

Minutes of Meeting  
Grafton Planning Board  
August 11, 2008

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A regular meeting of the Grafton Planning Board was held on Monday, August 11, 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, and Robert Hassinger. Absent from the meeting was 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 ITEM 1-A – BOND REDUCTION REQUEST – “PETERS ESTATES”  
SUBDIVISION**

**MOTION** by Mr. Regan, **SECOND** by Mr. Parsons, to reduce the bond currently being held as security to \$206,688.00, based on correspondence from Graves Engineering, Inc. and the requirements of the Subdivision Rules & Regulations. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-B – CONSIDER DECISION – SP 2008-8 GRAFTON  
SUBURBAN CREDIT UNION – 86 WORCESTER STREET**

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Regan, to find favorable Findings for F-1 through F-15, as drafted. **MOTION** carried unanimously 4 to 0.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, to find favorable Findings for F-16 through F-26, as drafted. **MOTION** carried unanimously 4 to 0.

**DISCUSSION:** Mr. Regan wished to note all multiple choice Findings would be included in the motion as favorable Findings also.

Chairman Courchesne also noted he had multiple clerical changes he would be submitting for correction.

**MOTION** carried unanimously 4 to 0.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Regan, to grant Special Permit/Site Plan (SP 2008-8) with the Findings and Conditions as discussed and amended and the clerical changes as noted. **MOTION** carried unanimously 4 to 0.

**DISCUSSION:** Mr. Regan requested the loop be closed on Condition #5 by an amendment demonstrating to the Building Inspector that the request is satisfied.

**MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-C – CONSIDER DECISION – SITE PLAN 2008-1 ALL STEEL CORPORATION/JAMES E. MAGILL – 84-94 CREEPER HILL ROAD**

Chairman Courchesne noted he felt there was a Finding missing with regard to the Site Plan approval, specifically with Finding F-5 and the Zoning By-law requirements. Chairman Courchesne requested a Finding F-10 be added, similar to the finding used for the Sandakly Decision.

**MOTION** by Mr. Regan, **SECOND** by Mr. Parsons, to make favorable Findings for F-1 through F-10. **MOTION** carried unanimously 4 to 0.

Chairman Courchesne and Mr. Regan noted corrections needed in Special Permit referencing rather than just Site Plan in several conditions and in the main header section.

**MOTION** by Mr. Regan, **SECOND** by Mr. Hassinger, to grant Site Plan 2008-1 with the Findings and Conditions as discussed and amended and with the corrected references as noted. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-D – CONSIDER DECISION – SP 2008-9 – IMAD SANDAKLY – 18 PLEASANT STREET**

Chairman Courchesne noted the decision set a limit of 12 chickens, no other animals, and a return to the Planning Board within one year to report the status of the project and address any abutter concerns.

Mr. Bishop also noted the conditions stated further restrictions with no roosters, a size limited to the 12' by 12' structure and the issue of manure disposal.

Mr. Hassinger expressed concerns of making provisions for the Board to act if the conditions are not met.

Chairman Courchesne suggested adding the approval of the decision be contingent upon the Planning Board's favorable review.

**MOTION** by Mr. Regan, **SECOND** by Mr. Parsons, for favorable Findings for F-1 through F-32. **MOTION** carried unanimously 4 to 0.

**MOTION** by Mr. Regan, **SECOND** by Mr. Parsons, to grant the Waivers requested by the applicant.

**DISCUSSION:** Chairman Courchesne suggested the Waiver include the specific language of Finding F-7 with regard to the requirements of Section 1.3.3.3 of the Zoning By-Laws for preparing Site Plans.

Mr. Hassinger questioned if a supermajority is required for the granting of a requested Waiver. Chairman Courchesne noted the Zoning By-Law stated a majority vote of 3 out of 4 is all that is required. Mr. Hassinger added he felt all Site Plans should be required to submit an engineered plan.

**MOTION** carried 3 to 1 by roll call vote: Parsons-aye; Hassinger-no; Courchesne-aye; Regan-aye.

**MOTION** by Mr. Regan to grant Special Permit/Site Plan (SP 2008-9) with the draft Findings and Conditions as discussed and amended.

**DISCUSSION:** Chairman Courchesne wished to amend the Motion granting the permit, referencing Condition #14 with regard to specifics for the construction and the use of the chicken coop.

**SECOND** by Mr. Parsons, as amended. **MOTION** carried unanimously 4 to 0.

Chairman Courchesne noted that the Board has reasonably addressed the abutter's concerns.

**ACTION ITEM 1-E – DETERMINATION WITH REGARD TO EXTENSION OF CONSTRUCTION DEADLINE – “BRIDLE RIDGE”(A/K/A “NORTH GRAFTON ESTATES I”) SUBDIVISION AND “NORTH GRAFTON ESTATES II” SUBDIVISION.**

Chairman Courchesne recused himself due to a conflict of interest.

Mr. Hassinger expressed his disagreement with the suggestion of allowing the extension without following the same public hearing and voting procedures as with all modifications in the past. Mr. Hassinger noted he did not think the Board could ever make any kind of vote or decision with only two members. Mr. Hassinger stated it was his opinion that the hearing is nullified and that he saw no choice but to recognize that the public hearing needs to be readvertised.

Mr. Regan noted that the applicant was well informed of the risk with the recording process with regard to invoking the Mullin rule and it would be their responsibility to re-submit an application for a new public hearing.

Mr. Bishop noted there was a certain level of ambiguity within the Subdivision Rules & Regulations, and this could be taken up at the workshop scheduled.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, that the Planning Board needs to re-advertise and hold a new public hearing. **MOTION** carried unanimously 3 to 0. Chairman Courchesne returned to the Board and requested unanimous consent from the Board to take the scheduled public hearing out of order, with the intention of returning to the agenda following the hearing.

**SP 2008-12 ROBERT & PATRICIA LEDOUX, (APPLICANT) JEAN & EUGENE PLOSS, (OWNER) – DANCE STUDIO – 130 FERRY STREET**

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 7:30 p.m. Present for the hearing were applicants Robert & Patricia Ledoux, their attorney Scott Cashman, and their engineer Kevin Quinn of Quinn Engineering.

Mr. Quinn inquired about the absent Board member, and was informed that Mr. McCarthy would have the option to invoke the Mullin Rule and view the taped meeting, providing the meeting records satisfactorily on tape, and be eligible to vote on the special permit, if the applicant chooses to move forward on that premise.

Mr. Quinn reviewed the application with the Board stating that the site is located at 130 Ferry Street and is currently a vacant business, previously used as an auction house. Mr. Quinn informed the Board that the applicant is proposing to remodel a portion of the interior of the building for use as a dance studio and use the existing parking of four paved spaces on the east side of the building and a larger unpaved area behind the building. Mr. Quinn also noted the applicant is requesting waivers from the Zoning By-Law requirements with regard to Sections 1.3.3.d.10, 1.3.3.d.11, 1.3.3.d, 1.3.3.e, 4.2.4.2.1, 4.2.4.5, and 8.2.

Mr. Regan asked about the surface of the easement and the open field for parking in the rear of the building.

Mr. Hassinger noted that many of the waivers requested are problematic due to the rules of previous decisions with preexisting use history.

Robert Ledoux of 37 Maple Avenue explained to the Board that the building was previously used as a Knights of Columbus hall and for the last 15 years as an auction hall, as recent as the first week of last month.

Mr. Hassinger asked if the right of way and the rear parking area were non-dusting surfaces. Mr. Quinn stated they were grassy. Mr. Hassinger noted that paved is typically preferred by the Board. Mr. Quinn stated they were pretty stable surfaces.

Genevieve Mahassel of 9 Sartell Road informed the Board that she had lived in Grafton since 1938 and for years the Knights of Columbus hall sponsored dances and dinners and she would love to see the building transformed to a dance studio.

Robert Flynn of 127 Ferry Street stated he owned the business across the street and asked the Board to give consideration to this family oriented business. Mr. Flynn noted there have never been any problems in the past with parking or traffic associated with the auction hall.

Mr. Quinn asked the Board's consideration that the site has been operative for decades with no problems or complaints, specifically on drainage or parking.

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

Chairman Courchesne received unanimous consent to return to the agenda order.

**DISCUSSION ITEM 2-A PETITION FOR MODIFICATION OF "MAGNOLIA FAMS" SUBDIVISION**

Mr. Bishop informed the Board that he has had numerous conversations with the residents with regard to the introduction of equestrian trails through the subdivision. Mr. Bishop stated that he had recommended that since there was no developer, the residents make a written request to Webster Bank and the Planning Board to have the trails eliminated. Mr. Bishop noted that he had spoken to a representative of Webster Bank, who was contacting the residents in support of a request for a modification to the subdivision. Mr. Bishop also noted that it was unclear what process would be used to support the abandonment of the trails, but Webster Bank is waiting until they take control of the property before proceeding. Mr. Bishop stated he suggested Webster Bank perform an outreach to the abutting property owners on the process of eliminating the trails.

Mr. Regan asked if the trails were on private property, since there is no open space with the subdivision and noted if they were, they may have been a requirement of the subdivision.

Mr. Bishop noted the trails may be part of a continuation of existing equestrian trails in the area previously.

Chairman Courchesne stated the residents and Webster Bank will need a reasonable application to set the situations straight associated with the trails, specifically a

modification to the Definitive Plan and associated public hearing with abutter notification.

**DISCUSSION ITEM 2-B – DETERMINE PUBLIC HEARING DATE FOR ZBL AMENDMENT FOR ADULT DAY CARE FOR OCTOBER/2008 TOWN MEETING**

Mr. Bishop suggested all information provided for the proposed amendment for Adult Day Care should be relayed to Town Counsel for their review prior to the hearing.

Mr. Hassinger noted they should also be looking at the text to be presented at Town Meeting.

Chairman Courchesne received unanimous consent to direct Staff to advertise the Adult Day Care proposed amendment for a September 8<sup>th</sup> public hearing, allowing time to decipher the language and for Town Counsel's input.

**DISCUSSION ITEM 2-C – DETERMINATION OF COMPLETENESS REVIEW FOR “GLENWOOD ESTATES II” SUBDIVISION (STREET ACCEPTANCE PETITIONED FOR OCTOBER/2008 TOWN MEETING)**

Mr. Bishop stated the developer has submitted his Determination of Completeness package for Planning Board approval and he would like to place this item on the agenda for the next Planning Board meeting.

**DISCUSSION ITEM 2-D – “DENDEE ACRES” SUBDIVISION – CORRESPONDENCE**

Mr. Bishop informed the Board there have been several persons involved in the possibility of taking over the subdivision, all of which have been told that there could be a possible problem with the “endorsement within 6 months” clause.

The current party with a Purchase & Sale on the property has requested the Board make a determination whether the Definitive Plan is still valid.

Mr. Regan noted this was the first Planning Board approved Affordable Housing LIP project and that the decision does not specifically state that the approval is automatically rescinded after the 6 month period. Mr. Regan added the new owner should definitely submit an application before the 30 month period ends.

Chairman Courchesne received unanimous consent to inform the new owner that they need to submit a Definitive Plan modification application requesting a determination from the Planning Board that the plan is still valid, a request modifying any changes associated with the new ownership, and a new timeline of work proposed.

**STAFF REPORT**

Mr. Regan asked about any response from the developers for the “Ferry Ridge Estates” subdivision. Mr. Bishop informed the Board that he had mailed correspondence regarding the bond requirement by first class and certified mail, but to date there has been no response. Mr. Regan asked how long the Board should wait before taking some form of action. Mr. Bishop suggested the next action should be with Town Counsel to inquire if there is any potential for legal action. Mr. Bishop noted the site has been abandoned, with voluminous water coming off the site, and there is a Covenant with the developer and only \$16,200.00 available from an Erosion Control Bond for any mitigation of the problems. Mr. Bishop suggested the most effective use of the funds would be for the actual stabilization of the site from the water flow, which should at least be directed away from the abutter property so as not to flood them. Mr. Bishop stated he would check with Mr. Walsh to see what measures could significantly impact the drainage situation.

Chairman Courchesne noted the Board needs an action plan with Town Counsel’s input for approval at the next meeting, so recommendations can be made to the Town Administrator and the Board of Selectmen.

Mr. Regan asked if the second decision for Riverview Park had been filed with the Clerk and if there had been any correspondence from Town Counsel with the response to the Complaint.

Chairman Courchesne made a public plea for consideration of the position of Associate Member on the Planning Board.

### **MINUTES OF PREVIOUS MEETINGS**

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Regan, to approve the open session minutes of July 28, 2008, as drafted. **MOTION** carried unanimously 4 to 0.

**MOTION** by Mr. Parsons, **SECOND** by Mr. Regan, to approve the Executive session minutes of July 28, 2008, as drafted, and to be kept in confidential status until the matter is resolved. **MOTION** carried unanimously 4 to 0.

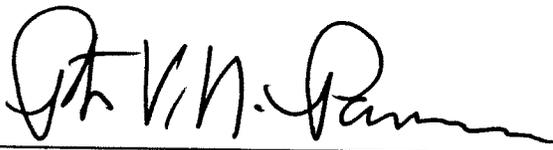
Chairman Courchesne suggested the Board consider cancelling their scheduled meeting for August 25, 2008, since there are no scheduled public hearings or business and requested the Board members and Staff devote some time looking into the Subdivision Rules & Regulations in preparation for discussion items for the upcoming workshop in September. Chairman Courchesne requested proposed discussion items/material be submitted to him within the next few weeks for consideration of an agenda for the workshop.

Chairman Courchesne received unanimous consent to cancel the Planning Board meeting scheduled for August 25, 2008 at 7:00 p.m. and requested that in lieu the Board spend some time taking a look at items to be discussed at the workshop.

**MOTION** by Mr. Parsons, **SECOND** by Mr. Hassinger, to cancel the scheduled Planning Board meeting for August 25, 2008. **MOTION** carried unanimously 4 to 0.

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

The meeting was adjourned at 8:45 p.m.

A handwritten signature in black ink, appearing to read "Peter Parsons", written over a horizontal line.

Peter Parsons, Clerk