

**Minutes of Meeting  
Grafton Planning Board  
November 24, 2008**

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A regular meeting of the Grafton Planning Board was held on Monday, November 24, 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. Staff present was Town Planner, Stephen Bishop and Assistant Planner Ann Morgan.

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

**ACTION ITEM 1-A - CONSIDER DECISION - MODIFICATION OF DEFINITIVE PLAN APPROVAL - "BROOKMEADOW VILLAGE" SUBDIVISION**

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

**MOTION** by Mr. Regan, **SECOND** by Mr. Hassinger, to grant the applicant's written request for the modification application to extend the construction deadline for one year. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-B - BOND REDUCTION AGREEMENT - "MAGNOLIA FARMS" SUBDIVISION - WEBSTER BANK, N.A. (PETITIONER)**

Attorney Thomas Vangel of Murtha Cullina LLP was present representing his client Webster Bank, N.A. Attorney Vangel gave the Planning Board a brief review of Webster Bank's takeover of the "Magnolia Farms" Subdivision following the default of the developer Laurence Moloney. Attorney Vangel informed the Board of the substantial progress they had made towards completion of the subdivision within the last six months and added the homeowners were pleased with the results and work completed by the subcontractor R. A. Hammond.

Attorney Vangel stated his client was requesting a bond reduction agreement of the surety amount for which it is obligated, which was secured for the performance of certain infrastructure improvements to be completed at "Magnolia Farms" Subdivision. Attorney Vangel noted that most of the on-site and off-site construction has been completed, thereby meeting the release requirements set forth by the Town's Subdivision Rules & Regulations.

Mr. Bishop informed the Board that the Agreement has been reviewed by Town Counsel as to form and for consistency with the reduction and release requirements of the Town's Subdivision Rules & Regulations.

Mr. Hassinger expressed concerns that the reduction process being referred to as automatic was not consistent with the typical procedures and language followed by the Planning Board and stated he preferred to reword the agreement to state that it is consistent with our normal practice with regard to bonds.

Mr. Bishop noted there was nothing in the agreement that changed how the arrangements for bond reduction were submitted and approved.

**MOTION** by Mr. Regan, **SECOND** by Mr. Parsons, to approve the applicant's written request for a bond reduction, based on correspondence from Town Counsel and Graves Engineering and the requirements of the Subdivision Rules & Regulations.

**DISCUSSION:** Mr. Regan asked if this type of request for bond reduction could be added/addressed in the Subdivision Rules & Regulations for any future situations. Mr. Bishop noted this issue only arose due to the situation dealing with a third party in a Tripartite Agreement.

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

Mr. Bishop requested the Board sign the signature page of the Bond Reduction Agreement.

### **STAFF REPORT**

Mr. Bishop reminded the Board that he will need the support of at least three Planning Board members at the joint meeting with the Board of Selectmen on December 16<sup>th</sup> regarding the Streetscape program, which is part of the South Grafton Master Plan.

Mr. Regan asked that it be made clear that the \$350,000.00 funding is coming from a grant and is not from the townspeople tax funds. Mr. Bishop noted that it has been made quite clear that these monies are from the 40R District funds.

Mr. Regan also requested Staff secure a list of outstanding legal issues presently remaining within the legal budget. Mr. Bishop noted that many of the legal issues are not strictly related to the Planning Board as legal costs, but only as involved as a middle man with other departments such as the Building Inspector/Zoning Enforcer.

### **MINUTES OF PREVIOUS MEETINGS**

**MOTION** by Mr. Regan, **SECOND** by Mr. Hassinger, to approve the open session minutes of November 10, 2008 as drafted. **MOTION** carried unanimously.

**CORRESPONDENCE**

Mr. Bishop informed the Board that the Selectmen's office had received an application for the Associate position on the Planning Board which will be on the Board of Selectmen agenda for their December 16 meeting.

**SP 2008-18 VERIZON WIRELESS (BELL ATLANTIC MOBILE OF MASSACHUSETTS CORPORATION LTD. & CELLCO PARTNERSHIP) - APPLICANT/CO-APPLICANTS) ROGER J. ELLIS, (OWNER)**

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

Mr. Parsons read the legal notice and Vice-Chair Regan opened the public hearing at 7:37 p.m.

Present for the applicant was Attorney James Vallariani representing Verizon Wireless who informed the Board that since their special permit required 4 voting members for approval and there were only 3 voting members present, his client would like to request a continuance to a later date in January.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Parsons, to grant the applicant's written request to continue the public hearing to January 12, 2009 at 7:30 p.m. **MOTION** carried unanimously 3 to 0.

**MODIFICATION OF DEFINITIVE PLAN APPROVAL - "MAGNOLIA FARMS" SUBDIVISION - WEBSTER BANK, N.A. (APPLICANT/PETITIONER) - DELETE THE REQUIREMENT OF CONSTRUCTION OF EQUESTRIAN TRAILS**

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 7:45 p.m. Attorney Thomas Vangel and Attorney Kathleen Connolly of Murtha Cullina LLP were present representing the petitioner Webster Bank.

Attorney Connolly stated that the residents of the "Magnolia Farms" Subdivision had submitted a petition to the Planning Board requesting a modification to the Definitive plan approval to eliminate the requirement for proposed equestrian trails within the subdivision. Attorney Connolly noted that the completion of the proposed trails will directly impact 14 of the 34 properties within the subdivision and will actually be counter productive for the subdivision properties and the abutting neighborhoods. Attorney Connolly added that the proposed trails are on the residents private property and would have a negative impact; the proposed trails would result in cumbersome maintenance expenses for the property owners and the Town; the proposed trails have significant safety issues and risks associated with their use; and that the residents were informed by the builder when they purchased their homes that these trails would not be developed.

Joseph Campisi of 14 Magnolia Lane informed the Board that the situation and requests of the homeowners had been well summarized by Attorney Connolly. Mr. Campisi expressed his own concerns for the total disruption of the subdivision, specifically those property owners directly affected, unknown expenses incurred by homeowners and Webster Bank, and the question of secured insurance in the event of motorized recreational vehicles taking advantage of these trails located on private property. Mr. Campisi requested the Board support the resident's request for this modification to the subdivision.

Mr. Regan asked if these proposed trails connect with any existing trails in the area. Attorney Connolly stated they did not.

Mr. Regan also asked if there was a monetary amount had been calculated for the cost of the proposed trails. Mr. Bishop informed the Board that since the proposed trails had not been decided on at the start of the subdivision, they were not included on the Definitive plan.

Mr. Hassinger expressed concerns that the easements that were granted to the Town are recorded on the property owner deeds and asked if the trails would access the abutting Open Space. Mr. Bishop noted that there is no connection to an existing trail system and that the terrain in question is not conducive to carving out any type of trail. Mr. Hassinger stated he is concerned with not forfeiting any opportunities for connection with an established trail system.

Mr. Parsons asked what the legal ramifications would be if this trail easement was precluded. Mr. Bishop noted that the recorded easement refers back to the original Definitive plan to define the easement and there were never any metes and bounds recorded to define it.

Mr. Hassinger stated he would prefer that some action is taken to retain the easement for future development consideration, so that it is not lost for the Town.

Michael Lyver of 19 Magnolia Lane explained to the Board that these easements are resident's back yards and not some pristine area for grooming a public trail.

Mr. Hassinger requested the petitioner show an equal swap-off for the easements.

Mr. Parsons wished to note that the easement noted on the definitive plan and the homeowners' deeds should not be taken lightly and any legal right-of-way needs to be considered legally by the Planning Board.

Mr. Campisi added that due to the terrain there was no way to connect these proposed trails to the existing trail system and more importantly neither the Town nor the homeowners can afford to incur any of the maintenance and insurance expenses that

would result from these trails. Mr. Campisi noted that he understands they were intended with good intentions, but were not very well planned from the start.

Andrea Flaherty of 15 Magnolia Lane stated her biggest concerns were from the safety perspective, stating most homes had small children who would be exposed to these dangers and reminding the Board that when their homes were purchased they were told that it was very unlikely the trails would be constructed.

John Flaherty of 15 Magnolia Lane stated that additional danger would be very real with the probability of motorized recreational vehicles using the trails, as is the case in adjacent areas already.

Mr. Hassinger noted motorized vehicles have been controlled by homeowners in previous subdivisions.

Mr. Hassinger asked Staff what the status of the easements was and how would their removal be handled, since the easements are owned by the Town and the Planning Board cannot give them away.

Mr. Bishop remarked that the language in the subdivision plan for the description of the easements is “as shown on the Definitive plan”.

Attorney Connolly explained that if the Planning Board records a new decision, it will supersede the property owner’s deeds referring back to the Definitive plan recorded.

Mr. Regan asked if Webster Bank had any sense of what cost would be incurred to build the trails. Attorney Vangel stated he could not answer the question since he did not have enough knowledge about what would be required, but noted it would most likely be a substantial expense considering all of the information discussed. Mr. Regan remarked that the Board has had similar situations with other areas of the Town and the developer has made mitigation with another area of Town in reciprocation for modifications to their Definitive plan requirements. Attorney Vangel explained to the Board that many considerations have already been made with the residents by Webster Bank, placing more financial responsibility on them was originally budgeted out for the subdivision. Attorney Vangel again explained to the Board how significant the expense would be to construct any kind of a trail in the area and asked the Board’s consideration in accepting the homeowner’s petition as submitted.

**MOTION** by Mr. Regan, **SECOND** by Chairman Courchesne for the purpose of discussion.

**DISCUSSION:** Chairman Courchesne stated he had heard enough and asked the Board to look at the petition and testimony presented in an objective manner, and noting that a decision reference to the plan will supersede the deed reference to the easement. Chairman Courchesne noted he thought there appeared to be enough information before

us to render a decision. Mr. Parsons added that he was still troubled about the Town's position with the removal of the easement, stating it will increase the value of the properties, but what will be the benefit to the Town in the larger picture. Chairman Courchesne suggested the Board make a policy decision as to whether keeping the public hearing open is required for further testimony since no one present has spoken against the petition. Mr. Hassinger suggested the Board close the public hearing subject to information being added to the public record regarding any revision in the layout of the land, allowing it to be recorded.

Andrea Flaherty of 15 Magnolia Lane asked the Board to clarify for her whether other persons present at the public hearing, who are not residents within the subdivision, are able to come and speak to the application. Chairman Courchesne stated that was correct, that anyone can speak to the application.

**MOTION** carried unanimously 4 to 0.

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

**SECOND** by Mr. Hassinger, adding that Staff finds a way to provide the opportunity to maintain the rights of the easement.

Chairman Courchesne suggested that Town Counsel look at the situation for what opportunities the Town may have.

**MOTION** carried unanimously 4 to 0.

**SP 2008-17 WASHINGTON MILLS, NORTH GRAFTON, INC.**  
**(APPLICANT/OWNER) – 8,000 SQUARE FOOT STORAGE FACILITY – 20**  
**NORTH MAIN STREET**

Chairman Courchesne opened the public hearing at 8:47 p.m. Present for the applicant was Engineer John Grenier of John Grenier Associates.

Mr. Grenier informed the Board he had spoken with his client regarding the potential implications of relying on invoking the Mullin Rule in the absence of a voting Board member, and they have decided to move forward.

Mr. Parsons noted the Board was waiting for the applicant to provide additional information requested by the Board.

Mr. Grenier informed the Board the information was in their mailboxes and that the Building Inspector was still waiting for sign-off from the Conservation Commission and the Engineering Department. Mr. Grenier stated he will meet with the Building Inspector on Friday, that Conservation was fine with the plan and the Town Engineer still had a few housekeeping type issues to be dealt with. Mr. Grenier noted he had received Town

Department comment letters on Friday and would like all the information back before he completes the revised plan, including the feedback from the Building Inspector.

**MOTION** by Mr. Parsons, **SECOND** by Mr. Regan, to grant the applicant's written request to continue the public hearing to December 8, 2008 at 7:30 p.m. **MOTION** carried unanimously 4 to 0.

**DEFINITIVE PLAN APPROVAL "HANNA DRIVE" SUBDIVISION – SARGON HANNA, (APPLICANT/OWNER) – 151 WORCESTER STREET**

Mr. Parsons read the legal notice and Chairman Courchesne opened the public hearing at 8:55 p.m. Present for the hearing were owner/applicant Sargon Hanna and his engineer Michael Loin of Bertin Engineering, Inc.

Mr. Loin informed the Board the Definitive plan was for a subdivision, which was actually one existing lot and two additional proposed. Mr. Loin stated the subdivision would have an 18-foot wide, 220 foot long private roadway serving two residential homes and maintained by an Association, which would basically be an oversized driveway. Mr. Loin added the subdivision would be served by Town sewer and water and would be built as Affordable Housing components to meet the Town's requirements. Mr. Loin noted they would be requesting waivers for road width reduced to 18-feet; the road grade from 8% to 10%; K-factor speed for the 220-foot road for the vertical curve; to add one more utility pole above ground into subdivision area and the remainder to be placed underground; pole lights at the ends of the driveways instead of street lights; and sidewalk requirements due to just two house lots on the roadway.

Mr. Loin stated he had received a list of review comments from Graves Engineering on Friday and will be addressing those comments for the next hearing. Mr. Loin informed the Board that the Conservation Commission was scheduled to review the wetland flags on location and perform a site walk.

Chairman Courchesne remarked there was a rather lengthy review comment letter from Graves Engineering and there could possibly be some significant changes to the plan when it is brought back before the Board. Mr. Loin requested feedback from the neighbors before moving forward on a revised plan.

Robert Collette of 149 Worcester Street asked the Board if it was best to give comment before or after the plan revisions have been made. Chairman Courchesne explained that if a person has opposition to the proposed project, it is good to register those complaints prior to any changes being made and general comments may be made at any time.

Ernest Peters of 18 Second Street stated he was not an abutter of the project, but uses the roadway in front of the project several times a day. Mr. Peters informed the Board that this particular part of the roadway is typically a "racetrack atmosphere" with extremely fast moving traffic all day and the developer should consider safer exiting into the Airport

Road area. Mr. Peters also asked what will happen with all of the run-off onto Worcester Street, as the retention ponds do not always work as designed.

Joseph Stinson of 147 Worcester Street informed the Board that he owns two spring houses on the property which he intends to reclaim for use on the abutting property and is concerned about eco-system damage. Mr. Stinson noted the area is very mushy and cannot support a foundation or concrete slab.

Mr. Loin stated they were still working on the drainage plans and considering the lower part of the property for the house lots, but they would not be disrupting any part of the wetlands area.

Richard Nelson of 30 Hingham Road stated he is right behind the project area and asked if he would be affected by any leveling of the land area by blasting. Mr. Loin replied they would be about 200 feet down the hill, they were not leveling the area and no determination has been made yet regarding any need for blasting.

Robert Collette of 149 Worcester Street asked if the entrance would be a roadway or driveway, which will affect any stormwater runoff problems. Mr. Collette noted there is another well on the property that is not shown on the plan; pointed out there are discrepancies on the plans with regard to the home levels at 155 Worcester Street; informed the Board of the corrective changes made by the State on the roadway in front of the project due to already hazardous conditions in entering that section of the roadway; definite discrepancies in the roadway/driveway calculations relative to the house lots; foreseeable problems for the fire scope truck to maneuver with the roadway width; and issues brought up by Conservation agent Linda Dettloff regarding wetlands much more extensive than flagged by the developer.

Mr. Loin stated he had received comments from the Police and Sewer Departments, but nothing from the Fire Department.

Stephen Roney of 152 Worcester Street addressed the Fire department comment, stating the Chiefs had not yet reviewed the project.

Mr. Loin informed the Board they will work on the issues and comments discussed and make revisions to the plan accordingly and noted the road discrepancies could be a result of the plan showing drive-under garages for the homes.

Mr. Hassinger reminded Mr. Loin that certain criteria need to be met with regard to the slope and width of cul-de-sacs.

**MOTION** by Mr. Parsons, **SECOND** by Mr. Regan, to grant the applicant's written request to continue the public hearing to January 12, 2009 at 7:30 p.m. **MOTION** carried unanimously 4 to 0.

Mr. Regan left the Planning Board for the evening at 9:30 p.m.

**“BRIGHAM HILL ESTATES” SUBDIVISION – BRIGHAM HILL LLC,  
(APPLICANT/OWNER)**

Chairman Courchesne opened the public hearing at 9:32 p.m. Present at the hearing for the applicant were Attorney Mark Donahue and Engineer Paul Grasewicz of Graz Engineering.

Attorney Donahue discussed briefly the absence of Mr. Regan and the ability to invoke the Mullin Rule as an eligible voting member.

Mr. Grasewicz reviewed Graves Engineering comments #3, #6, #8, #9, #15, #17 #19, #33, #36 and #35 with the Board and offered their response.

Mr. Bishop noted that all issues had been addressed, but not all resolved, as some relate to the requested waivers which will need to be voted on.

Chairman Courchesne received unanimous consent to leave the hearing open for questions/comments from Mr. Regan and Mr. McCarthy who are not present at the hearing.

Attorney Donahue informed the Board they would not be submitting any revised plans or information until all final questions and comments are addressed

**MOTION** by Mr. Parsons, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to December 8, 2008 at 7:30 p.m. **MOTION** carried unanimously 3 to 0.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Courchesne, to adjourn the meeting. **MOTION** carried unanimously 3 to 0.

The meeting was adjourned at 10:01 p.m.

  
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Peter Parsons, Clerk