Mr. Dion also wished to note the foolishness of some of the proposed conditions, such as no porta-potties, which is an absolute necessity for children on playing fields and parks.

Attorney Toomey addressed the Board and indicated there appeared to be some confusion on the phraseology of the conditions which were misinterpreted as to how they were intended to be stated. Attorney Toomey gave examples to the Board of misinterpreted conditions such as "no porta potties" was stated on the conditions list because they were never shown on the plans. Attorney Toomey agreed there needed to be some resolution in negotiating the proposed conditions.

Donald Chouinard of 7 Old Upton Road, Chair of the Recreation Fields Committee, stated that he had only received a copy of the proposed conditions two weeks ago and had responded with their comments in a letter to the Planning Board. Mr. Chouinard noted the Town had appropriated \$380,000.00 to build this park, adding the whole project will take 1-1/2 months to complete, but will extend it to 2 months if they will not be allowed to work on Saturdays. Mr. Chouinard also noted that they will not be locking the field, as they do not lock up any of the Town parks/fields, they absolutely require porta-potties, and with regard to the lights, if they ever receive funding, the Committee will return to the Planning Board for a modification to the plan.

Mr. Hassinger stated a lot of the problems have been a result of a miscommunication with the email wording and how things are being stated.

Brook Padgett of 23 North Street informed the Board that he had spoken with Harvey Gertel and Attorney Toomey and the only issue they had discussed was the maintenance of the roadway and has not heard or seen any other correspondence with regard to how the projects stands.

Chairman Courchesne stated there is now a draft agreement in the record of this public hearing and there appears to be a disconnect between the various Boards and Committees. Chairman Courchesne added he is very hesitant to keep the public hearing open and asked what the will of the Board was.

Mr. Regan asked Mr. Rose if the site distances had been supplied as requested at the last hearing. Mr. Rose stated they had been sent to the Planning Office.

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

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

ACTION ITEM – 1-A – CONSIDER DECISION – MODIFICATION OF DEFINITIVE PLAN APPROVAL – “WOODS AT STONEGATE” SUBDIVISION ART-LOT ACRES DEVELOPMENT CORP. (APPLICANT/OWNER)

Ricky Lukasevicz, Project Manager for LeClaire Builders, Inc. was present representing the applicant/owner)

Mr. Lukasevicz informed the Board that were aggressively working on the Conservation issues associated with the “Woods at Stonegate” Subdivision, trying to gain approvals complete the work required on homeowner private property. Mr. Lukasevicz noted the applicant had not obtained written paper work to document the approvals of the previous person of the Conservation Commission, and is now required to complete replication work and the Order of Conditions according to the current Conservation agent. Mr. Lukasevicz stated they have an attorney working with themselves and the homeowners to try and move forward, but it is a slow process.

Mr. Hassinger asked about the expirations associated with the Order of Conditions and its relevance to the situation. Mr. Lukasevicz stated that it does not matter if the Towns conditions expire, they still have the State regulations to satisfy and the work needs to be done at just the right time and conditions for the planting to survive the one-year waiting period.

MOTION by Mr. Hassinger, **SECOND** by Mr. Regan, to approve the draft decision with the modification to Finding F6 and grant a one-year extension for the completion of the Conservation work within in the Subdivision to June 9, 2009. **MOTION** carried

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

ACTION ITEM 2-B – CONSIDER DECISION – SP 2008-7 NEW CINGULAR WIRELESS PCS, LLC – 160 R UPTON STREET – WIRELESS FACILITY CO-LOCATION

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

Mr. Hassinger noted the date missing on Waiver 1.

Mr. Hassinger also questioned the language used in Conditions C6, C7, & C8 with regard to the applicant's ability to proceed before the 30 day allowance to submit Registry of Deeds copy. Mr. Hassinger questioned whether Condition C9 language use of immediate denial should be changed to revocation.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, for favorable findings for Waiver W1 through Waiver W3. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to grant Special Permit (SP 2008-7) with the Findings and Conditions as discussed and amended. **MOTION** carried 4 to 0 by roll call vote: Parsons-aye; Hassinger-aye; Regan-aye; McCarthy-aye.

ACTION ITEM 2-C – REORGANIZATION OMISSION – DESIGNATE MEMBER TO COMMUNITY PRESERVATION COMMITTEE

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to appoint Keith Regan to the Community Preservation Committee. **MOTION** carried unanimously 4 to 0.

DISCUSSION ITEM 3-A – REVISED AGENDA PROPOSAL

The Board discussed revising the agenda to allow a one-half hour block at the beginning of the meeting to conduct Action Items.

Mr. Regan noted the agenda should be based on the information submitted and allow for any considerations required.

Chairman Courchesne received unanimous consent to add a notation on the agenda stating the Planning Board reserves the right to take items out of order.

DISCUSSION ITEM 3-B – REQUEST FOR PLANNING BOARD DETERMINATION FOR RECORDING SECRETARY

The Board discussed the whether they wanted to set a policy or address on an individual basis the issue of requiring a recording secretary to be present at co-location public

hearings. The Board noted that due to the technical and sometimes sensitive nature of the information presented and discussed at wireless facility public hearings, all co-locations should be required to have a recording secretary present.

Mr. Hassinger stated he preferred to look at each individual case and allow the Planning Board the choice, referring to Section 5.8.4.h of the Zoning By-Laws.

MOTION by Mr. Parsons, **SECOND** by Mr. Regan, to require a Recording Secretary for all wireless facility co-location applications. **MOTION** carried 4 to 1 by roll call vote: Parsons-aye; Hassinger-no; Courchesne-aye; Regan-aye; McCarthy-aye.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to approve the minutes of May 19, 2008 with the changes noted. **MOTION** carried unanimously 5 to 0.

STAFF REPORT

Mr. Bishop discussed his Staff Report with the Board.

Mr. McCarthy requested the Staff Report be emailed to the members with the meeting agenda.

Mr. Bishop added that information had circulated indicating LRC Development may be under foreclosure, that he was unable to contact David Calarese, but there was a meeting date scheduled with the Conservation Commission.

MOTION by Mr. Parsons, **SECOND** by Mr. Regan, to adjourn the meeting. **MOTION** carried unanimously 5 to 0.

The meeting was adjourned at 9:56 p.m.



Peter Parsons, Clerk