

Minutes of Meeting
Grafton Planning Board
July 28, 2008

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A regular meeting of the Grafton Planning Board was held on Monday, July 28, 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.

ACTION ITEMS 1-A & 1-B - CONSIDER DECISIONS - "BRIDLE RIDGE" (A/K/A "NORTH GRAFTON ESTATES I") SUBDIVISION AND "NORTH GRAFTON ESTATES II" SUBDIVISION

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

Vice-Chair Regan stated the Board had been shorthanded at their July 14th meeting and had invoked the Mullin Rule, with the consent of the applicant, to ensure enough voting members to render a decision on the public hearing. Mr. Regan added that the meeting had a live feed but there was no copy available for viewing, leaving only himself and Mr. Hassinger as eligible voting members and the absent members unable to invoke the Mullin Rule.

Mr. Bishop noted that a letter had been received from Town Counsel addressing the issue and stating there was some ambiguity in the Subdivision Rules & Regulations as to whether such an extension constitutes a "modification or amendment" of an approved plan and that although this is a gray area, a majority of the Board's quorum can validly act on such a request for an extension.

Mr. Bishop informed the Board there were essentially two options to contemplate; to look at the ability to provide an extension as an administrative act or to revisit the issue by means of a new legal notice and new public hearing.

Mr. Regan suggested the Board decide on how to handle this matter now and how the Board will proceed on this type of situation in the future.

Mr. Hassinger expressed concerns that proper notice has to be given again to abutters to be consistent with past practices.

ACTION ITEM 1-C - CONSIDER WITHDRAWAL OF APPLICATION WITHOUT PREJUDICE - SP 2008-4 - EXCLUSIVE PROPERTIES - MULTI-FAMILY - 309 PROVIDENCE ROAD

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to grant the applicant's written request to withdraw their application for SP 2008-4, without prejudice. **MOTION** carried unanimously 5 to 0.

ACTION ITEM 1-D – CONSIDER DECISION – SP 2008-6 GRAFTON CROSSING/REGINALD ANDERSON – 135 WESTBORO ROAD

Chairman Courchesne asked if there were any comments on the decision and there were none.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, for favorable Findings for F-1 through F-33. **MOTION** carried unanimously 4 to 0 with Mr. McCarthy ineligible.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the five requested waivers for the reasons stated in the decision. **MOTION** carried unanimously 4 to 0 with Mr. McCarthy ineligible.

MOTION by Mr. Regan, **SECOND** by Mr. Hassinger, to grant Special Permit/Site Plan approval for SP 2008-6 with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 4 to 0, with Mr. McCarthy ineligible.

ACTION ITEM 1-E – CONSIDER DECISION – SP 2008-10 WIRELESS CO-LOCATION/METRO PCS LLC – 200 WESTBORO ROAD

Chairman Courchesne recused himself due to a conflict of interest.

Vice-Chair Regan noted all four remaining members were eligible to vote. Mr. Hassinger pointed out some confusion of voting eligibility present in the Background section of the draft decision. Ms. Morgan noted the corrections.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, for favorable Findings for F-1 through F-35. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, for favorable Findings for F-36 through F39. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, for favorable Findings for F-40 through F-53. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger, to grant the W-1 waiver request for the reasons stated. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. McCarthy, **SECOND** by Mr. Hassinger to approve Special Permit SP 2008-10 with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-F – CONSIDER DECISION – SP 2008-2 RIVERVIEW PARK
FIELD / TOWN OF GRAFTON – 176 PROVIDENCE ROAD**

Chairman Courchesne noted all Board members had been served on the appeal filed by McCarter/English on behalf of Esprit Realty, LLC.

Chairman Courchesne noted there were four eligible Planning Board members present to revoke the decision for Riverview Park, since the first vote was cast with an ineligible member.

Mr. McCarthy requested Chairman Courchesne state the status of the previous decision. Chairman Courchesne stated the decision was voted on June 23, 2008 by the four members present, one being Peter Parsons who was ineligible to vote. Chairman Courchesne noted that Town Counsel had determined that decision as a nullity.

Chairman Courchesne stated that Town Counsel's Findings will be in Finding #11 if the Planning Board agrees. Mr. McCarthy asked if F-9 & F11 were redundant. Chairman Courchesne noted F-8 & F-9 would substitute for F-11 which will be deleted.

Mr. Regan asked Mr. Bishop if the process is a legal action against the Planning Board or if the Town is a party in the action. Mr. Bishop noted he would request Town Counsel to provide an answer to the Complaint.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, for favorable Findings for F-1 through F-30, with the new Findings as recommended by Town Counsel. **MOTION** carried unanimously 4 to 0 with Mr. Parsons ineligible.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant the applicant's request for a waiver with regard to the traffic study requirements. **MOTION** carried unanimously 4 to 0 with Mr. Parsons ineligible.

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to grant Special Permit/Site Plan SP 2008-2 with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 4 to 0 with Mr. Parsons ineligible.

DISCUSSION ITEM 2-A – TOPICS FOR SEPTEMBER WORKSHOP

Chairman Courchesne noted the Board had previously discussed adding a Planning Board workshop once every three months to the meeting schedule.

Chairman Courchesne suggested the Board think about the some of the oddities and ambiguities and various concerns that have been a problem and how Staff should proceed in setting up an agenda for the discussion of them.

Mr. Hassinger added there should be time set aside also for general discussion of any other issues brought up by the people present.

Chairman Courchesne received unanimous consent to direct Staff to post a workshop meeting for the Planning Board for September 15, 2008.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Regan, **SECOND** by Mr. McCarthy, to approve the open session minutes of July 14 as drafted. **MOTION** carried unanimously 5 to 0.

REPORTS FROM PLANNING BOARD REPRESENTATIVES ON TOWN COMMITTEES AND CMRPC

Chairman Courchesne stated there will be correspondence coming before the Board with regard to the Town's right of first refusal for an affordable unit.

Chairman Courchesne also noted that the Affordable Housing Trust was working on a housing summit for October, 2008, and Boards and Committees will be invited to participate.

Mr. Hassinger reported that the CMRPC is involved with a Worcester Mobility Study, which is in regard to the movement in the Worcester area and where they are going in general and the Planning Board will eventually become a subject of this study, for which CMRPC has hired a consultant.

Mr. Regan asked about the DPW work being performed around Putnam Lane. Mr. Bishop stated the DPW had started some of the work that needs to be completed to be on track for Town acceptance in the fall. Mr. Bishop also noted As-builts and legal descriptions still need to be received for the subdivision.

SITE PLAN 2008-1 ALL STEEL CORPORATION / JAMES E. MAGILL, (APPLICANT/OWNER) – 84-94 CREEPER HILL ROAD

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 7:41 p.m.

Present for the hearing were James Magill, his son Kevin and his attorney Joseph Antonellis.

Attorney Antonellis informed the Board that he was reluctant to proceed since due to some miscommunication, the engineer was not present with the revised plans needed to show the revisions done with regard to the Graves Engineering peer review comments. Attorney Antonellis explained his application process through the Building Inspector's requests, and stated he had withdrawn the special permit application, since the Building

Inspector had seen the need only to go before the Zoning Board of Appeals and the Planning Board as a site plan. Attorney Antonellis noted that the ZBA had requested the Planning Board's input with regard to hydrology/stormwater and also noted they had worked with the Conservation Commission with a restriction issue, the Commission had issued an Order of Conditions with some technical provisions in it if the site plan was not approved by the Planning Board.

Chairman Courchesne stated the Board had received a second set of comments from Graves Engineering in their mailboxes today. Mr. Bishop explained that Connorstone Engineering did not submit their final comments to Graves Engineering until Wednesday of last week, and with Jeff Walsh on vacation all week, he was unable to respond to the revised plan and comments until today.

Chairman Courchesne asked if there was anyone in the audience that wished to speak to the petition and there was no one.

Mr. Hassinger expressed concerns that it was his understanding of the process that the ZBA should have issued a variance for the non-conforming use requested.

Attorney Antonellis stated that the Building Inspector had stated that if the ZBA granted a special permit, then he would issue a building permit. Attorney Antonellis noted that the ZBA voted not to issue a variance.

Mr. Hassinger asked if it was issued for the old or the new part and Attorney Antonellis stated for both.

Mr. McCarthy asked why the plans show so much parking if the applicant is only going to increase his employees by a couple of people. Attorney Antonellis responded that the parking spaces are required to conform with the current Zoning By-laws in case the work force increases more.

Attorney Antonellis also informed the Board that his client would like to close the public hearing as soon as possible since he has a significant piece of expensive machinery that needs to be shipped when he obtains his permitting.

Chairman Courchesne pointed out that there are some significant issues that need feedback from the engineer before the hearing could be closed.

Attorney Antonellis requested the Board table the public hearing while they are awaiting the arrival of George Connors, the owner of Connorstone Engineering, who will be able to answer any questions from the Board about the revised plan.

Chairman Courchesne received unanimous consent to table the public hearing for All Steel Corporation until later in the meeting.

ASP 2008-9 IMAD SANDAKLY – 18 PLEASANT STREET – RAISING AND KEEPING OF LIVESTOCK (CHICKENS) ON LESS THAN FIVE ACRES

Chairman Courchesne opened the public hearing at 7:56 p.m. Present for the hearing was applicant/owner Imad Sandakly.

Chairman Courchesne noted that Mr. Sandakly had provided additional information to the Board since the previous public hearing, including detailed information on two different locations, and two different types of chicken coops he would be considering building on his property.

Mr. Sandakly briefly explained to the Board the plans he had submitted and his intentions of raising about 12 chickens and possibly a rabbit or other small animal as a project for pets for his children. Mr. Sandakly stressed that this was not for any form of monetary or business purposes and would not be in the business of raising chickens, nor would he be keeping a rooster on the premises. Mr. Sandakly noted he will be composting the chicken droppings, possibly incubating some eggs and will be responsible for keeping the area clean and maintained.

Mr. Hassinger noted he was still not sure where the property line runs. Mr. McCarthy stated his home's property line appeared not to be accurate also and that it can be 15 to 20 feet off. Mr. Hassinger also indicated there are letters from three different neighbors objecting to the project and asked if there were any letters of support from an abutter. Mr. Sandakly informed the Board there was one neighbor with a supporting phone call and that he will gladly answer any of the questions the attending abutters have to ask him about the project.

Jean Collins of 25 Pleasant Street informed the Board that when Mr. Sandakly first applied it was for a small chicken coop and it is now 12 feet by 12 feet, adding rabbits, pigeons or the like and appears to be getting out of hand.

Chairman Courchesne asked Mr. Bishop if an applicant is allowed to have various animals on property under 5 acres. Mr. Bishop stated the by-law states "livestock, including but not limited to horses, cattle sheep, goats, swine, fur animals and poultry", but that individual permits could be regulated through the Board's conditions written into the decision.

Mr. Sandakly stated he would like to keep it small and for only 6 to 12 chickens and does not want to devalue the property. Mr. Hassinger suggested a condition with limits to maybe just chickens.

Mr. Regan asked Mr. Sandakly if he intended to sell eggs or chickens. Mr. Sandakly stated not for a business, but his children may set something up to sell them similar to a lemonade stand type setup as part of a learning project.

Mr. Hassinger noted the concerns of the abutters were for such a small area of land and the number and type of animals being permitted.

Patricia Martin of 20 Pleasant Street expressed added concerns of safety for children at the edge of the roadway, since her home is directly behind Mr. Sandakly's and they share a driveway.

Mr. Parsons asked what the daily maintenance plan was, what are the ages of the children who will be caring for the animals and performing the maintenance and a general plan on how this is to be handled.

Mr. Sandakly stated he has checked on the maintenance procedures for caring for chickens and if the children at ages 11, 8 1/2 & 7 years lose interest it will be his responsibility to keep up the maintenance. Mr. Sandakly wished to remind the Board and the abutters that this was not a farm, but a learning experience intended for his children.

Mr. McCarthy asked if the entire area of 12' x 12' was just the coop or did that include the fenced in area around the coop as total area. Mr. Sandakly stated that was the total area for everything.

Edward Collins of 25 Pleasant Street expressed concerns to the Board for exactly what the livestock start with and what it may become after a while. Mr. Collins informed the Board that the area in question is not very spacious and will not accommodate too many animals.

Mr. Regan noted the Board is confident that it can place conditions on the permit to regulate the number of animals being kept.

Mr. Hassinger again noted that without the area being stated correctly, he will find it difficult to make an assessment.

Ms. Collins asked the Board if Mr. Sandakly is limited on how close to the lot line he can place the coop.

Chairman Courchesne stated the applicant has submitted plans for two possible locations and this information will be considered in the decision.

Mr. Hassinger suggested the Board add a condition for any additional measures or return of the applicant if necessary.

Mr. Sandakly informed the Board that he will be happy to come back before the Board if he decides to make any changes to this original project, but noted for the record that the fees and expenses associated with the permitting are very expensive and would need to have them waived.

Mr. Regan also added that the abutters can always go to the Board of Health if the area is not kept under control.

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

DISCUSSION: Mr. Hassinger wished to point out that there is a time limit to go and see where the coop site actually will be, which will help to assess the issue to some degree. Mr. Sandakly informed the Board they are free to visit and inspect the area at any time.

MOTION carried unanimously 5 to 0.

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 unanimously 5 to 0.

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

Chairman Courchesne opened the public hearing at 8:49 p.m.

Edward Lopes was present for the hearing and reviewed the application with the Board, stating they were removing an old sign and replacing it with a newer, more modern sign; and modifying an existing freestanding sign.

Mr. Lopes noted the information he had supplied for this hearing was in answer to Mr. Regan questions at the previous hearing of the sign island becoming a safety hazard and the parking will become non-conforming for the site with the lost spaces. Mr. Lopes submitted a photo of an unused rear loading area which allows space for 6 parking spaces in addition to the 67, bringing the total number to 73 spaces. Mr. Lopes informed the Board that, with the island he is proposing opposite an existing island, he can install a speed bump or simply expand the island to take up 2 or 3 parking spaces and still have the parking conforming. Mr. Lopes noted he can also check with Chief Crepeau if this will be acceptable or see if he suggests a better idea.

Mr. Regan remarked to Mr. Lopes that he appreciated the information being provided.

Mr. Hassinger noted the Board would need a memo from the Building Inspector permitting the sign and a certified plot plan. Mr. Lopes stated that was no problem and would be happy to supply one.

Mr. Bishop reemphasized to the Board that the front sign is a site plan issue only and it is only the other sign which requires a waiver. Mr. Lopes stated that the By-law currently

states no scrolling signs; therefore their sign will be a lighted sign with more capabilities that will only be used if the By-law changes in the future.

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

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

Chairman Courchesne received unanimous consent to resume the tabled public hearing of Site Plan 2008-1 All Steel Corporation/James E. Magill.

Attorney Antonellis informed the Board that George Connors, owner of Connorstone Engineering and familiar with the plans for the All Steel site plan, had arrived to fill in for Engineer Tim Parrish.

Mr. Connors reviewed with the Board the revised plan submitted to revise the handicapped parking spaces to conform to the ADA requirements.

Mr. Regan asked if the revisions affect the drainage on the site and Mr. Connors replied no.

Catherine Choquet of 96 Creeper Hill Road, an abutter of the applicant, informed the Board of the good neighbor status of Mr. Magill and that she was in favor of the addition.

MOTION by Mr. Regan, **SECOND** by Mr. Parsons, to close the public hearing, leaving the record open for the revised plan showing the ADA changes. **MOTION** carried unanimously 5 to 0.

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

Chairman Courchesne received unanimous consent to enter Executive Session.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to enter into Executive Session for the purpose of discussing ongoing litigation. **MOTION** carried unanimously 5 to 0.

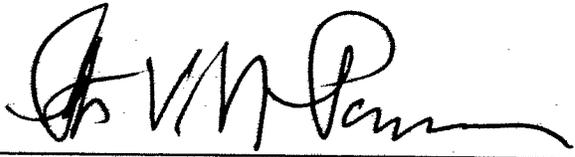
The Board entered Executive Session at 8:57 p.m.

EXECUTIVE SESSION

The Board returned to open session at 9:12 p.m.

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

The meeting was adjourned at 9:12 p.m.



Peter Parsons, Clerk