

**Minutes of Meeting
Grafton Planning Board
September 28, 2009**

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A regular meeting of the Grafton Planning Board was held on Monday, September 28, 2009 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Bruce W. Spinney III, Vice-Chairman, Robert Hassinger, Clerk Peter Parsons, Heath Christensen, Stephen Qualey and Associate Member Sadie Miller. Staff present was Town Planner, Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Spinney called the meeting to order at 7:00 p.m.

**ACTION ITEM 1A – CONSIDER DECISION – “HILLTOP PLAZA” – 116
MILFORD ROAD**

Chairman Spinney asked Staff if there was any additional information to consider. Mr. Bishop stated all information has been distributed, including the comments from Town Counsel concerning uses. Mr. Hassinger asked if Mr. Qualey, the Associate Member at the time of the public hearing, had been designated by the Chairman to vote on this special permit. Chairman Spinney designated Mr. Qualey to vote on the “Hilltop Plaza” decision for the sake of clarity. Chairman Spinney noted he would like to address within the decision the possibility of Mr. Addeo returning to the Planning Board with more definitive changes on the uses he is planning for this project. Mr. Hassinger suggested the applicant can go to Staff with any proposal changes, which would be less problematic than another Board. Mr. Parsons expressed concerns for the Board to be more amenable to the project with the area experiencing unemployment upwards to 9%, the generation of additional tax revenue and a boost in economic development for the Town. The Board continued a robust discussion on the problems of allowing a blanket approval for uses within the OLI zoning district without specific information and a general compatibility with the surrounding Residential area.

Mr. Hassinger asked if there was documented Mullin Rule certification for this decision and was told yes.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to make favorable Findings for F-1 through F-9 as drafted. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to make favorable Findings for F-10 through F-12 as drafted. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, that Finding F-13 is not adequate, by reason of inadequate information. **MOTION** carried 3 to 1 by roll call vote: Parsons-no; Hassinger-aye; Spinney-aye; Qualey-aye.

MOTION by Mr. Hassinger for Finding F-14 that the off street parking is not adequate and that the economic, noise, glare or odor effects of the special permit on adjoining properties and properties generally in the district are not satisfactory due to inadequate information.

There was no second to the motion.

MOTION by Mr. Parsons, **SECOND** by Mr. Qualey, for Finding F-14 that the off street parking is adequate and that the economic, noise, glare or odor effects of the special permit on adjoining properties and properties generally in the district are satisfactory. **MOTION** failed after 2 to 2 roll call vote: Parsons-aye; Hassinger-no; Spinney-no; Qualey-aye.

MOTION by Mr. Hassinger for Finding F-14 that the off street parking is adequate and that the economic, noise, glare or odor effects of the special permit on adjoining properties and properties generally in the district are not satisfactory due to the lack of adequate information.

DISCUSSION: The Board discussed whether or not there was adequate information to make these determinations.

SECOND by Mr. Qualey. **MOTION** carried 3 to 1 by roll call vote: Parsons-no; Hassinger-aye; Spinney-aye; Qualey-aye.

Chairman Spinney received unanimous consent to table the decision and any remaining agenda items to later in the meeting to begin the public hearings.

ZBL 2009-5 CITIZEN'S PETITION TO AMEND THE GRAFTON ZONING BY-LAWS REFERENCING CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS)

Mr. Parsons read the legal notice and Chairman Spinney opened the public hearing.

Mr. Bishop informed the Board that he had supplied to them a copy of the article as presented at the May, 2009 Town Meeting and the Planning Board Report concerning the amendment, allowing the Board to note the changes in the current proposed amendment. Mr. Bishop also noted a response memo from Chief Crepeau regarding the duration of the message, email correspondence from Rick Anderson of Gaudette Insurance and correspondence from Jeannie Hebert of the Blackstone Valley Chamber of Commerce.

Rick Anderson, Vice-President of Gaudette Insurance, spoke to the Board, clarifying his email and how their business owners group had come up with the petition they were submitting. Mr. Anderson noted that his sign has been on location for 7 years, does not scroll or flash, and has never received any complaints about the sign.

Stephen Burke of 1 Appaloosa Drive informed the Board that he did not like the signs and felt they detracted from the Town. Mr. Burke also asked the Board that if the signs are out of compliance, why the Town is trying to bring them into compliance.

Robert Berger, Town of Grafton Building Inspector & Zoning Enforcement Officer, stated that Town Counsel has stated the signs themselves are fine but as soon as they scroll, they are not in compliance with the By-Laws.

David Glispin, President of Sunshine Sign Company, Inc. informed the Board that the problem lies in the fact that electronic signs were never used in retail in the past and the By-Laws are 24 years old, with no specific reference to this type of signage for business. Mr. Glispin stated he wished to speak in favor of the business in Town and that the return on investment in an electronic business sign is very strong.

Mr. Hassinger expressed concerns on testimony received in the past regarding problems with sign colors, specifically red, affecting vision at night.

The Board discussed the problems of allowing electronic signs and all the negative results of the use spiraling out of control.

William McCusker of 40 Blanchard Road, a member of the ZBA but speaking as a citizen, suggested to the Board that the problem lies in absence of correct language and definitions of the electronic sign and its uses. Mr. McCusker also noted that the multiple signs on Worcester Street with flashing messages could be up to 20 messages flashing along that one stretch of roadway; that the messages should comply with the premises; that advertising not be allowed through the messaging; that no high definition or jumbotrons be allowed; and that the signs be shut off at night.

The Board continued to discuss ways to respect the business within the Town and maintain the character of the Town of Grafton.

Mr. Christensen stated this should be a community business decision and wondered why only 8 to 10 business persons have shown up out of the 200 who were notified of the proposed amendment. Mr. Anderson responded that he was satisfied with dealing with business from Gaudette Insurance to Stop & Shop, but offered to other Grafton business for their input.

Chairman Spinney commented that Attorney Joseph Antonellis had crafted a proposed amendment for the Grafton Suburban Credit Union to be acceptable to all business, but that the current signs are tailored to each specific business. Chairman Spinney explained that the current proposed law does not take into account any considerations for the future, only the current few business establishments.

Donald Koopman, President of Koopman Lumber defended the use of their electronic sign, stating he did not feel it contributed to any safety violations or accidents and that it

had definitely shown sales improvements with regard to Koopman's and other tenants of the plaza. Mr. Koopman added that the problem was with the antiquated By-laws of the Town, which do not take into account the modern electronic signs.

Chairman Spinney repeated that the Board does not wish to work against business, but will not work "under the gun" and requires more time and diligence to craft a proposed amendment that will work for all concerned.

Mr. Hassinger reminded all that a Citizen's Petition cannot be changed and can only be requested to be passed over at Town Meeting.

Mr. Berger explained the process of Town Meeting will be that if the Town votes against the article, then the signs have to be compliant and cannot scroll. Mr. Berger added that if the article is withdrawn again, it is then up to the Board of Selectmen to decide whether to enforce the by-law or give it a stay.

Mr. Glispin stated that all Town Boards need to make a decision on whether they want to move towards business friendly or resident friendly and specifically the Planning Board needs to find a way to make esthetics versus business interests work together.

Mr. Qualey added he had no problem with the changeable signs as long as they remained conservative, would like to see the language/definitions clarified for the By-Law, especially flashing & scrolling, and that they should definitely be restricted within the historical districts with definitive language.

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

Chairman Spinney received unanimous consent to direct Staff to prepare a Planning Board report for Town Meeting, with the Boards recommendation of adopting or passing over the article Mr. Hassinger also added that the Planning Board will be able to take control of reconstructing the amendment if it is indicated in the Town Meeting report that this is the intention of the Board in passing over the article.

MOTION by Mr. Parsons to form a sub-committee to address the Zoning By-Law as it relates to signs.

DISCUSSION: Mr. Hassinger pointed out suggesting the Planning Board has indicated a desire to work actively on this proposed amendment will ensure the sub-committee will be under the Planning Board's guidance.

AMENDED MOTION by Mr. Parsons, **SECOND** by Mr. Qualey, to place an action item on the next Planning Board agenda to discuss the formation of a sub-committee to work actively on establishing a By-law governing the changeable electronic signs. **MOTION** carried unanimously 5 to 0.

ZBL 2009-6 PROPOSED AMENDMENT TO THE GRAFTON ZONING BY-LAWS – MASSAGE PARLORS

Mr. Parsons read the legal notice and Chairman Spinney opened the public hearing.

Mr. Qualey noted the Board of Health's comments regarding adding the Town of Grafton as a licensee regarding professionals.

Mr. Hassinger expressed concerns on distinguishing what type of massage is being offered by an establishment.

Mr. Berger informed the Board that a State license is required for massage therapists and it is only an incidental use to the main use.

Julie Bovenzi of Spirit of Wellness at 202 Worcester Street requested the Board eliminate the use of the term "massage parlor", as it is no longer accepted terminology by the State. Ms. Bovenzi stated the recognized terminology is massage therapist

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

MOTION by Mr. Qualey, **SECOND** by Mr. Parsons, to support the change in the By-Law as drafted, and suggesting adding "and/or the Town of Grafton after appropriate Boards/Commissions of the Commonwealth of Massachusetts.

DISCUSSION: Mr. Bishop informed the Board that they can only accept the proposed amendment article as drafted, but can recommend a change to the language.

AMENDED MOTION by Mr. Qualey, **SECOND** by Mr. Parsons, to support the Town Meeting article as drafted, but recommend the additional language as discussed. **MOTION** carried unanimously 5 to 0.

Chairman Spinney received unanimous consent to return to the Planning Board agenda.

Ms. Miller requested a short break. Chairman Spinney suggested the Board take a three minute break.

The Board returned to the "Hilltop Plaza" decision.

MOTION by Mr. Qualey, **SECOND** by Mr. Parsons, to make a favorable Finding for F-15. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION by Mr. Hassinger for Finding F-16 that the screening and buffering is not adequate for the reason of inadequate information. There was no second to the motion.

MOTION by Chairman Spinney, **SECOND** by Mr. Qualey, for Finding F-16 that the screening and buffering are adequate. **MOTION** carried 3 to 1 by roll call vote: Parsons-aye; Hassinger-no; Spinney-aye; Qualey-aye.

MOTION by Mr. Parsons, **SECOND** by Mr. Qualey, that Finding F-17 is compatible and in harmony. **MOTION** carried 3 to 1 by roll call vote: Parsons-aye; Hassinger-no; Spinney-aye; Qualey-aye.

MOTION by Chairman Spinney, **SECOND** by Mr. Qualey, to make a favorable Finding for F-18. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION Mr. Hassinger that Finding F-19 is not generally compatible with the adjacent properties and other properties in the district due to inadequate information for assurance it will be compatible.

MOTION by Chairman Spinney that Finding F-19 is generally compatible.

Chairman Spinney retracted his motion.

RENEWED MOTION by Mr. Hassinger, **SECOND** by Chairman Spinney, that Finding F-19 is not generally compatible with the adjacent properties and other properties in the district due to inadequate information for assurance it will be compatible.

DISCUSSION: Chairman Spinney explained he thought the Finding was referring to the structure, but was actually speaking to the use. The Board discussed the argument of insufficient information provided on uses to make a judgment on compatibility.

MOTION by Chairman Spinney, **SECOND** by Mr. Parsons, to extend the Planning Board meeting beyond 10:00 p.m. **MOTION** carried unanimously.

MOTION for Finding F-19 carried 3 to 1 by roll call vote: Parsons-no; Hassinger-aye; Spinney-aye; Qualey-aye.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, that Finding F-20 will not have any significant adverse impact. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve Finding F-21 as drafted. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, for Finding F-22 that important historic, cultural and scenic landscapes are protected. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve Findings F-23 & F-24 as drafted. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, that Finding F-25 did satisfy. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger that Finding F-26 is in harmony, that Finding F-27 would create, that Finding F-28 would cause, and that Finding F-29 would derogate.

After discussion, Mr. Hassinger retracted his motion.

MOTION by Chairman Spinney, **SECOND** by Mr. Parsons, that Finding F-26 is in harmony. **MOTION** carried unanimously 4 to 0.

MOTION by Chairman Spinney, **SECOND** by Mr. Qualey, that Findings F-27 through F-29 would not. **MOTION** carried unanimously 4 to 0 by roll call vote.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve the Special Permit & Site Plan approval with conditions to be determined by the outcome of the vote. **MOTION** failed to carry 3 to 1 by roll call vote: Parsons-aye; Hassinger-no; Spinney-no; Qualey-no, thereby denying Special Permit/Site Plan SP 2009-6 based on the Findings and the lack of adequate information pertaining to proposed uses and their potential impacts.

Discussion ensued on the applicant's recourse before the Board.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to approve the open session minutes of September 14, 2009 as drafted. **MOTION** carried unanimously.

STAFF REPORT

Mr. Bishop reminded the Board about the public meeting for the Fisherville & Farnumsville Streetscape Project, also posted as a Planning Board meeting, on Wednesday, October 7 at 7:00 p.m. at the South Grafton Community House.

Ms. Miller noted that she had attended the meeting at the Community Barn of the Massachusetts Department of Agricultural Resources, with efforts to initialize an Agricultural Commission in Grafton. Ms. Miller stated she would give the Board a brief overview at the Planning Board meeting next week.

Mr. Hassinger also noted there will be a presentation next month also at the Community Barn by the CMRPC concerning zoning exemptions, such as school & churches.

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

The meeting was adjourned at 10:27 p.m.

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

Peter Parsons, Clerk