

**Minutes of Meeting
Grafton Planning Board
May 24, 2010**

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GRAFTON, MA.

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A regular meeting of the Grafton Planning Board was held on Monday, May 24, 2010 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, Heath Christensen, and Stephen Qualey. 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 1-A – REORGANIZATION

1) Election of Officers

Chairman **Nomination** by Mr. Christensen, **SECOND** by Mr. Spinney, for Bruce Spinney as Chairman.

Mr. Spinney accepted the nomination.

Voted as follows: for Mr. Spinney: Unanimous 4 to 0.

Mr. Spinney was re-elected Chairman.

Vice-Chairman **Nomination** by Mr. Spinney, **SECOND** by Mr. Qualey, for Robert Hassinger as Vice-Chairman.

Mr. Hassinger accepted the nomination.

Voted as follows: for Mr. Hassinger: Unanimous 4 to 0.

Mr. Hassinger was re-elected Vice-Chairman.

Clerk **Nomination** by Mr. Spinney, **SECOND** by Mr. Christensen, for Stephen Qualey as Clerk.

Mr. Qualey accepted the nomination.

Voted as follows: for Mr. Qualey: Unanimous 4 to 0.

Mr. Qualey was elected Clerk.

2) Designate delegate to CMRPC

Nomination by Mr. Spinney, **SECOND** by Mr. Christensen, for Robert Hassinger to serve as **Planning Board Delegate** to the **Central Massachusetts Regional Planning Commission** for the upcoming year. **MOTION** carried unanimously 4 to 0.

3) Designate member to Town Owned Land Committee

Nomination by Mr. Hassinger, **SECOND** by Mr. Christensen, for Bruce Spinney to serve as **Planning Board Representative** on the **Town Owned Land Committee** for the upcoming year. **MOTION** carried unanimously 4 to 0.

4) Designate member to the Community Preservation Committee

Nomination by Mr. Christensen, **SECOND** by Mr. Qualey, for Bruce Spinney to serve as **Planning Board Representative** on the **Community Preservation Committee** for the upcoming year. **MOTION** carried unanimously 4 to 0.

5) Designate member to Grafton Center Study Committee

Nomination by Mr. Spinney, **SECOND** by Mr. Christensen, to designate Robert Hassinger as Chairman of the **Grafton Center Study Committee** for the upcoming year. **MOTION** carried unanimously 4 to 0.

Nomination by Mr. Spinney, **SECOND** by Mr. Christensen, to designate Stephen Qualey as second member to the **Grafton Center Study Committee** for the upcoming year. **MOTION** carried unanimously 4 to 0.

6) Authorize Town Planner to:

1) Sign payroll:

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to authorize the **Town Planner** to sign the payroll on behalf of Planning Board. **MOTION** carried unanimously 4 to 0.

2) Sign ANR plans:

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to authorize the **Town Planner** to sign ANR plans on behalf of Planning Board after Board approval. **MOTION** carried unanimously 4 to 0.

7) Authorize Planning Board Members to sign ANR plans

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to authorize the Chairman and Vice-Chairman to sign ANR plans on behalf of Planning Board after Board approval. **MOTION** carried unanimously 4 to 0.

Chairman Spinney received unanimous consent to endorse the annual Registry of Deeds signature form at the end of the meeting.

**ACTION ITEM 2-B REQUEST FOR PLANNING BOARD DETERMINATION –
MODIFICATION OF SP 2008-18 VERIZON WIRELESS – 160/160R UPTON
STREET – JAMES VALERIANI, ESQ., PETITIONER**

MOTION by Mr. Christensen, **SECOND** by Mr. Qualey, to determine the antennae change to be a minor modification to Special Permit SP 2008-18.

DISCUSSION: Mr. Hassinger questioned whether the change should require the filing of a special permit modification application and public hearing. Mr. Bishop noted that the Planning Board can designate a change as a minor modification to the existing special permit. Mr. Hassinger also added that there should be some sort of decision or documentation of this modification.

MOTION carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to grant the petitioner's written request for the minor modification and to direct Staff to draft a document reflecting the Board's intent for the modification. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-C – CONSIDER DECISION – SP 2010-3 KATIE MAGEE &
JOSE ALVAREZ – 172 BRIGHAM HILL ROAD**

Chairman Spinney noted that the applicant had submitted a request for re-application for approval of 6 horses on the property. Chairman Spinney stated that the request could not be considered at this time and that the Board was only considering the decision before them regarding the original application for 10 horses at 172 Brigham Hill Road.

Mr. Hassinger noted that the Findings were out of sequence as listed in the draft decision and Ms. Morgan stated that there appeared to be some scrivener's errors within the draft copy. Ms. Morgan informed the Board that the second set of Findings starting again at F-1 should actually be starting as F-20 through F-33.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-20. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-21. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-22. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-23. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-24. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to make a negative Finding for F-25. **MOTION** carried unanimously 4 to 0.

Mr. Hassinger noted there appeared to be incorrect language and reference within Finding F-26.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to make a negative Finding for F-26 with the corrections noted in the language and reference. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger to make a positive Finding for F-27.

DISCUSSION: The Board discussed the lack of evidence presented at the public hearing to vote a positive finding.

Mr. Hassinger withdrew his motion.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative finding for F-27. **MOTION** carried unanimously 4 to 0.

Mr. Hassinger noted that Finding F-28 did not require a vote.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to make a positive Finding for F-29. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a negative Finding for F-30. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a positive Finding for F-31. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a positive Finding for F-32. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to make a positive Finding for F-33. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to adopt Findings F-1 through F-19 as drafted. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. Hassinger to adopt the Alternate wording on page 8 of 8 of the Draft Decision.

DISCUSSION: Mr. Bishop noted there appeared to be an inconsistency in the voting of the Decision, in that the Board had voted there will not be any significant adverse impact on any public or private water supply for Finding F-27, but had then voted under Finding #2 of the decision that the application, if granted, there would be an adverse impact to water quality.

AMENDED MOTION by Mr. Hassinger, **SECOND** by Mr. Christensen, to adopt the Alternate denial wording on page 8 of 8 of the Draft Decision, including striking the inconsistency. **MOTION** carried unanimously 4 to 0.

Chairman Spinney informed the applicant to speak with the Planning Office regarding the options that would be available. Mr. Bishop requested the Board give more direction to the applicant regarding whether or not an application for 6 horses is enough of a derivation to warrant re-application.

ACTION ITEM 1-D – REQUEST FOR “DETERMINATION OF COMPLETENESS” – “NORTH GRAFTON ESTATES I” (A/K/A “BRIDLE RIDGE”) AND “NORTH GRAFTON ESTATES II” SUBDIVISIONS – MARK KABLACK, ESQ., PETITIONER

Mr. Bishop informed the Board that he had received email correspondence late this afternoon from Assistant Town Engineer Brian Szczurko concerning outstanding items for the Determination of Completeness. Mr. Bishop suggested the Planning Board consider moving this request to the next meeting to allow for the completion of these outstanding items.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to take this item up at their next Planning Board meeting on June 14, 2010.

DISCUSSION: Attorney Kablack expressed concerns of a looming construction deadline expiration for both subdivisions on June 18, 2010 and a moving list of outstanding items. Mr. Bishop added that some items on the list were actually from the very beginning of the established punch list of issues to be addressed and not necessarily just the most recent items added to the list.

MOTION carried unanimously 4 to 0.

Attorney Kablack questioned the performance bond amount being held by the Town for a relatively small amount of outstanding issues to be completed.

SP 2010-4 JEAN PAUL LAFLAMME, (APPLICANT/OWNER) – ACCESSORY APARTMENT – 109 ADAMS ROAD

Mr. Qualey read the legal notice and Chairman Spinney opened the public hearing. Jean LaFlamme of 112 Adams Road was present for the hearing and informed the Board that his daughter currently lived in the home at 113 Adams Road and he would like to add the apartment downstairs for his son and girlfriend.

Mr. Hassinger explained to Mr. LaFlamme that the special permit decision typically restricts this type of apartment to family members only. Mr. LaFlamme expressed concerns of possibly offering the apartment to a disabled veteran if his son ever moves out. Mr. Hassinger noted that Mr. LaFlamme would need to return to the Planning Board any requests for changes to the special permit and that the permit was effective as long as he owns the property.

Mr. Qualey expressed concerns for the numbering system of the properties involved regarding actual house numbers versus lot number and suggested speaking with the Town Assessor's office to clarify the situation.

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

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, 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.

MRSP 2009-12 D & F AFONSO BUILDERS, INC. (APPLICANT/OWNER) – OFF INSTITUTE AND WESTBORO ROADS – “VILLAGE AT INSTITUTE ROAD”

Chairman Spinney opened the public hearing. Present for the hearing representing the applicant/owner were Attorney Suzette Ferreira and Normand Gamache of Guerriere & Halnon, Inc.

Attorney Ferreira informed the Board that her client intends to proceed with the current application and that in the event the Board denies the application, a suit will be filed. Attorney Ferreira further reviewed the response from Town Counsel and discussed their position that Institute Road is a public way. Attorney Ferreira proposed that the Board take an alternative approach by rendering a decision on the application assuming the roadway is a public way, while an action for declaratory relief is filed by her client. The Board can also make its approval subject to the Court's decision. Attorney Ferreira requested the Boards consideration to approve the major residential special permit in order to move past this point.

Mr. Hassinger noted he was not amenable to the suggestions made by Attorney Ferreira in her correspondence to Town Counsel and offered his variations for consideration:

- 1) Request a continuance from the Planning Board while you are in the process of obtaining a declaration.
- 2) Request to withdraw without prejudice the current application, and submit a new application if you receive a favorable declaration.

Mr. Hassinger also asked Attorney Ferreira to assert that any of the three ways that Town Counsel had listed as declaring a road a public way have been fulfilled. Mr. Hassinger also brought up the point that there may not be enough votes to grant the special permit with only four voting members and if the application is withdrawn without prejudice and re-submitted, there is a better chance that there will be more voting members.

Attorney Ferreira stated she would request to stay with the current Planning Board and continue the public hearing to September if the Board is amenable.

Mr. Hassinger suggested a notation be made on the Continuation Request sheet explaining why the Planning Board is granting this request for such an extended continuation.

MOTION by Mr. Christensen, **SECOND** by Mr. Hassinger, to grant the applicant's written request to continue the public hearing to September 13, 2010, based on the specific request and in recognition of the extenuating circumstances. **MOTION** carried unanimously 4 to 0.

MINTUES OF PREVIOUS MEETINGS

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to approve the open session minutes of April 26, 2010 as drafted. **MOTION** carried unanimously 4 to 0.

STAFF REPORT

Mr. Bishop informed the Board that they should have correspondence in their mailboxes regarding numerous requests received for the open member positions on the Planning Board, with one letter requesting the Associate Member position only. Mr. Bishop stated he would try to schedule a joint meeting with the Board of Selectmen for the appointment of these positions at one of their June meetings. Chairman Spinney suggested the Board of Selectmen attend the Planning Board's June 14th meeting for this appointment.

Mr. Bishop also noted the Board will have to schedule an Executive Session prior to an upcoming Planning Board meeting with regard to the "Oakmont Farms" Subdivision settlement. The Board suggested including the Board of Selectmen in the Executive Session and having them perform the appointment of the Planning Board members at the open session meeting at 7:00 p.m.

Mr. Bishop also updated the Board on the status of “Cortland Manor” Subdivision, stating there was a general contractor on site and they were still negotiating with Travelers on funding work to be completed, but they were moving toward completion. Mr. Bishop remarked that the “Woods at Stonegate” Subdivision still had replication required on a private lot and they were still waiting for a declaratory statement in resolving these items with the Conservation agent and the DEP case worker.

Mr. Bishop added that he had a meeting with Gene Bernat and the DEP representative concerning coming up with a program for cleaning up the #4 & #6 oil on the former Fisherville Mill site, including funding to dredge the canal.

Mr. Bishop reported that the Committee was moving forward with the Fisherville Park project, an Order of Conditions has been written by the Conservation Commission, and that a site plan public hearing will be held after two successive weeks of a legal notice for the June 28th Planning Board meeting.

Mr. Hassinger reminded the Board of the annual CMRPC dinner/meeting on June 10, 2010 with guest speaker Worcester T & G columnist Dianne Williamson.

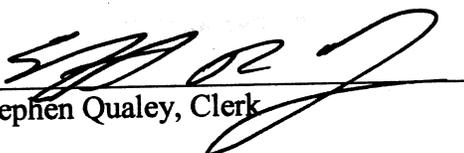
MOTION by Mr. Hassinger to adjourn the meeting. **MOTION** denied.

Mr. Christensen wished to acknowledge Katie Magee & Jose Alvarez waiting to be heard on correspondence submitted to the Board regarding resubmission of an application for the keeping of 6 horses at 172 Brigham Hill Road.

Chairman Spinney recognized Ms. Magee to express her concerns to the Board. The Board cautioned Ms. Magee on her resubmission efforts, stating that without sufficient proposals and recommendations to substantially distinguish this application from the denied application, it was not likely that the Board could give any additional support. The Board suggested finding ways to appease the neighbors and to rally their support, but to also begin looking at alternative plans if the allowance of only two horses on the property is the final outcome.

MOTION by Mr. Christensen, **SECOND** by Mr. Qualey, to adjourn the meeting. **MOTION** carried unanimously 4 to 0.

The meeting was adjourned at 8:37 p.m.


Stephen Qualey, Clerk