

**Minutes of Meeting
Grafton Planning Board
December 10, 2012**

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A regular meeting of the Grafton Planning Board was held on December 10, 2012 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Stephen Qualey, Vice-Chair David Robbins, Clerk Michael Scully, Robert Hassinger, Sargon Hanna. Staff present was Town Planner Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Qualey called the meeting to order a 7:00 p.m.

ACTION ITEM 1-A – APPROVE 2013 PLANNING BOARD YEARLY MEETING SCHEDULE

Stephen Bishop presented the draft schedule for 2013. The Board did not have any comments or corrections.

MOTION by Mr. Hanna. **SECOND** by Mr. Scully, to adopt the 2013 meeting schedule as presented. **MOTION** carried unanimously 5-0.

ACTION ITEM 1-B – APPROVAL NOT REQUIRED PLAN – ANR 2012-7 NICKMATT REALTY, LLC – 17 RIVER AVENUE

Mr. Bishop reviewed the ANR plan submitted to Planning office. He stated that the applicant is seeking to create two separate lots for the two existing housing structures. The houses and current single lot were in existence prior to the adoption of subdivision control law and thereby affords the applicant protection pursuant to Section 81L.

Mr. Normand Gamache of the Guerriere and Halnon was present to represent the Applicant. He distributed several documents to the Board to better clarify the situation (see EXHIBITS). Mr. Gamache noted that the historical data shows that the structures and the multi-family use of each of the structures was well established prior to the adoption of subdivision control noting the Town's records show pre-existing use as early as 1930. The original structure is sited at the front of the lot. The garage / barn at the rear of the lot was converted to apartments back in the 1930's. The USGS topographic map information shows both structures to be existing as of 1953.

Mr. Qualey asked if the apartments were currently occupied to which Mr. Gamache responded affirmatively. The applicant is seeking only to split the current lots into two individual lots and not looking to change the use.

Mr. Hassinger asked about the layout of the proposed lot lines and in particular the proposed frontages. He noted that the plan shows a odd frontage request for what will now be the rear lot. Mr. Gamache noted that access and frontage for the new back lot is constrained by the existing conditions and the shared easement that both properties have to the parking area between the two buildings. The owner is not seeking to reconfigure the parking and that portion of the frontage is

based on the existing conditions. The balance of the frontage for the rear lot is shown at the end of River Avenue beyond the frontage for the street side structure. Mr. Gamache noted that, on paper, River Avenue extends to the waterfront but in reality the road stops at the end of the proposed frontage for the street side structure. Access to the rear lot via the riverside frontage is not practical and is currently not accessible given the topography.

Mr. Bishop noted that he had researched the topic and he felt confident that the ANR plan as presented met the standards for exemption set forth by Section 81L of the subdivision control law. However he did note that any future changes to the site or use would trigger new zoning violations which would require relief from the Zoning Board of Appeals and / or the Planning Board.

Mr. Mark David, the Applicant, spoke to the Board noting that there are no plans to change the use or the footprint of either of the buildings at this time. These are all rental units. He is seeking to split the lots for future ease in selling the lots. Mr. Gamache added that an approved plan will allow the property owner to move forward with drafting and filing driveway and parking easements.

MOTION by Mr. Hassinger, **SECOND** by Mr. Robbins to endorse ANR 2012-7 and authorize the Town Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously 5-0.

3. STAFF REPORT

Mr. Bishop reported that the Attorney General's office had approved the various zoning changes approved at the October Town Meeting including the new Village Mixed Use District, as well as changes pertaining to signs and the Campus Development Overlay District.

Mr. Hassinger asked if there were any comments received from the AG's office as it relates to their approval. Mr. Bishop noted that only comments received pertained to agricultural uses with particular reference to the Village Mixed Use zone. The AG's office wanted to remind the Town about the state's rules regarding agricultural exemptions for any property over 5 acres and any property of two (2) or more acres generating more than \$1,000 per year in revenue per acre. Mr. Hassinger asked that staff distribute these comments to the Board.

5. MINUTES OF PREVIOUS MEETINGS

Mr. Hanna noted a correction on page 1 of the draft meeting minutes of November 5, 2012. He noted that he's listed as the Associate Member when, at the time of the meeting, he had already been appointed as a full member.

MOTION by Mr. Hassinger, **SECOND** by Mr. Robbins to approve the open session minutes of November 5, 2012 as drafted and revised. **MOTION** carried unanimously 5-0.

7. REPORTS FROM PLANNING BOARD REPRESENTATIVES ON TOWN COMMITTEES AND CMRPC

Mr. Hassinger noted that the Board will be hearing the application submitted by Dunkin Donuts in January 2013. The Applicant is seeking to reconfigure the onsite circulation patterns. Mr. Hassinger is concerned about potential traffic impacts. He noted that the Central Massachusetts Regional Planning Commission (CMRPC) had conducted a traffic study back in 2004 which analyzed the traffic patterns along this corridor. Mr. Hassinger requested that staff distribute this study to the Applicant as well as to members of the Board in advance of the public hearing.

Mr. Scully noted that there was no update regarding the Superpark Committee.

9A. MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2012-11) “GRAFTON HILL” – WESTERLY SIDE GRAFTON LLC (APPLICANT) – WESTERLY SIDE GRAFTON LLC, ROCKY ROAD REALTY TRUST, ROBERT B. MCINNIS & ABBY MCINNIS TRUST (OWNERS)

A representative from Scott Goddard Consulting was present to discuss the status of the project on behalf of the Applicant. At this time the Applicant is seeking to withdraw their application without prejudice. Work and review with the Conservation Commission continues. It was hoped that these issues would have been resolved prior to this Planning Board hearing continuance date but there are still a number of technical and procedural issues still outstanding with the Conservation Commission.

The consultant reviewed the technical issues relating to the permit extension act and how it impacted the ability to obtain an approved wetland delineation. Mr. Robbins asked about the previous problem of two separate delineations which was adversely impacting the applicant's ability to project the number of proposed lots in conventional and flexible plans. Art Allen, consultant for the Grafton Conservation Commission, and Goddard Consulting (representing the Applicant) have been working towards an agreed upon a delineation but the administrative issues have been causing major problems at this time.

Mr. Qualey asked about the future of the project. The intent is to resolve the outstanding issues with the Conservation Commission and to address the issues raised by Graves Engineering as part of the Planning Board review. Once complete, the Applicant intends to resubmit a new application.

Mr. Hassinger noted that the request to withdraw without prejudice was, in his opinion, the best course of action at this time and that it is beneficial to the applicant as well as the Town.

MOTION by Mr. Hassinger to close the public hearing, **SECOND** by Mr. Hanna. **MOTION** passed unanimously 5-0.

MOTION by Mr. Hassinger to grant the Applicant's request to withdraw the application without prejudice, **SECOND** by Mr. Hanna. **MOTION** passed unanimously 5-0.

9B. SPECIAL PERMIT (2013-13) GARY CUNNINGHAM / SUNSHINE SIGN CO., INC. (APPLICANT); MICHAEL AWDE / GRAFTON AUTO SERVICE, INC. (OWNER); SIGN RELIEF

Mr. Kevin Ledoux of Sunshine Sign and Mr. Michael Awde, Applicant, were present to discuss the application before the Board.

The Board and the Applicant reviewed the history of the signage for the site. The Applicant purchased the property from the previous owners of what was known as Fleming's Garage which had a sign in the proposed location for over 30 years. When Mr. Awde purchased the property he worked with the Building Inspector to replace the existing sign with a new sign which is smaller in size than the previous sign. The Applicant is now seeking to install a sign which matched the original Fleming's sign in size, height, envelope and location. The Applicant stated that the new sign will be mounted on the existing pole.

Mr. Hassinger noted that the proposed sign is different in dimension and height than the sign that currently exists on site. The Applicant stated that they wished to use the dimensions of the original Fleming's Garage sign on the existing pole. It was acknowledged that the current sign replaced the original Fleming's Garage sign when the Applicant purchased the property. The Applicant stated that he felt that the current sign was "temporary" in nature and that the original sign was the benchmark for submission. Mr. Hassinger disagreed stating that the current sign erected by the Applicant is the allowable framework for area and height. He further noted that the new sign had an increased area than did the existing sign. The Applicant stated that he had been working with the Building Inspector to determine which standard could be used and if the current sign was considered "temporary" in nature. Mr. Hassinger asked how long the current sign has been in place. The Applicant responded that it had been there for 18 months. The Applicant noted that the new sign was designed to meet the standards set forth by Mobil Oil who has certain requirements for their vendors.

The Board discussed the proposed height of the sign. The current sign is set below the maximum height of the pole (192 inches). The previous sign was mounted on top of the pole. The Applicant is seeking to mount the new sign above the pole as before thereby extending the overall height of the structure beyond just the pole. The Board was concerned about the additional height as it was beyond the envelope of the existing sign which increases its non-conformity. In addition the Board was concerned about how the sign was "flagged". Previous signs were pointed out towards the street. Given the limited setback the Board was concerned about vehicular safety and sight line interference. The Applicant noted that the proposed sign would be pointed ("flagged") towards the site thereby eliminating that potential hazard.

The Board and the Applicant discussed several issues pertaining to set back. The proposed sign does not meet the set back requirements. Mr. Hassinger questioned the placement of the sign noting the Applicant could move the sign further south along frontage which would allow for more set back options. The Applicant stated that the curve of the front lot line creates sight line issues. Moving the sign further south would place it next to a retaining wall. Moving the location further north along the frontage would not gain any additional set back opportunities given the site entrance configuration and the proximity of Harris Street.

Mr. Scully reviewed the site plan and noted that there was room for the sign to meet the set back requirements in the current location. Mr. Awde noted that moving the pole location further into the site would create circulation issues particularly for the fuel delivery trucks. The overhang of service pump area would be too close to the pole to allow for large truck access. Mr. Hassinger noted that the gas stations further south were able to meet set back requirements to which there was some disagreement from the Applicant. Mr. Hassinger suggested that the Board and the Applicant look at what the other stations have done regarding similar signage.

David Robbins noted that the application is shaped by a series of unusual circumstances. The proposed sign is slightly less non-conforming with regards to height and size than the original Fleming's Garage sign that had been on site for over 30 years. He further acknowledged the difficult sight line conditions created by the curvature of the street frontage and the reduced options for the Applicant to relocate the sign into another location with the current required set back. In his opinion these factors should be considered against the intent of the bylaw and the Board's authority to grant special permits for unique situations.

Mr. Hanna stated that the Applicant was looking to put up a sign that is less visually intrusive and in the same location of sign that had been on site for over thirty years. He noted that the Board should consider the needs of the business as well in their deliberations. Mr. Hanna stated that the Applicant has demonstrated hardship and extenuating circumstances. Mr. Scully disagreed and reviewed the need and purpose of setbacks and why the Board should carefully consider the implications for future requests.

The Board discussed the process by which the applicant was filed. Mr. Bishop noted that the Applicant had been working with the Building Inspector. The Applicant had received approval to remove the old Fleming's Garage sign and erect the current sign which met the requirements of the existing bylaw. However the new, proposed sign does violate the current bylaw with regards to setback which requires a special permit from the Planning Board. Mr. Awde stated that he was under the impression that the current sign was considered "temporary" and that the proposed sign should be allowed in height and size based on the old Fleming's Garage sign. Mr. Robbins noted the Board could benefit from a better understanding of how the Building Inspector had made his determination.

Mr. Robert Berger, Building Inspector, joined the meeting and spoke to the Board about his determination. He confirmed that the old Fleming's Garage sign had been non-conforming but once the Applicant removed the old sign it was considered abandoned. The standard for conformity is now based on the current sign and discussion of older sign is no longer valid.

Mr. Hassinger asked if the pole, which is over 30 years old, can structurally support the new signage and how that would pertain to creating a "grandfathered" location for future signage. Mr. Berger noted that the issue would be addressed during the installation process and that it was not a factor in determining setback relief.

Mr. William McCusker stated that he was in favor of the Board granting a special permit for this application. He noted that the Zoning Board of Appeals, of which he is a member, does not have the same flexibility when considering extenuating circumstances and hardship. He felt that the Applicant has demonstrated both and that the Board should exercise it's authority to grant the special permit.

The Board and the Applicant reviewed options for moving forward. It was agreed by several Board members that additional information would be helpful in making a determination. Items include a drawing showing fuel delivery truck circulation on the site as it relates to the location of the existing pole and a new setback location along with the service area overhang; a drawing that showed a new setback location with some landscaping / separation from the surrounding area to provide a physical barrier to protect the pole; confirmation on issues relating to the height of the sign (not to exceed 192 inches) and that all parts of the sign would be flagged towards the site. The Applicant agreed to and requested to have the hearing continued so that they could gather the information.

MOTION by Mr. Robbins to grant the Applicant's written request to continue the public hearing to Monday, January 14, 2013 at 7:30 p.m., **SECOND** by Mr. Hassinger. **MOTION** passed unanimously 5-0.

MOTION to adjourn the meeting was made by Mr. Robbins, **SECOND** by Mr. Hanna. **MOTION** carried unanimously. The meeting was adjourned at 9:27 p.m.

EXHIBITS

• **Action Item 1A: Approve 2013 Planning Board Yearly Meeting Schedule**

- Draft 2013 Meeting Schedule, 2 pages.
- Materials distributed by Normand Gamache of Guerriere & Halnon, representing the Applicant, distributed at the December 10, 2012 Planning Board meeting including the following:
 - Town of Grafton Property Map, showing parcel in question, 8 ½ x 11", black & white, no date, 1 page.
 - Aerial photograph of the site, 8 ½ x 11", color, no source, no date, 1 page.
 - USGS Topographical Map, 1953, showing site location, 8 ½ x 11", black & white, 1 page.
 - Detail of USGS Topographical Map, 1953, showing site location, 8 ½ x 11", black & white, 1 page.
 - Town of Assessor's Work Sheets, one page each showing individual structures currently on site, January 1, 1985, 2 pages.

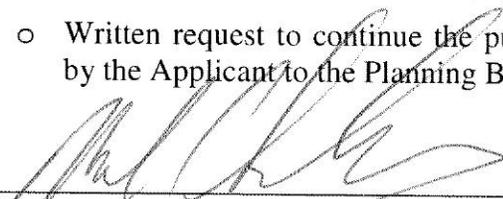
• **Item 5: Minutes of Previous Meeting**

- Grafton Planning Board, November 5, 2012, 6 pages.

• **Public Hearing 9A: Major Residential Special Permit (MSRP 2012-11) – "Grafton Hill" – Westerly Side Grafton LLC (Applicant) – Westerly Side Grafton LLC Realty Trust, Robert B. McInnis & Abby McInnis Trust (Owner) – Rocky Road**

- Correspondence from William J. Scully, P.E., Proposed Grafton Hill Development, Major vs. Minor Street Classification; dated November 7, 2012 and November 13, 2013; 2 pages.

- Notice of Public Hearing, Grafton Conservation Commission; Amended Order of Resource Area Delineation and an Amended Determination of Applicability filed by Lawrence Hill of Westerly Side Grafton, LLC; received December 5, 2012; 1 page.
- Correspondence from Brian M. McCann (Applicant) of Westerly side Grafton LLC; Grafton Hill, Grafton, Westerly Side Grafton LLC; dated December 4, 2012, received December 6, 2012; 1 page.
- **Public Hearing 9B:Special Permit (SP 2012-13) Gary Cunningham / Sunshine Sign Co., Inc. (Applicant); Michael Awde / Grafton Auto Service, Inc. (Owner) – Sign Relief**
 - Unbound application packet submitted by the Applicant, received November 8, 2012; including the following documents:
 - Application for Special Permit, received November 8, 2012; 1 page.
 - Application for Site Plan Approval, received November 8, 2012, 1 page.
 - Correspondence from Gary Cunningham / Sunshine Sign, dated November 7, 2012, received November 8, 2012; 1 page.
 - Project Sheet, 8 ½ “ x 11”, color; New Exterior Cabinet, Sign Type A – Gas Station Sign; dated September 28, 2012, received November 8, 2012, 1 page.
 - Site map with proposed sign location, 11” x 17”, black & white; no title, no date; received November 8, 2012, 1 page.
 - Written request to continue the public hearing for Special Permit SP2012-13 submitted by the Applicant to the Planning Board at the December 10, 2012 public hearing, 1 page.



Michael Scully, Clerk

