

**Minutes of Meeting  
Grafton Planning Board  
June 24, 2013**

RECEIVED-TOWN CLERK  
GRAFTON, MA. *ll*

JUL 16 3 49 PM '13

A regular meeting of the Grafton Planning Board was held on June 24, 2013 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman David Robbins, Vice-Chair Michael Scully, Clerk Edward Prisby, Robert Hassinger and Sargon Hanna. Staff present was Town Planner Stephen Bishop and Assistant Planner Ann Morgan.

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

**ACTION ITEM 1-A – APPROVAL NOT REQUIRED PLAN – (ANR 2013-4) JAMES KOSTINDEN – 58 POTTER HILL ROAD**

**MOTION** by Mr. Hanna, **SECOND** by Mr. Scully, to endorse the ANR and authorize the Town Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously 5 to 0.

**ACTION ITEM 1-B – REQUEST FOR PLANNING BOARD DETERMINATION & APPROVAL FOR A MINOR MODIFICATION TO SPECIAL PERMIT (SP 1993-10) MICHAEL V. & BRIAN MARINO, TRUSTEES, FIRST WESTBOROUGH REALTY TRUST, (D/B/A DUNKIN' DONUTS), 72 WORCESTER STREET**

Engineer William Hannigan of Hannigan Engineering, Inc. reviewed the proposed minor modification change to the recently granted Modified Special Permit SP 1993-10. Mr. Hannigan stated that due to the substantial expense of renovating the current buildings on the site, it has proven more cost effective in the long term to demolish the existing buildings and build new structures on the site. Mr. Hannigan noted that there will be no changes to the site layout and parking, but the footprint, including the floor plans and façade, of the two buildings will be changed, adding that the plans submitted reflect all of the changes. Mr. Hannigan remarked that the Dunkin' Donuts will continue to operate throughout the renovations by alternating buildings as the work progresses.

**MOTION** by Mr. Hanna, **SECOND** by Mr. Hassinger, to determine that the submitted request is a minor modification to Special Permit (SP 1993-10). **MOTION** carried unanimously 5 to 0.

**MOTION** by Mr. Hanna, **SECOND** by Mr. Prisby, to approve the minor modification as submitted. **MOTION** carried unanimously 5 to 0.

**DISCUSSION ITEM – ROBERT BERGER – PROPOSED ZONING CHANGES**

Chairman Robbins stated that the Board needs to complete the work started on the temporary signs, in order to prioritize and plan for public hearings leading up to submittal for the October Town Meeting.

Mr. Berger suggested that he have this conversation with the Board at least once a year to discuss the issues that arise associated with the Zoning By-Laws.

Mr. Berger stated that his first issue was with the definition of frontage, pointing out that it is not clear or safe the way it is currently stated; and that it should state that the building site shall be exclusively accessed through the legal frontage of the lot. The Board agreed that the definition could be reworded to reflect the changes needed to address the current issue with access.

Mr. Berger remarked that his next problem was with the Intensity Regulations, Section 3.3.3.4-Special Cases, stating a 10-foot buffer zone around property, which is not consistent with the Flexible development minimum setback of 7 feet. Mr. Berger noted this area of the Zoning By-Laws needs to be proportioned and adapted to the minimum dimensional requirements for lots within Flexible developments. The Board acknowledged that they need to discuss these issues related to specific sections of the By-Law and how they relate to requirements needing to be met.

Mr. Berger stated that also an issue was Zoning By-Law Section 4.4.2.5 Installation, #8 Signs & appurtenances structures to be constructed so that no portion of the sign (except pole) shall be located above 2 ½ feet or below 7 feet. Mr. Berger noted that the language is in direct conflict with Section 4.4.2.5 Installations, Sub-Section 8.

Mr. Berger also wished the Board's input on the Department of Energy Resources Model As-of-Right Zoning By-Law, which would allow the use of large-scale ground-mounted solar photovoltaic installations under 250 kw by right and over 250 kw with a special permit or site plan approval.

Chairman Robbins remarked that he thought it was an excellent idea to regularly review issues with the Zoning Enforcement Officer. Chairman Robbins pointed out that the Board needs to discuss this aspect of the by-law which it has struggled with more than once, and needs to adopt more flexible standards which work better than arbitrary measurements. Chairman Robbins added the Board should schedule an hour or two to discuss these changes.

Mr. Hassinger expressed concerns and stated he has issues with the proposals, specifically with the by-right granting of solar farms in Grafton.

Chairman Robbins received unanimous consent to defer additional discussion until after the scheduled public hearings.

**SPECIAL PERMIT (SP2013-4) JOHN DEVILLARS, BLUEWAVE CAPITAL, LLC, (APPLICANT) – PATRICIA K. KNOWLTON, TRUSTEE – KNOWLTON FARMS NOMINEE TRUST, (OWNER) – SOLAR ENERGY GENERATING FACILITY – 43 ESTABROOK AVENUE**

Chairman Robbins opened the public hearing. Present for the meeting were Richard Waitt of Meridian Associates and Trevor Hardy of BlueWave Capital, LLC.

Mr. Waitt stated they had requested a continuance at their last hearing in order to attend a hearing before the Conservation Commission, which was closed with a unanimous vote to approve the project with two minor conditions.

Mr. Bishop noted that the review memo from Graves Engineering, Inc. relating to storm water issues, was concurrent with the Conservation Commission review and had acknowledged that all concerns had been addressed.

Mr. Hardy began by offering his help to the Board with any zoning proposal discussions they decide to schedule. Mr. Hardy also confirmed they had revised the plan to reflect the widening of an existing 10-foot access roadway to 18 feet on the eastern side of the field as requested by the Fire Department. Mr. Bishop noted that the Fire Department has also requested that it is the applicant's responsibility for maintenance of the roadway and access.

Mr. Scully asked about the screening & buffering, stating the Board wished to be consistent with requirements of the projects that have been previously permitted.

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

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Hanna, to direct Staff to draft a decision taking into consideration all of the information received and the findings and conditions discussed. **MOTION** carried unanimously 5 to 0.

**DISCUSSION:** Mr. Bishop questioned about the decommissioning provisions for the project. Mr. Hanna noted the Board had discussed at the last hearing that the provisions should be addressed in the conditions at the last hearing. Mr. Bishop added that a determination of cost including inflation for a surety bond to cover the abandoning & decommissioning expenses can be written into the conditions of the decision.

Mr. Scully stated that in the original submission there was discussion about providing additional screening in the winter months, and asked if this was still planned. Mr. Hardy responded they will provide any additional screening that is required.

**MOTION** carried unanimously 5 to 0.

**MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2013-2) "GRAFTON HILL" SUBDIVISION – WESTERLY SIDE GRAFTON LLC (APPLICANT) – WESTERLY SIDE GRAFTON LLC, ROCKY ROAD REALTY TRUST, ROBERT B. MCINNIS & ABBY MCINNIS TRUST (OWNERS)**

Chairman Robbins opened the public hearing. Present for the meeting were Attorney Joseph Antonellis representing Westerly Side Grafton LLC and Brian McCann of Westerly Side Grafton LLC.

Attorney Antonellis informed the Board that they had met with the Conservation Commission on two separate occasions to request the possibility of a letter to the Planning Board stating that the crossing could be approved. Attorney Antonellis added that they had reviewed the wetland crossings, the types of species present in the wetlands, properly calculated the disturbed area with regard to the upland to see if the project could be built with the crossings & culvert proposed. The Conservation Commission stated that it would provide the required letter. Attorney Antonellis also referenced a Land Court Case in Sandwich, MA which showed a

specific finding for a similar project that could be approved. Attorney Antonellis added that they are working with the Sewer Department who had directed them to explore other options regarding the plans for a pump station; filed a waiver regarding a dead end street longer than five hundred feet; did not feel a waiver for the roadway intersections applied to the project; and continue to work with the other Town Departments in making an effort to bring the flexible plan to fruition.

Mr. Prisby asked for specifics regarding the Land Court Case referenced.

Mr. Hassinger expressed concerns that the applicant's interpretation of ZBL Section 5.3.14 goes way beyond the intent of the language when it was adopted. Mr. Hassinger added that the past spirit of what has gone before the Board required the applicant to show the project being considered is a strong benefit to the Town.

Attorney Antonellis requested the Board grant his client a public hearing continuance to July 22, 2013.

**MOTION** by Mr. Hassinger, **SECOND** by Mr. Scully, to grant the applicant's written request to continue the public hearing to July 22, 2013 at 7:30 p.m. **MOTION** carried unanimously 5 to 0.

### **MINUTES OF PREVIOUS MEETINGS**

Mr. Hassinger requested Staff check with CMRPC if there a fourth person is supposed to be appointed by the Planning Board as a second alternate.

**MOTION** by Mr. Hanna, **SECOND** by Mr. Scully, to approve the open session minutes of the June 10, 2013 Planning Board meeting with the corrections noted. **MOTION** carried unanimously 5 to 0.

### **BILLS**

The bills were circulated and signed.

### **STAFF REPORT**

Mr. Bishop stated he would like to acknowledge the good work of the Streetscape Committee; Ann Morgan for great job in organizing the dedication ceremony and concert on Flag Day, June 14; and Bill Robidoux for his efforts in filming the event for Grafton TV. Mr. Bishop noted the park has been a great community asset for South Grafton with two more concerts scheduled, one for the end of July and one in September; there has been an increased interest in the use of the park; and the purchase of Commemorative Bricks will be offered again after Labor Day.

Mr. Bishop announced the July 8<sup>th</sup> meeting will be a joint meeting with the Board of Selectmen with regard to the Housing Production Plan with Karen Sunnaborg in connection with the Affordable Housing Trust. Mr. Bishop encouraged the Board to familiarize themselves with the materials provided in their mailboxes regarding important information for the Town.

**REPORTS FROM PLANNING BOARD REPRESENTATIVES ON TOWN COMMITTEES AND CMRPC**

Mr. Hassinger informed all that the annual dinner meeting for CMRPC, celebrating their 50<sup>th</sup> anniversary, was held in Barre with many old familiar faces present.

Chairman Robbins received unanimous consent to return to the Discussion Item of Robert Berger's Proposed Zoning changes.

Chairman Robbins asked the Board if they had any other items to place on the table for the Zoning By-Laws in addition to Mr. Berger's proposals. Chairman Robbins noted that a major part of their discussion had been on what the Board wants the policy to be for the installation of temporary signs.

Mr. Berger expressed concerns for resolving his prioritized list of zoning changes, specifically working on the definition of frontage. Mr. Hassinger questioned if the red line changes proposed by Mr. Berger for the definition of frontage is actually language the Board wants to approve. Mr. Bishop commented that the idea refers back to legal frontage, adding the zoning regulations should be set for both frontage and adequate access to a lot, which is a good basis for making the definition language change. Mr. Hassinger stated the change would have to have serious consideration for bringing it forward, with someone submitting an article which would require a public hearing to be scheduled to consider the actual language change. Mr. Berger noted that ZBL Section 3.3.3.4 language needed to be tweaked to encompass the flexible development, adding he did not think it applied from a practical perspective as stated with the 10-foot setback. Mr. Berger discussed with the Board the possibility of submitting an article and if it would be supported by the Planning Board.

The Board discussed ZBL Section 4.4.2.5 Installation (signs) regarding sign construction restrictions of no portion of the sign (except pole) shall be located above 2 ½ feet or below 7 feet. The Board questioned whether this was a measurement or judgment exercise for regulating the signs and further into the discussion of what exactly is the description of a pole, noting there is a vast difference in a simple pole versus more dimensional posts. After much discussion, the Board generally agreed that there is a need to refine the definition of the sign and pole, adding that input from someone in the sign business is needed to accomplish this goal. Mr. Berger suggested the Board add illustrations in the Zoning By-Law to help with the clarification of the definitions, specifically with regard to the poles.

Mr. Berger also asked the Board's input on the "Green Community" Model As-of-Right Zoning By-Law allowing the use of large scale ground-mounted Solar Photovoltaic installations. Mr. Hassinger was interested in what benefits the Town would be receiving if Town Meeting voted to approve it, and noted that he would have to be shown some really good reasons to adopt the Green Community program. Mr. Bishop remarked that there are funds available through the program but it does include the Stretch Code. Mr. Berger pointed out that the Stretch Code was going away due to too many problems and would not be a requirement. Chairman Robbins commented that he could see the installations being applied as-of-right to particular properties. Mr. Prisby expressed concerns that there needs to be a public policy and a need for the Green Community with as-of right for the Town. The Board discussed the Solar Farm Model By-Law,

aside from the as-of-right consideration and questioned if it could be incorporated into the Zoning By-Laws.

**MOTION** by Mr. Scully, **SECOND** by Mr. Hassinger, to adjourn the meeting. **MOTION** carried unanimously 5 to 0.

The meeting was adjourned at 9:59 p.m.

## **EXHIBITS**

- **Action Item 1A: Approval Not Required Plan – (ANR 2013-4) James Kostinden – 58 Potter Hill Road**
  - Application for Endorsement of Plan Believed Not to Require Approval (ANR), James Kostinden, Owner of Record and Applicant; dated and received June 18, 2013; 2 pages.
  - Plan, 24" x 36", ANR Plan Located at 58 Potter Hill Road, Grafton, MA; prepared by Land Planning, Inc.; dated June 3, 2013; received June 18, 2013; 1 page.
- **Action Item 1B: Request for Planning Board determination & approval for a Minor Modification to Special Permit (SP 1993-10) Michael V. & Brian Marino, Trustees, First Westborough Realty Trust, (d/b/a/ Dunkin' Donuts), 72 Worcester Street**
  - Correspondence from Hannigan Engineering, Special Permit (93-10) – Minor Change, Site Plan Review – Dunkin' Donuts, 72 Worcester Street, Grafton, MA; dated June 6, 2013, received June 7, 2013; 1 page.
  - Plan, Dunkin' Donuts, 72 Worcester Street – Proposed Main Building Floor Plan, Proposed Annex Building Floor Plan; prepared by Aharonian & Associates Architects; 24" x 36", color; 1 page.
  - Plan, Site Grading Plan in Grafton, Massachusetts; prepared by Hannigan Engineering, Inc.; dated January 14, 2013; Revision #3 dated May 21, 2013; received June 7, 2013; 24" x 26", black & white; 1 page.
- **Discussion Item 1A: Robert Berger – Proposed Zoning changes**
  - Draft Proposed Zoning By-law changes and new language, Planning Board Meeting June 24, 2013; submitted by Robert Berger, Building Inspector and Zoning Enforcement Officer; received June 20, 2013; 11 pages.
- **Item 5: Minutes of Previous Meeting**
  - Open session meeting minutes of June 10, 2013, 8 pages.

aside from the as-of-right consideration and questioned if it could be incorporated into the Zoning By-Laws.

**MOTION** by Mr. Scully, **SECOND** by Mr. Hassinger, to adjourn the meeting. **MOTION** carried unanimously 5 to 0.

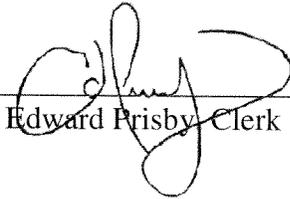
The meeting was adjourned at 9:59 p.m.

## **EXHIBITS**

- **Action Item 1A: Approval Not Required Plan – (ANR 2013-4) James Kostinden – 58 Potter Hill Road**
  - Application for Endorsement of Plan Believed Not to Require Approval (ANR), James Kostinden, Owner of Record and Applicant; dated and received June 18, 2013; 2 pages.
  - Plan, 24" x 36", ANR Plan Located at 58 Potter Hill Road, Grafton, MA; prepared by Land Planning, Inc.; dated June 3, 2013; received June 18, 2013; 1 page.
  
- **Action Item 1B: Request for Planning Board determination & approval for a Minor Modification to Special Permit (SP 1993-10) Michael V. & Brian Marino, Trustees, First Westborough Realty Trust, (d/b/a/ Dunkin' Donuts), 72 Worcester Street**
  - Correspondence from Hannigan Engineering, Special Permit (93-10) – Minor Change, Site Plan Review – Dunkin' Donuts, 72 Worcester Street, Grafton, MA; dated June 6, 2013, received June 7, 2013; 1 page.
  - Plan, Dunkin' Donuts, 72 Worcester Street – Proposed Main Building Floor Plan, Proposed Annex Building Floor Plan; prepared by Aharonian & Associates Architects; 24" x 36", color; 1 page.
  - Plan, Site Grading Plan in Grafton, Massachusetts; prepared by Hannigan Engineering, Inc.; dated January 14, 2013; Revision #3 dated May 21, 2013; received June 7, 2013; 24" x 26", black & white; 1 page.
  
- **Discussion Item 1A: Robert Berger – Proposed Zoning changes**
  - Draft Proposed Zoning By-law changes and new language, Planning Board Meeting June 24, 2013; submitted by Robert Berger, Building Inspector and Zoning Enforcement Officer; received June 20, 2013; 11 pages.
  
- **Item 5: Minutes of Previous Meeting**
  - Open session meeting minutes of June 10, 2013, 8 pages.



- **Public Hearing 9A: Special Permit (SP 2013-4) John DeVillars, BlueWave Capital, LLC, (Applicant) – Patricia K. Knowlton, Trustee – Knowlton Farms Nominee Trust, (Owner)**
  - Request for Waivers; BlueWave Capital – Applicant; Knowlton Farms, 43 Estabrook Avenue; Solar Energy Generating Facility; dated and received at the June 10, 2013 Public Hearing; 1 page.
  
- **Public Hearing 9B: Major Residential Special Permit (MRSP 2013-2) “Grafton Hill” – Westerly Side Grafton LLC (Applicant) – Westerly Side Grafton LLC, Rocky Road Realty Trust, Robert B. McInnis & Abby McInnis Trust (Owners)**
  - Correspondence from Connorstone Engineering, Inc., Grafton Hill Supplemental Waiver Request, dated June 24, 2013; submitted by the Applicant during the June 24, 2013 public hearing; 2 pages.
  - Land Court Decision, Brewton v. Town of Sandwich Planning Board, 17 LCR 190, MISC 307230, March 13, 2009; Decision and Judgment; submitted by the Applicant at the June 24, 2013 public hearing; 7 pages.



---

Edward Prisby, Clerk



...