

**Minutes of Meeting  
Grafton Planning Board  
September 13, 2010**

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A regular meeting of the Grafton Planning Board was held on Monday, September 13, 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, Clerk Stephen Qualey, Heath Christensen, David Robbins and Associate Member James Walsh III. Staff present was Town Planner, Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Spinney called the meeting to order at 7:00 p.m. and noted that Mr. Qualey would be delayed arriving due to a Sign By-Law Committee meeting also scheduled for 7:00 p.m.

**ACTION ITEM 1-A - APPROVAL NOT REQUIRED PLAN – ANR 2010-8 GEORGE PICHETTE – WESSON STREET**

Mr. Bishop recommended the Board approve the plan as submitted.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Christensen, to approve ANR 2010-8 as submitted and authorize the Town Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously 4 to 0.

**ACTION ITEM 1-B – REQUEST FOR PLANNING BOARD “DETERMINATION OF COMPLETENESS” – “HILL VIEW ESTATES II” SUBDIVISION – AVALON WAY – NORMAND GAMACHE, GUERRIERE & HALNON, INC., PETITIONER**

Mr. Gamache informed the Board that all work had been completed with regard to his letter of August 27, 2010 detailing the outstanding items for the subdivision. Mr. Gamache added that after the Graves Engineering review there remained a few small items left to be completed and requested the Board continue the request for a “Determination of Completeness” until the next Planning Board meeting on September 27, 2010.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Christensen, to approve the petitioner’s written request to return to the Board on September 27, 2010 for a “Determination of Completeness” for “Hill View Estates II” subdivision. **MOTION** carried unanimously 4 to 0.

**MINUTES OF PREVIOUS MEETINGS**

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Christensen, to approve the open session minutes of August 23, 2010 as drafted. **MOTION** carried unanimously 4 to 0.

**STAFF REPORT**

Mr. Bishop remarked he would like to update the Board on the three default subdivisions. With regard to the Cortland Manor subdivision, Mr. Bishop stated that the top coat had been applied to the roadways in the entire subdivision and the contractor was currently awaiting the delivery of some grates to raise the catch basins. Mr. Bishop also noted that the wetlands replication has been a major issue due to the delays in DEP’s final acceptance for the site.

Mr. Bishop informed the Board that all the roadway work has been completed within the “Woods at Stonegate” subdivision, including the cleaning of catch basins and detention basins. Mr. Bishop added that the replication should be getting started within the next few weeks, allowing the plantings to be set before the winter months set in.

Mr. Bishop stated that Graves Engineering was putting together construction documents for the “Oakmont Farms” subdivision which will be distributed as a DPW contract within the next few weeks and be completed before the cold weather sets in.

Mr. Bishop noted that “Hill View Estates II” subdivision was moving in a positive direction in requesting a “Determination of Completeness” from the Board.

Mr. Bishop informed the Board that the Streetscape Committee will be meeting on Thursday and be before the Community Preservation Committee on Tuesday for a request for the additional \$75,000.00 for the project. Mr. Bishop added that the work on the project will hopefully be put out to bid in the fall to prepare for work to commence in the spring.

Mr. Bishop remarked that with regard to the first Sign By-Law Committee meeting, the Worcester Planning & Regulatory Office has forwarded 150 pages of their sign by-law policies for the Committee’s review.

Chairman Spinney stated that 3 of the 5 Planning Board members were present at the Open Meeting Law seminar meeting last week, noting there was much information available. Mr. Bishop noted that Mass Municipal Association is urging towns to use their model as a standard, and that the emergency regulations put into place will lapse in November.

Mr. Hassinger commented on the correspondence received regarding a 40-B development for Ferry Street, noting that the Planning Board should have some input into the permitting process. Mr. Bishop added that the ZBA performs some sort of technical review similar to what the Planning Board does, but does not have the consultation and direction someone similar to a Planner for the Planning Board.

**ACTION ITEM 1-D – CONSIDER DECISION – SPECIAL PERMIT SP 2010-6 – PAUL & LINDA GENTILOTTI – 7 SILVER SPRUCE DRIVE – ACCESSORY APARTMENT**

Present for the applicant was Attorney Joseph Antonellis who informed the Board that his client has authorized him to request the Board’s approval to withdraw this application with prejudice. Attorney Antonellis added that his clients intend to modify the present basement configuration for use that does not include an accessory apartment status, and are presently seeking the appropriate building permits from the Building Inspector’s office. Mr. Hassinger clarified with Attorney Antonellis that the withdrawal with prejudice would only affect Mr. and Mrs. Gentilotti with a two year waiting period for re-submission of an application and not any new home owner.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Christensen, to grant the applicant’s written request to withdraw with prejudice Special Permit (SP 2010-6). **MOTION** carried unanimously 4 to 0.

Chairman Spinney received unanimous consent at 7:23 p.m. to call a recess until the start of the scheduled public hearing at 7:30 p.m., with the hope of Mr. Qualey, whose presence is required for the remainder of the agenda items, returning to the Board.

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

Chairman Spinney opened the public hearing. Present for the applicant/owner was Attorney Suzette Ferreira of Consigli and Brucato PC.

Mr. Qualey returned to the Board at 7:32 p.m.

Attorney Ferreira reviewed the actions of the Board at the last public hearing in May, stating that the Board had agreed to allow her client a continuance for time to file suit and get a Court ruling on the status of Institute Road. Attorney Ferreira added that they had filed a Complaint for Declaratory Judgment in Worcester Superior Court that all parties were properly served and that an Answer had been filed by Town Counsel. Attorney Ferreira explained that the case is now in the discovery stage, that no court date has been assigned, which should take about 30 days, and an additional 60 days after filing a motion for summary judgment. Attorney Ferreira concluded by requesting the Board grant her client a continuance of 90-120 days to obtain a decision on the proposed motion or a trial date at Worcester Superior Court.

Mr. Hassinger expressed concerns of continuing to extend the public hearing with the possibility of losing Planning Board member eligibility.

Attorney Ferreira stated that if the Planning Board denies the application, they will have to appeal the decision, which will also take additional time to file paperwork with the court and serve the parties involved. Attorney Ferreira also noted that withdrawal was not an option. Attorney Ferreira suggested the Board wait for the Declaratory Judgment results, pointing out that if the Court says no the roadway issue ends; but if the Court says yes, the Board will have the opportunity to issue a decision on the Judgment result.

Mr. Robbins noted it appears that the issue should be significantly clearer after the 60 day extension.

The Board continued to discuss the options available and what was the best venue for closure on the issue. Mr. Hassinger wished to document that if the Board allows a 60 day continuation, the Board will need guidance from Town Counsel on how long they should allow this application to continue.

**MOTION** by Mr. Christensen, **SECOND** by Mr. Robbins, to continue the public hearing for 60 days.

Mr. Bishop suggested the Board consider recommending the applicant agree to a date specific for continuance.

**AMENDED MOTION** by Mr. Christensen, **SECOND** by Mr. Robbins, to grant the applicant's written request to continue the public hearing to November 22, 2010 at 7:30 p.m. **MOTION** carried 4 to 1 with Mr. Hassinger voting no.

Chairman Spinney received unanimous consent to take Action Item 1-C out of order.

**ACTION ITEM 1-C – REQUEST FOR PLANNING BOARD DETERMINATION – MINOR MODIFICATIONS OF DEFINITIVE PLAN APPROVAL – “BRIGHAM HILL ESTATES” SUBDIVISION – SHAWN NUCKOLLS OF TOLL BROTHERS, INC., PETITIONER**

Chairman Spinney recused himself and turned the meeting over to Vice-Chair Hassinger.

Mr. Bishop briefly summarized the minor modifications request presented at the last Planning Board meeting, noting that since then the Conservation Commission reviewed and unanimously approved the minor modifications along with favorable recommendation from Graves Engineering.

Mr. Hassinger suggested the Board consider the modification approvals for the wall and the phasing plans separately, since he had concerns regarding phasing questions.

**MOTION** by Mr. Qualey, **SECOND** by Mr. Christensen, to determine that the retaining wall changes are a minor modification. **MOTION** carried unanimously 4 to 0.

**MOTION** by Mr. Christensen, **SECOND** by Mr. Qualey, to grant the applicant’s written request for the minor modification to the retaining wall. **MOTION** carried unanimously 4 to 0.

Mr. Hassinger suggested the Board discuss the phasing plan being submitted.

Mr. Qualey stated the plan makes sense to him.

Mr. Christensen stated the plan was reasonable and further reduces the risk of the developer selling off lots as they are built.

Mr. Robbins offered the counterpoint that the only real issue here is whether or not the Planning Board considers this phasing plan change as a minor modification.

Mr. Hassinger stated that he does not consider the modification minor and that as one of three voters on the original decision, having one phase was a definite element within the decision. Mr. Hassinger noted there were trade-offs made with the developer with regard to requested waivers which were granted as reflections of the concerns of the abutters in the area. Mr. Hassinger argued for this reason alone it warrants giving these people a chance for public comment on this modification.

The Board continued to discuss the phasing plan benefits with regard to the subdivision. Mr. Christensen added that the Planning Board process allows the Board to consider this as a minor modification without a public hearing.

**MOTION** by Mr. Christensen, **SECOND** by Mr. Qualey, to determine the phasing plan to be a minor modification. **MOTION** carried 3 to 1, with Mr. Hassinger voting no.

**MOTION** by Mr. Christensen, **SECOND** by Mr. Qualey, to grant the applicant’s written request for the minor modification to the previously approved phasing plan. **MOTION** carried 3 to 1, with Mr. Hassinger voting no.

**CONSIDER DECISION – SITE PLAN 2010-1 GRAFTON SCHOOL BUILDING COMMITTEE  
– 30 PROVIDENCE ROAD – NEW HIGH SCHOOL**

The Board discussed the decision items that had no clear resolution.

Mr. Hassinger stated that in Finding F-5 he did not recall any discussion referencing to “acoustical engineers”, adding he would like to strike the entire sentence as not accurate. Mr. Hassinger also requested to have the two waivers treated separately in the Findings.

Chairman Spinney noted the caveat of the last sentence stating that no material or confirmation has been received on the diagrams mentioned in Finding F-5. Mr. Bishop informed the Board that he has not received any confirmatory information from the Fire Department regarding this issue and that he is still looking for some resolution and sign-off from the Fire Department.

Mr. Robbins noted there should be some clarification of the incentive references with regard to MACHPS of being either from the 2006 version or the 2009 version. Mr. Bishop stated he did not recall the version being stated in the record. Mr. Christensen stated he remembered it being mentioned, specifically by Mr. McCarthy. Mr. Hassinger requested that it should be made clear that there are two different standards and to note the differences. Mr. Robbins added that the application statements were reflective of the 2006 version.

Mr. McCarthy expressed concerns of an inability to handle inaccuracies within the decision. Mr. Bishop informed the Board that he has correspondence submitted from SMMA regarding challenging inaccuracies and distributed copies to the Planning Board for their consideration.

Chairman Spinney stated there were too many discrepancies to discuss this evening and would have to be taken up at the next meeting.

Mr. Hassinger requested that Condition C-2 be written more definitively.

Chairman Spinney directed the Board to make any recommendations they may have on the draft decision to Staff only and not amongst Planning Board members. Mr. Hassinger wished to make it clear that the rest of the required submissions need to be in hand if the applicant expects to receive a vote at the next meeting. Mr. Hassinger suggested Staff send a letter to the Fire Department. Mr. Bishop reminded Mr. Hassinger that it is typically not the responsibility of Staff to obtain that information and is always the responsibility of the applicant.

Mr. McCarthy informed the Board that a letter was sent from the Fire Department stating they had no exception to the height of the Auditorium which is what the waiver was requested. Mr. McCarthy also added that the comments/issues will be ongoing as plans are reviewed, stating that as soon as the construction details are completed, they will be sent to the Fire Department and then to the Fire Marshall’s office and returned with possibly more review comments.

Chairman Spinney reminded Mr. McCarthy that when the hearing was closed the Board specifically noted that the record be kept open for the requested correspondence for closure on the open issues. Chairman Spinney suggested to Mr. McCarthy that within the next two weeks he obtain a letter from the

Fire Department stating that all items have been addressed to their satisfaction and that they have no further concerns with the project and that any and all other outstanding issues have been documented and resolved.

**MOTION** by Mr. Christensen, **SECOND** by Mr. Qualey, to adjourn the meeting. **MOTION** carried unanimously 5 to 0.

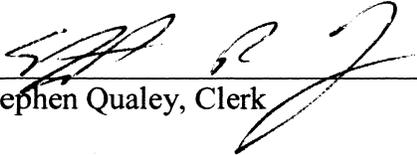
The meeting was adjourned at 8:59 p.m.

## **EXHIBITS**

- **Action Item 1B: Request for Planning Board Determination of Completeness – “Hill View Estates II” Subdivision – Avalon Way**
  - Correspondence from Symmes, Maini & McKee Associates, regarding Planning Board Draft Decision, 4 pages, dated and received September 13, 2010.
  - Correspondence from Graves Engineering, Construction Completeness Review, 4 pages, dated and received September 10, 2010.
  - Correspondence from Guerriere & Halnon, Inc., re: Request for Determination of Completeness Remaining Construction Items, 1 page, dated August 27, 2010, received August 31, 2010.
  - Determination of Completeness Packet prepared by Guerriere & Halnon, Inc. (Applicant), on behalf of David Brossi – Hill View Estates, Inc. (Owner), received August 18, 2010, consisting of the following:
    - Correspondence from Guerriere & Halnon, Inc., re: Request for Determination of Completeness, 7 pages, dated August 12, 2010, received August 18, 2010.
    - Determination of Completeness Worksheet, prepared by the Applicant, 2 pages.
    - Public Notice, prepared by the Applicant.
    - Certificate of Compliance, Hill View Estates II, prepared by the Applicant, 1 page.
    - Correspondence from Graves Engineering, Construction Completeness Review, 3 pages, dated August 10, 2010.
    - Correspondence from Graves Engineering, Construction Completeness Review, 2 pages, dated November 12, 2009.
    - Correspondence from Graves Engineering, As-Built Plan Submittal, 1 page, dated July 15, 2010.
    - Massachusetts Department of Environmental Protection, Certificate of Compliance, 4 pages, filed with the Worcester District Registry of Deeds on July 29, 2010.
    - Grafton Conservation Commission Certificate of Compliance Grafton Wetland Bylaw and Regulations, 3 pages, filed with the Worcester District Registry of Deeds on July 29, 2010.
    - Correspondence from the Grafton Water District, 1 page, dated August 20, 2009.
    - Correspondence from the Grafton Board of Sewer Commissioners, 1 page, dated January 12, 2010.
    - Correspondence from the Grafton Fire Department, 1 page, dated March 23, 2010.

- Correspondence from Graves Engineering, Layout Plan and As-Built Plan Submittal, 3 pages, dated November 30, 2009.
  - Citizen’s Petition to Accept Avalon Way, 1 page.
  - Legal Descriptions for Avalon Way, 8 pages.
- **Action Item 1C: Request for Planning Board Determination – Minor Modifications of Definitive Plan Approval - Brigham Hill Estates Subdivision**
    - Plan, Construction Sequencing Plan, one (1) sheet, 24” x 36”, color, prepared by Graz Engineering, LLC, dated August 17, 2010, submitted and received during the September 13, 2010 Planning Board meeting.
    - Correspondence from the Grafton Conservation Commission, re: DEP File # 164-738/Wetland Bylaw Permit #578, 2 pages, dated and received September 9, 2010.
    - Correspondence from Graves Engineering, re: Review of Proposed Revisions / Retaining Walls and Construction Sequencing, 2 pages, dated and received September 7, 2010.
    - Correspondence from Toll Brothers, re: Brigham Hill Estates, 3 pages, dated September 2, 2010, received September 3, 2010.
    - Correspondence from the Grafton Conservation Commission, re: DEP File # 164-738/Wetland Bylaw Permit #578, 1 page, dated and received August 31, 2010.
    - Planning Board Decision, Definitive Plan Approval, “Brigham Hill Estates” Subdivision, 16 pages, received by the Town Clerk on January 28, 2009.
    - Planning Board Decision, Major Residential Special Permit MRSP 2005-15, “Brigham Hill Estates” Subdivision, 14 pages, received by the Town Clerk on October 3, 2006.
  - **Action Item 1D: Consider Decision – Special Permit SP 2010-6 – Paul & Linda Gentilotti – 7 Silver Spruce Drive – Accessory Apartment**
    - Draft Planning Board Decision, draft dated August 19, 2010, 6 pages.
    - FAX Transmission, Correspondence from Attorney Joseph Antonellis, re: application withdrawal, 2 pages, dated and received September 10, 2010.
  - **Action Item 1E: Consider Decision – Site Plan Approval 2010-1 – Town of Grafton– 30 Providence Road – New High School and Associated Parking**
    - Draft Planning Board Decision, draft dated September 6, 2010, 16 pages.
    - Memorandum, Planning Department Staff, re: Draft Decision – Outstanding Items, 1 page, dated September 8, 2010.
    - Correspondence from the Grafton Fire Department, 1 page, dated August 12, 2010, received August 13, 2010.
    - Correspondence from Symmes, Maini & McKee Associates, Response to Grafton Fire Department and Planning Board, 4 pages, dated August 18, 2010, received August 27, 2010.
  - Draft Meeting Minutes, Grafton Planning Board, August 23, 2010, 3 pages.
  - **Action Item 9A: MRSP 2009-12, D & F Afonso Builders, Inc., “Village at Institute Road” Subdivision**

- Email correspondence from Bowman & Penski, Town Counsel, regarding Institute Road, 1 page, dated August 27, 2010 and received August 30, 2010.



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Stephen Qualey, Clerk