

**DECISION
GRAFTON PLANNING BOARD**

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**MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2013-9)
& PRELIMINARY PLAN APPROVAL**

May 22 4 27 PM '14

**“Gristmill Village” SUBDIVISION
Off 4 Grist Mill Road & Pleasant Street, Grafton, MA**

**Casa Building & Developers Corp. (Applicant)
Maintainis Realty Trust and William J. & Mary J. Maintainis & Stephen A. Wilson (Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Casa Builders & Developers Corp. of P.O. Box 1205, Westborough, MA (hereinafter the Applicant), for a Major Residential Special Permit (MRSP 2013-9) / Preliminary Plan Approval for a Conventional Development or Flexible Development residential subdivision on property located at 4 Grist Mill Road and 102 Pleasant Street, and shown as: Grafton Assessor's Map 97, Lot 22A and Map 98, Lot 2 (hereinafter the Site), and owned by Maintainis Realty Trust and William J. & Mary J. Maintainis & Stephen A. Wilson by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 43189, Page 162 and Book 29119, Page 38.

I. BACKGROUND

The above referenced Application for Special Permit and Preliminary Plan Approval (hereinafter Application) was submitted on October 28, 2013. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 20 and November 27, 2013, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on December 9, 2013 and continued, at the request of the applicant with concurrence of the Planning Board, to the following meetings: January 13, January 27, February 24, March 10, March 24, April 14 and April 28, 2014, at which the Board closed the public hearing.

The following Board members were present throughout the public hearing: Chairman David Robbins, Vice Chairman Michael Scully, Clerk Edward Prisby, and Members Robert Hassinger and Sargon Hanna. Vice Chairman Michael Scully was absent at the December 9, 2013 hearing but submitted a Mullin Certification verifying that he watched a copy of the taped hearing thus making him eligible to vote at the time of Decision. Clerk Edward Prisby was absent at the April 14, 2014 hearing but submitted a Mullin Certification verifying that he watched a copy of the taped hearing thus making him eligible to vote at the time of Decision. Associate Member Mathew Often missed two meetings (December 9, 2013 and April 14, 2014) thus making him ineligible to participate in the voting on the Decision. At the hearings, John Grenier of J.M. Grenier Associates, Inc., represented the Applicant and presented the proposal. At the public hearing, all those wishing to speak to the petition were heard. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

II. PROJECT HISTORY AND OVERVIEW

The proposed subdivision site contains 20.0 acres of land located on the west side of Pleasant Street and the north side of Grist Mill Road and is comprised of two separate parcels identified on the Town of Grafton Assessor's Map as follows: Map 97 Parcel 22A and a portion of Map 98 Parcel 2. The subject property

currently contains a mixture of field and woodland, with 1.6 acres of wetlands located on the northern portion of the property. The property has access to the Grafton Water District system and Town Sewer. The site is surrounded by well established single family residential neighborhoods along Pleasant Street, Grist Mill Road and Barbara Jean Street.

In March 2006 a development proposal for a 100 unit Comprehensive Permit (40B) was submitted to the Zoning Board of Appeals (ZBA). A number of constraints, site and financial, were identified by the ZBA and, as a result, the Applicant opted to withdraw the applicant in March 2007.

In October 2013 a new application for a Major Residential Special Permit and Preliminary Plan Approval was submitted to the Planning Board. Both a conventional and flexible layout were submitted for review over the course of eight nights of public hearings. A number of residents and abutters from Pleasant Street, Grist Mill Road and Barbara Jean Street were in attendance and participated in the public hearing process.

The original submission showed a development that would have access points from two locations: one off of Pleasant Street and another off of Grist Mill Road. The number of proposed lots included a total of 15 lots utilizing a Conventional Development Plan and 18 lots with the Flexible Development Plan. Access to the property would require a waiver for an offset to adjacent roadways of less than the 600 feet required by the Town’s Subdivision Rules and Regulations. During the review process the Planning Board and the public raised concerns about vehicular and pedestrian safety associated with the access off of Grist Mill Road and the intersection of Grist Mill Road and Pleasant Street. A second waiver was discussed. The original roadway layout would have required a waiver from the Subdivision Rules to allow cuts of greater than 6 feet which would be necessary to construct the proposed roadway.

The Applicant took the Board’s and public comments into consideration and submitted a revised proposal. The revised layout contains a total of 10 lots in the Conventional Development Plan and 11 lots in the Flexible Development Plan. Access off of Grist Mill Road was eliminated and the roadway design was modified to eliminate the need for cuts greater than 6 feet within the right of way. Again the issue regarding sight lines and public safety at the Grist Mill Road / Pleasant Street intersection was discussed as the combination for intersection geometry and a fence were noted to be in the right of way which create a difficult and hazardous line of sight at the intersection. The Applicant is also proposing to remove fencing at the intersection of Pleasant Street and Grist Mill Road and provide an easement along the frontage of 102 Pleasant Street to allow the Town to maintain sight lines. The layout for both development options contain the same roadway layout that includes a dead end roadway length of 599 feet which will require a waiver from the Town’s Subdivision Rules and Regulations. Access to the property from Pleasant Street would require an additional waiver for an offset to adjacent intersections of less than the 600 feet.

Pursuant to Section 5.3.9 of the Grafton Zoning By-Law (ZBL) the Board voted to recommend the Conventional Development Plan by a majority vote of 3-1 (Scully – AYE; Hassinger – AYE; Robbins – AYE; Hanna – NAY) on April 14, 2014 which was prior to the close of the public hearing. In correspondence dated April 28, 2014 and presented to the Planning Board during the public hearing of the same date, the Applicant declared their intention to pursue the Conventional Development Plan pursuant to the same aforementioned section of the ZBL. The public hearing was closed on April 28, 2014.

III. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1. Unbound application packet submitted by J. M. Grenier Associates, Inc., October 28, 2013; including the following materials:
- Application for Special Permit, dated October 9, 2013; 1 page.
 - Certificate of Good Standing, signed by the Treasurer / Collector’s Office on October 15, 2013; 1 page.
 - Certified abutters list, dated September 10, 2013, 11” x 17”, 2 pages.
 - Correspondence from J.M. Greiner Associates, Inc.; Major Residential Development Special Permit, “Gristmill Village”, Map 97, Parcel 22A & Map 98 Parcel 2, Grafton Massachusetts; dated October 10, 2013; 4 pages.
 - Attachment A: Waiver Request, 1 page.
 - Land Use Plan, “Gristmill Village” Major Residential Development, Conventional Development Plan; 11” x 17”, black & white; dated October 10, 2013; 1 page.
 - Land Use Plan, “Gristmill Village” Major Residential Development, Flexible Development Plan; 11” x 17”, black & white; dated October 10, 2013; 1 page.
 - Plan Set; “Gristmill Village” Major Residential Development, Conventional Development Plan; 11” x 17” and 24” x 36”, black & white; dated October 10, 2013; 12 sheets; includes the following:
 1. Cover Sheet (1 sheet)
 2. Existing Conditions Survey Plans (2 sheets)
 3. Layout Plans (2 sheets)
 4. Grading and Drainage Plans (2 sheets)
 5. Utility Plans (2 sheets)
 6. Roadway Profile Plans (3 sheets)
 - Plan Set; “Gristmill Village” Major Residential Development, Flexible Development Plan; 11” x 17” and 24” x 36”, black & white; dated October 10, 2013; 11 sheets; includes the following:
 1. Cover Sheet (1 sheet)
 2. Existing Conditions Survey Plans (2 sheets)
 3. Layout Plans (2 sheets)
 4. Grading and Drainage Plans (2 sheets)
 5. Utility Plans (2 sheets)
 6. Roadway Profile Plans (2 sheets)
- EXHIBIT 2. Project Review Memorandum, Building Inspector, received October 30, 2013; 1 page.
- EXHIBIT 3. Project Review Memorandum, Board of Health, received October 31, 2013; 1 page.

- EXHIBIT 4. Notice of Public Hearing, Grafton Conservation Commission, Abbreviated Notice of resource Area Delineation (ANRAD), received November 4, 2013, 1 page.
- EXHIBIT 5. Project Review Memorandum, Sewer Department, received November 13, 2013; 1 page.
- EXHIBIT 6. Project Review Memorandum, Zoning Board of Appeals, received November 27, 2013; 1 page.
- EXHIBIT 7. Project Review Memorandum, Board of Assessors, received December 2, 2013; 1 page.
- EXHIBIT 8. Correspondence from Graves Engineering; Gristmill Village preliminary Plan and MRDSP Review; dated and received December 5, 2013; 4 pages.
- EXHIBIT 9. Project Review Memorandum, Police Department, received December 6, 2013; 2 pages.
- EXHIBIT 10. Public Hearing Sign In Sheet, December 9, 2013, 1 page.
- EXHIBIT 11. Request for Public Hearing Continuance to January 13, 2014; signed by the Applicant, dated and received at the December 9, 2013 public hearing, 1 page.
- EXHIBIT 12. Memorandum from the Grafton Fire Department, Minimum Requirements for Gristmill Village, dated December 10, 2013, received December 11, 2013; 2 pages.
- EXHIBIT 13. Correspondence to the Planning Board from Thomas Gwozdowski of 127 Keith Hill Road, South Grafton, MA; dated and received January 6, 2014; 4 pages.
- EXHIBIT 14. Traffic Impact Study for Proposed “Gristmill Village” Major Residential Development Flexible Development Plan, Grafton Massachusetts; prepared by AK Associates; dated January 2014; received January 10, 2014; 40 pages.
- EXHIBIT 15. Email correspondence from Graves Engineering; Draft Traffic Report – Gristmill Village; received January 10, 2014; 2 pages.
- EXHIBIT 16. Mullin Rule Certification for the December 9, 2013 public hearing, signed by Mat Often on January 13, 2013; 1 page.
- EXHIBIT 17. Mullin Rule Certification for the December 9, 2013 public hearing, signed by Michael Scully on January 13, 2013; 1 page.
- EXHIBIT 18. Public Hearing Sign In Sheet for the January 13, 2014 meeting; 1 page.
- EXHIBIT 19. Request for Public Hearing Continuance to January 27, 2014; signed by the Applicant, dated and received at the January 13, 2014 public hearing, 1 page.
- EXHIBIT 20. Project Review Memorandum, Conservation Commission, includes copy of Order of Resource Area Delineation for 4 Grist Mill Road and 102 Pleasant Street; received January 15, 2014; 5 pages.
- EXHIBIT 21. Public Hearing Sign In Sheet for the January 27, 2014 meeting; 1 page.
- EXHIBIT 22. Request for Public Hearing Continuance to February 24, 2014; signed by the Applicant, dated and received at the January 27, 2014 public hearing, 1 page.
- EXHIBIT 23. Public Hearing Sign In Sheet for the February 24, 2014 meeting; 1 page.
- EXHIBIT 24. Request for Public Hearing Continuance to March 10, 2014; signed by the Applicant, dated and received at the February 24, 2014 public hearing, 1 page.

- EXHIBIT 25. Public Hearing Sign In Sheet for the March 10, 2014 meeting; 1 page.
- EXHIBIT 26. Request for Public Hearing Continuance to March 24, 2014; signed by the Applicant, dated and received at the March 10, 2014 public hearing, 1 page.
- EXHIBIT 27. Correspondence from J. M. Grenier Associates, Inc., Major Residential Development Special Permit, “Gristmill Village”; dated March 24, 2014, submitted by the Applicant during the March 24, 2014 public hearing; 6 pages.
- EXHIBIT 28. Public Hearing Sign In Sheet for the March 24, 2014 meeting; 1 page.
- EXHIBIT 29. Request for Public Hearing Continuance to April 14, 2014; signed by the Applicant, dated and received at the March 24, 2014 public hearing, 1 page.
- EXHIBIT 30. Correspondence from J. M. Grenier Associates, Inc., Major Residential Development Special Permit, “Gristmill Village”; includes attachment – “Gristmill Village” Conceptual Layout Plan, prepared by J. M. Grenier Associates, Inc.; dated and received February 21, 2014; 2 pages.
- EXHIBIT 31. Plan set, 24” x 36”, black & white; “Gristmill Village” Major Residential Development, Flexible Development Plan, Layout and Materials Plan; prepared by J. M. Grenier Associates, Inc.; dated October 13, 2013; received March 4, 2014; 2 sheets.
- EXHIBIT 32. Email correspondence from Chris Ryan at CMRPC, Gristmill Village Comments, dated February 19, 2014; distributed March 3, 2014; 1 page.
- EXHIBIT 33. Correspondence from J. M. Grenier Associates, Inc., Major Residential Development Special Permit, “Gristmill Village”; dated March 12, 2014, received March 13, 2014; 1 page plus the following attachments:
- Plan sets, 11” x 17” & 14” x 36”, black & white; “Gristmill Village” Major Residential Development, Conventional Development Plan; prepared by J.M. Grenier Associates, Inc., dated October 10, 2013, revised March 12, 2014; received March 13, 2014; 9 sheets as follows:
 - o Cover Sheet (1 sheet)
 - o Existing Conditions Survey Plan (2 sheets)
 - o Layout and Materials Plan (2 sheets)
 - o Grading and Drainage Plan (1 sheet)
 - o Utility Plan (1 sheet)
 - o Roadway Profile Plans (2 sheets)
 - Plan sets, 11” x 17” & 24” x 36”; black & white; “Gristmill Village” Major Residential Development, Flexible Development Plan; prepared by J.M. Grenier Associates, Inc., dated October 10, 2013, revised March 12, 2014; received March 13, 2014; 2 sheets as follows:
 - o Layout and Materials Plan (2 sheets)
- EXHIBIT 34. Correspondence from Graves Engineering, Gristmill Village Preliminary Plan and MRDSP Review; dated and received March 20, 2014; 6 pages.

- EXHIBIT 35. Email correspondence from Town Planner to Graves Engineering, Gristmill Village Preliminary Plan Review; dated and received March 20, 2014; 1 page.
- EXHIBIT 36. Correspondence from Graves Engineering, Gristmill Village Preliminary Plan and MRDSP Review; dated and received April 10, 2014; 4 pages.
- EXHIBIT 37. Project submission materials, submitted by J. M. Grenier & Associates, Inc., received on April 11, 2014; includes the following:
- Traffic Impact Study for Proposed Revised Gristmill Village Major Residential Development, Flexible Development Plan, Grafton, Massachusetts; prepared by AK Associates; dated April 2014; 38 pages.
 - Environmental and Community Impact Analysis, “Gristmill Village”, Grafton, Massachusetts; prepared by J.M. Grenier Associates, Inc.; dated April 10, 2014; 8 pages.
 - Plan set, 11” x 24”, black & white; “Gristmill Village” Major Residential Development, Flexible Development Plan; prepared by J.M. Grenier Associates, Inc., dated October 10, 2013, revised March 24, 2014; 3 sheets as follows:
 - o Land Use Plan
 - o Layout and Materials Plan (2 sheets)
 - Plan set, 11” x 17”, black & white; Gristmill Village, Major Residential Development, Conventional Development Plan; prepared by J.M. Grenier Associates, Inc., dated October 10, 2013, revised March 24, 2014; 9 sheets as follows:
 - o Cover Sheet (1 sheet)
 - o Existing Conditions Survey Plan (2 sheets)
 - o Layout and Materials Plan (2 sheets)
 - o Grading and Drainage Plan (1 sheet)
 - o Utility Plan (1 sheet)
 - o Roadway Profile Plans (2 sheets)
- EXHIBIT 38. Memorandum from Town Planner, Staff Comments for the April 14th Planning Board Meeting, Special Permit (MRSP 2013-9) Gristmill Village; dated April 11, 2014; 4 pages.
- EXHIBIT 39. Public Hearing Sign In Sheet for the April 14, 2014 meeting; 1 page.
- EXHIBIT 40. Request for Public Hearing Continuance to April 28, 2014; signed by the Applicant, dated and received at the April 14, 2014 public hearing, 1 page.
- EXHIBIT 41. Correspondence from J. M. Grenier Associates, Inc., Major Residential Development Special Permit, “Gristmill Village”; dated and received April 25, 2014; 2 pages.
- EXHIBIT 42. Mullin Rule Certification for the April 14, 2014 public hearing, signed by Edward Prisby on April 28, 2014; 1 page.
- EXHIBIT 43. Public Hearing Sign In Sheet for the April 28, 2014 meeting; 1 page.
- EXHIBIT 44. Correspondence from J. M. Grenier Associates, Inc., Major Residential Development Special Permit, “Gristmill Village”; dated and received at the April 28, 2014 public hearing; 1 page.

IV. WAIVERS

W1. At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Prisby) voted 5-0 in favor to **GRANT** (by roll call vote: Scully – AYE; Hassinger – AYE; Robbins – AYE, Prisby – AYE, Hanna – AYE) the Applicant’s request for a waiver from the following Section of the *Rules and Regulations* (as specified below) for the reason(s) indicated below:

Section 4.1.3.6 – requirement that proposed streets intersect adjacent streets at a minimum interval of six hundred feet (600') (*This waiver is granted for the most recently submitted Conventional Development Plan, EXHIBIT 37, which depicts the intersections of the proposed subdivision road and Pleasant Street approximately 450 feet from Grist Mill Road, 530 feet from Powerline Drive, and 520 feet from Sunrise Avenue.*)

In discussion of the waiver request, the Board reviewed the language of Massachusetts General Law Chapter 41, Section 81R:

Waiver of Strict Compliance with Rules and Regulations: A planning board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations.....

Discussion centered on the need to balance concerns for public interest and adequately identifying such interests in light of this particular project. The Board noted that the acquisition of the sight easement as discussed in Finding #F14 and referenced in Condition #C7 of this Decision was of considerable public interest as it addresses a long term vehicular safety issue at the intersection of Grist Mill Road and Pleasant Street. In addition, the Board discussed the potential for the site to be developed as a more intensive residential use under a 40B Comprehensive Permit as was evidenced by the previously withdrawn application for a 100 unit development in 2006. The Board recognized intensive residential development would further exacerbate public safety issues currently in existence and that this would be a detriment to public interest.

In voting this waiver request, the Board notes that it is considered, in part, within the context of the Applicant’s revised Conventional Development Plan that eliminated the Grist Mill Road access point due to significant public safety concerns. In balancing the Board’s concerns and recommendation to eliminate the more problematic access point off Grist Mill Road, to secure a sight easement and the potential for a more intensive residential development on the site, the Applicant has met the standard for waiver requests in MGL Chapter 41A, Section 81R and also within the context of the Town’s Zoning By-Law and the Subdivision Rules and Regulations. The Board notes that the granting of this waiver is based solely on consideration of the Findings stated within this Decision and the characteristics and conditions specific to this Application and proposed subdivision. The Board further notes that the granting of this waiver request shall not be construed as precedent for future

requests by any Applicant as all such requests will be reviewed and considered based on the characteristics and conditions specific to each application.

- W2. At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Prisby) voted 4-1 in favor to **DENY** (by roll call vote: Scully – AYE; Hassinger – AYE; Robbins – AYE, Prisby – NAY, Hanna – AYE) the Applicant’s request for a waiver from the following Section of the *Rules and Regulations* (as specified below) for the reason(s) indicated below:

Section 4.1.6.3 – requirement that dead end streets and their extensions or segments, if any, shall not be shorter than one hundred fifty feet (150’), nor longer than five hundred feet (500’). *(This waiver is not granted for the most recently submitted Conventional Development Plan, EXHIBIT 37. The road is in a “hammerhead” configuration consisting of the main subdivision roadway with two separate segments radiating from the end. Measurement of the roadway from each segment out to the main subdivision roadway and then out to Pleasant Street each measure five hundred ninety nine feet (599’).*

In voting this waiver request, the Board notes that it is considered, in part, within the context of the Applicant’s revised Conventional Development Plan, which eliminated the second access point off of Grist Mill Road as a major public safety concern. As a result, the Applicant revised the plan to show a single access road off of Pleasant Street. The Board notes that a project review request was submitted to all the aforementioned departments and comments were received and entered into the record (see EXHIBIT listing).

In discussion of this waiver request the Board reviewed language in Section 4.1.6.4 of the Subdivision Rules and Regulations that state:

In the unusual event that topography or other site conditions justify a dead end street longer than five hundred feet (500’), and where there is a substantial public or conservation benefit to be achieved, the Planning Board may relax these standards (Section 4.1.6 – Dead End Streets).

The Board discussed the waiver request in light of information provided by the Applicant. It was found that the Applicant did not provide enough information about the length and configuration of the proposed roadway in relation to the context of topographical and other site features. The Board noted that the Applicant had failed to adequately demonstrate that alternative layouts could be developed to justify the waiver request. The Board further noted that the Applicant would have the opportunity to present alternative layouts during the definitive plan phase and that a new waiver request could be submitted. The Board finds that the Applicant has not demonstrated a good faith effort to address the Board’s concerns regarding this waiver request in the context of the Town’s Zoning By-Law and the Subdivision Rules and Regulations.

V. FINDINGS

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Hassinger) voted 5-0 in favor to make the following Findings:

- F1.) That this Application is for a Major Residential Development and Preliminary Plan Approval, as defined in Section 2.1 of the Grafton Zoning By-law (hereinafter ZBL).
- F2.) That the subject Site is located in a Low Density Residential (R-40) zoning district, as shown on the Plans identified within the EXHIBITS of this Decision. Small portions of the site are located within the Water Supply Protection Overlay District.
- F3.) That Major Residential Developments are permitted in a R-40 zoning district only upon the issuance of a Special Permit from the Planning Board in accordance with Sections 5.3 and 1.5 of the ZBL.
- F4.) That determinations regarding the following Findings are based upon the plans identified in this Decision, which are preliminary in nature, as well as the materials and information submitted and presented in association with the Application.
- F5.) That determinations regarding the following Findings are predicated upon the submission and approval of plans developed substantially as shown on the relevant Plans identified within the EXHIBITS of this Decision, and conform to this Decision and the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4-27-09, hereinafter *Rules and Regulations*), except where modified by this Decision, and also conform to all applicable Federal, State and other Local regulations.
- F6.) That determinations regarding the following Findings are also predicated upon satisfying all of the conditions stated within this Decision, and any subsequent definitive plan conditions of approval.
- F7.) That determinations regarding the following Findings are also predicated upon the satisfactory completion of all road and other improvements in accordance with the *Rules and Regulations*, except where modified by this Decision or any subsequent definitive plan conditions of approval, and also in accordance with all applicable Federal, State and other Local permits and regulations.
- F8.) That the Applicant request two waivers from the following Section of the *Rules and Regulations* for both the Conventional and Flexible Development Plans:
 - i. Section 4.1.3.6 – requirement that proposed streets intersect adjacent streets at a minimum interval of six hundred feet (600’).
 - ii. Section 4.1.6.3 – requirement that dead end streets and their extensions or segments, if any, shall not be shorter than one hundred fifty feet (150’), nor longer than five hundred feet (500’).
- F9.) That the Conventional Development Plan submitted by the Applicant (EXHIBIT 37) depicts a total of ten (10) lots. The Board also finds that the Flexible Development Plan submitted (EXHIBIT 37) depicts a total of eleven (11) proposed lots.
- F10.) The Applicant proposes to provide public water and sewer service to the lots shown on the Plans.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Hassinger) voted 5-0 in favor to make the following Findings:

F11.) That during the public hearing the Board and the Applicant reviewed and discussed the application submitted on October 28, 2013 which included a Flexible Development Plan consisting of eighteen (18) lots and 1,575 linear feet of roadway and a Conventional Development Plan consisting of 15 lots and 1,965 linear feet of roadway. Roadway layout on both plans were based on two points of access – one at 4 Grist Mill Road and one along an access easement between 94 and 96 Pleasant Street. The Site was originally part of a larger site configuration in combination with a now separate lot with the street address of 102 Pleasant Street. Both lots are owned by the same owners. Review of the original plan took place over a number of hearing dates and considerable public input was received. Of significant concern was the waiver request for the intersection offset from the two access points to the Grist Mill Road and Pleasant Street intersection both of which were below the required threshold of 600 feet stated in the Subdivision Rules and Regulations. The condition, width and traffic patterns and volumes of Grist Mill Road were discussed at length as the distance between the proposed access point and Pleasant Street was approximately 230 feet. Another significant concern discussed was the lot configuration in the Conventional Plan with regards to slope and proposed cuts, which would require a waiver from the Subdivision Rules and Regulations and many of the cuts would exceed the allowable 6%. Concerns about how these cuts would impact to groundwater flow and the stormwater management system were reviewed as well. Several revisions to the proposed plans including lot counts and layout were reviewed during the public hearing process. The prevailing concern about public safety relating to the Grist Mill Road access point continued to be a source of much discussion. During the review of the Flexible Development Plan requirements several members of the Board raised the issue of the value of the proposed open space which is a component deciding on additional density. Members of the Board felt that the Applicant had not adequately demonstrated the value to the Town and / or the long range goals for the open space as shown on the plan, which must be considered when evaluating the Board’s decision to recommend one plan over the other.

After much discussion about the extensive issues related to the Grist Mill Road access point, the Applicant revised the design to eliminate that access point. A new lot and roadway configuration for both the Flexible Development and Conventional Development plans were presented to the Board. Several roadway configurations were discussed and reviewed resulting in the final submission (see EXHIBIT #37). Both plans have the same roadway layout in a “hammerhead” configuration with two cul de sac segments radiating out from the main subdivision roadway which traverses an existing access easement between 94 and 96 Pleasant Street.

As a result of the new configuration, the waivers requested by the Applicant changed. The new lot configurations eliminated the need for a waiver request for excessive slope cuts as now all the building envelopes will be located in the flat portion of the site. A new waiver request is now required to allow for a dead end street to exceed the 500 foot maximum prescribed in the Subdivision Rules and Regulations. The waiver request for the minimum intersection offset of 600 feet remains in effect for the subdivision roadway south to the intersection of Grist Mill Road.

The following findings of fact are based on the public hearing review of the final plan sets submitted by the Applicant on April 11, 2014 (see EXHIBIT #37).

- F12.) That during the public hearing the Board and the Applicant discussed the submission requirements. Upon further review it was determined that the Applicant was required to submit an Environmental and Community Impact Analysis (ECIA) as required by the Zoning By-Law. The Applicant complied (see EXHIBIT #37).
- F13.) That during the public hearing the Board received testimony from the public regarding a number of issues and concerns including but not limited to: public safety with regards to increased traffic, the width of Grist Mill Road and various problems associated with increased traffic, the types and locations of detention ponds, maintaining visual buffering from abutting properties, impacts to groundwater flow associated with clear cutting steep slopes, emergency services access, rate of speed along Pleasant Street and impacts to turning traffic, and sight impediments / public safety as it relates to intersection of Grist Mill Road and Pleasant Street. Some issues were addressed as a result of the final site design (EXHIBIT #37) and some issues will have to be addressed during the Definitive Plan stage.
- F14.) That during the public hearing the Board and the Applicant discussed the public safety issue relating to an existing sight line problem at the intersection of Grist Mill Road and Pleasant Street. Presently there is a fence and some landscaping along the frontage of 102 Pleasant Street which is a corner lot and shares frontage on Grist Mill Road. Sight lines are significantly impacted by these features for those motorists seeking to turn left / north onto Pleasant Street and for motorists turning right from Pleasant Street onto Grist Mill Road. It was noted that some of the obstructing vegetation is located within the Town’s right of way but that there had always been some confusion about maintenance. The Applicant stated that this corner lot is also owned by the same people who own the project site. The issue had been presented to the property owners who have agreed to execute a sight line easement with the Town, which would allow for the management and maintenance of adequate sight line along their frontage including but not limited to the cutting of vegetation and removal of the fence.
- F15.) That during the public hearing the Board and the Applicant discussed the rate of speed along Pleasant Street and the potential public safety problems associated with the irregular road and intersection geometry at the Pleasant Street & Grist Mill Road intersection. The turning radius at the intersection for motorists turning right / south onto Pleasant Street is at an irregular acute angle that requires motorists to “inch” out onto Pleasant Street to get a clear line of sight before pulling fully out into the travel lane. Several abutters stated that motorists frequently exceed the speed limit along this stretch of Pleasant Street, which impacts the ability to stop or slow down in an adequate amount of time to prevent an accident. This concern was also raised when discussing the intersection of the proposed subdivision road with Pleasant Street. It was noted that the road geometry north of the access point included a small hill giving the perception that motorists leaving the subdivision road would not have adequate time to turn without running the risk of accident with southbound motorists.

The Board and the Town Planner further assessed the discrepancies between the traffic study and the perceived problems related to the posted speed limits and road geometry but participating in a site visit. Assumptions were further assessed against the American Association of State Highway and Transportation Officials (AASHTO) standards. Upon review of the material and discussions with the Police Chief and the Department of Public Works it was determined that the traffic engineer’s use of the posted speed limit for “approach speed is not appropriate and that the AASHTO use of design speed in the calculation of stopping distance was the more accurate methodology. The Applicant was notified that they should have based their calculations on design speed and not the posted speed.

Additional analysis with the AASHTO methodology determined that the stopping distance is less than the available sight distance. Using a design speed of 40 miles per hour, the AASHTO design stopping sight distance is 305 feet. From the proposed subdivision access point, the available sight distance is 350 feet north to Sunrise Avenue and 320 feet south to Grist Mill Road. Correspondence from the Police Department (EXHIBIT #9) stated that they did not have any problems with the access point onto Pleasant Street.

- F16.) That during the public hearing the Board and the Applicant discussed the proposed roadway including the length and the width. The length of roadway exceeds the maximum required standard set forth in the Subdivision Rules and Regulations, for which the Applicant has requested a waiver. The Applicant stated that length was based on a number of factors including the redesign to eliminate the second access point off of Grist Mill Road and locating the lots in the flat portion of the site to eliminate excessive topographical cuts. In losing the second access point the new roadway will have to traverse the narrow access easement from Pleasant Street almost 250 feet to get into the location where lots can be laid out. Frontage constraints and site configuration contribute to the need for additional roadway length in order to accommodate the ten lots proposed in the Conventional Development Plan.

The width of the roadway was discussed and it was noted that the Regulations require a radius for corners and that the Definitive Plan will have to delineate the Town’s right of way. The Fire Department stated their preference for a roadway design between 24 feet and 28 feet to accommodate their equipment and provide for adequate emergency access (EXHIBIT #12). The Applicant noted that the width of the roadway would be determined during the Definitive Plan stage based on the Regulations and requirements of the Town’s emergency services departments.

- F17.) That during the public hearing the Board and the Applicant discussed comments received from the Conservation Commission (EXHIBIT #22) stating that an Order of Resource Area Delineation (ORAD) had been issued on December 12, 2013. The Applicant stated that the wetland delineation as shown on the plan has been confirmed but that there may or may not be a vernal pool for which there has been no determination. The Applicant stated that they are not looking to fill the area and that this has no bearing on the buffer zone or work outside of it.
- F18.) That during the public hearing the Board and the Applicant discussed comments received from the Sewer Department who noted that they had sent the Applicant a copy of the sewer construction guidelines. It was further noted that public sewer and capacity are available. The Department of Public Works noted that they do not support locating the sewer line overland as presented in the plan and recommends that the sewer line be installed within the roadway layout. The Applicant noted that they would investigate this recommended change and would work with the DPW and the Sewer Department to design a system that addresses their concerns.
- F19.) That during the public hearing the Board and the Applicant discussed several unresolved issues raised by Graves Engineering in their review dated April 10, 2014 (EXHIBIT #36). The Board noted that Graves acknowledged these issues could be addressed at the Definitive Plan stage. The Applicant stated that they had reviewed Graves’ comments and are prepared to address all outstanding issues.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Hassinger) voted 5-0 in favor to make the following Findings with regard to Section 5.3.4 of the ZBL:

- F20.) With regard to Section 5.3.4(b)1, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Conventional Development Plan.
- F21.) With regard to Section 5.3.4(b)2, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Flexible Development Plan.
- F22.) With regard to Section 5.3.4(b)3, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a Land Use Plan.
- F23.) With regard to Section 5.3.4(b)4, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a comparison of the impacts of a Flexible Development Plan to those that would result from the Conventional Development Plan.
- F24.) With regard to Section 5.3.4(b)5, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding a list of requested waivers from the *Rules and Regulations*.
- F25.) With regard to Section 5.3.4(b)6, that the materials submitted in association with this Application satisfy the filing requirements of this Section regarding the number of copies of required plans and/or reports.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Hanna) voted 5-0 in favor to make the following Findings:

- F26.) The maximum number of dwelling units authorized by this Major Residential Special Permit that could reasonably be expected to be developed on the property under a Conventional Development Plan in full conformance with zoning, Subdivision Rules, health codes, wetland bylaws, and other applicable requirements is not to exceed ten (10).
- F27.) That prior to the close of the public hearing on April 28, 2014, and in accordance with Section 5.3.9 of the ZBL, the Board voted 3 – 1 in favor (roll call vote: Hassinger-AYE; Scully-AYE; Robbins - AYE; Hanna - NAY) to recommend to the Applicant that they consider the Conventional Development Plan presented to be the most beneficial to the Town. The Board further finds that its recommendation is based on its determination that the Conventional development plan better meets the purposes of the Major Residential Development regulations, as defined in Section 5.3.2 of the ZBL.
- F28.) That the Applicant informed the Board in writing (EXHIBIT 44 of this Decision), and as required by Section 5.3.9 of the ZBL, that they wished to pursue a Conventional Development Plan. The Board further finds that said EXHIBIT satisfies the requirements of Section 5.3.9 regarding communicating the Applicant’s development preference to the Board.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Robbins) voted 5-0 in favor to make the following Findings with regard to the specific issues listed in Section 1.5.5 of the ZBL:

- F29.) With regard to Section 1.5.5(a), and based upon the Findings stated within this Decision, that ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate.
- F30.) With regard to Section 1.5.5(b), and based upon the Findings stated within this Decision, that off-street parking and loading areas where required with particular attention to the items in Finding # F34 above, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory.
- F31.) With regard to Section 1.5.5(c), and based upon the Findings stated within this Decision, that refuse collection or disposal and service areas are satisfactory.
- F32.) With regard to Section 1.5.5(d), and based upon the Findings stated within this Decision, that screening and buffering with reference to type, dimensions and character are adequate. In voting this Finding, the Board notes that additional buffering and screening will be proposed by the Applicant as part of the definitive plan filing, and that said requirements will be reviewed further by the Board during such review.
- F33.) With regard to Section 1.5.5(e), and based upon the Findings stated within this Decision, that signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district.
- F34.) With regard to Section 1.5.5(f), and based upon the Findings stated within this Decision, that the required yards and other open space requirements are adequate.
- F35.) With regard to Section 1.5.5(g), that the proposed number of dwelling units conforms to zoning and is similar to abutting properties, and the project is generally compatible with adjacent properties and other property in the district.
- F36.) With regard to Section 1.5.5(h), and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, the applicable Water District, and all other applicable agencies, and based upon the plans and materials referenced in this Decision, there will not be any significant adverse impact on any public or private water supply.
- F37.) With regard to Section 1.5.5(i), and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, the applicable Water District, and all other applicable agencies, and based upon the plans and materials referenced in this Decision, there will not be any significant adverse impact upon municipal water supplies.
- F38.) With regard to Section 1.5.5(j), that protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hanna, seconded by Mr. Hassinger) voted 5-0 in favor to make the following Findings:

- F39.) That with regard to Section 1.5.5 of the ZBL, the special permit application is in harmony with the general purpose and intent of the ZBL.
- F40.) That with regard to Section 1.5.5 of the ZBL, the special permit application if granted would not create a nuisance, hazard or congestion.
- F41.) That with regard to Section 1.5.5 of the ZBL, the special permit application if granted would not cause substantial harm to the neighborhood.
- F42.) That with regard to Section 1.5.5 of the ZBL, the special permit application if granted would not derogate from the general purpose and intent of the By-law or the stated district objectives or applicable use criteria.

VI. DECISION and CONDITIONS

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Hanna) voted 5-0 in favor to **GRANT** (by roll call vote: Scully – AYE; Hassinger – AYE; Robbins – AYE; Prisby – AYE; Hanna – AYE) the **Major Residential Special Permit** with the following conditions:

- C1. This Major Residential Development Special Permit is for a Conventional Development Plan.
- C2. Based upon Finding # F26 of this Decision, the total number of dwelling unit lots that could be developed under this Major Residential Special Permit Decision shall not exceed ten (10) new single family units. This Condition shall not be construed as approving the buildability of any lots shown on the Plans. All applicable Federal, State or other Local permits/approvals must be obtained for each lot prior to construction on each said lot.
- C3. Any definitive plan filed pursuant to this Decision shall depict fencing around all stormwater management basins. The Applicant shall submit written approval from the Grafton Department of Public Works regarding the location(s), style/type and installation details for such fencing.
- C4. Any definitive plan filed pursuant to this Decision shall depict lot coverage with regards to amount of wooded areas to be left undisturbed. In particular coverage on the lots with existing wooded slopes shall be developed to minimize disturbance to and are responsible to the natural systems that provide stormwater management safeguards and wildlife habitat sensitivity.
- C5. Any definitive plan filed pursuant to this Decision shall depict screening and buffering measures such as, but not limited to, vegetation and/or fencing. The type, amount and location of such measures shall sufficiently screen/buffer, in the opinion of the Board, the proposed development from surrounding properties and dwellings.

- C6. Any definitive plan filed pursuant to this Decision shall demonstrate that they have satisfied the public safety requirements of Town including but not limited to the requirements of the Fire Department, Police Department and the Department of Public Works.
- C7. Any definitive plan filed pursuant to this Decision shall include a draft sight easement for the intersection of Grist Mill Road and Pleasant Street, specifically from the property owners of 102 Pleasant Street, as discussed during the public hearing (see FINDING #F14). Such easement shall ensure that the Town will have the right to clear vegetation and structures as well as the right to maintain sight lines for the purposes of public safety.
- C8. Any definitive plan filed pursuant to this Decision shall include a revised traffic study that addressed the concerns raised during the public hearing and comments from the Town (see FINDING #F15 and EXHIBIT #38) including but not limited to: sight distance (distances quoted on the Plan do not reflect the available sight distance in the report) and assessment of the sight line impacts of the fence along 102 Pleasant Street to reflect actual field conditions.
- C9. Any definitive plan filed pursuant to this Decision shall depict a sewer line layout that addresses the concerns raised by the Town’s Department of Public Works during the public hearing (see FINDING #F18 and EXHIBIT #35). The Applicant shall demonstrate that any definitive plan has been designed in accordance to Town requirements including those set forth by the Sewer Commissioners / Sewer Department and the Department of Public Works. This Condition shall not be construed as approving the proposed sewer system on the Plans used to in making this Decision (EXHIBIT #37).
- C10. Any definitive plan filed pursuant to this Decision shall depict resolution of outstanding issues identified by Graves Engineering in their review report dated April 10, 2014 (see EXHIBIT #36) and reviewed during the public hearing (see FINDING #F19).
- C11. Pursuant to Section 5.3.10.1 of the ZBL, all subsequent submissions, requirements and approvals for the creation of the lots authorized by this Special Permit shall be as specified in the Rules and Regulations, as applicable. Any subsequent Plan(s), which shall be developed substantially as depicted on the Plans identified as EXHIBIT 37 of this Decision, shall be submitted to and reviewed by the Planning Board pursuant to Subdivision Control Law and the Rules and Regulations, and be developed in accordance with, and conform to, the Rules and Regulations, unless modified by this Decision. This Condition shall not be construed as approving any Definitive Subdivision Plans or other Plan(s) for the development specified in this Decision.
- C12. Pursuant to Section 5.3.10.3 of the ZBL, the Planning Board reserves the right to require changes to the Conventional Development Plan and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of the Bylaw.
- C13. Pursuant to Section 5.3.10.4 of the ZBL, subsequent to the granting of this Conventional Development Special Permit and the approval of any Plan(s) submitted pursuant to Subdivision Control Law and the Rules and Regulations, the Planning Board may permit the relocation of lot lines within the development without initiating a new Special Permit proceeding. Also pursuant to Section 5.3.10.4, changes in the layout of streets, in the use, ownership, and any other conditions stated in this Special Permit, or any information submitted, including requests for any waiver(s) or other relief that is not part of this Special Permit Application, shall require written approval of the Planning Board in accordance with any applicable regulations. The Planning Board may, upon its determination, require a new Special Permit, in accordance with Section 1.5 of the ZBL, if it finds

that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Special Permit decision.

- C14. If during the review of any Plans derived from this Special Permit, the Planning Board determines that a conflict exists between information from which this Special Permit decision is based and the information associated with such Plans, the Planning Board may, upon its determination, require a new Special Permit if it finds that the proposed changes are substantial in nature and of public concern.
- C15. The lots shown on the Plans shall be serviced by public water and sewer. This Approval shall not be construed as final approval of any off-site improvements or work (such as water, sewer, or drainage installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the applicable Water District, Grafton Board of Sewer Commissioners/Sewer Department, Grafton Department of Public Works, and all other applicable utilities, are hereby incorporated by reference as a requirement of this Decision. All proposed work associated with the creation of the lots authorized by this Decision and subject to the departments/entities noted herein shall be shown on any subsequent Plans submitted pursuant to this Decision.
- C16. If applicable, any Order of Conditions and/or permits issued by the Grafton Conservation Commission with respect to this Application are hereby incorporated by reference and shall constitute a condition of this Decision. If such Order of Conditions and/or permits require substantial modification(s) to any of the plans approved by the Planning Board or conditions of this Special Permit, the procedure specified within the Conditions of this Decision shall govern such change(s).
- C17. In accordance with Section 1.5.8 of the ZBL, this Special Permit shall lapse within two (2) years from the date of the expiration of the appeal period if a Plan for the creation of the lots authorized by this Decision has not been filed with the Planning Board in accordance with all applicable regulations. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C18. This Special Permit shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to submitting any plan(s) for the creation of the lots authorized by this Decision. At the time of filing any such plan(s), the Applicant shall submit evidence to the Planning Board that this Decision has been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page Number and/or Instrument Number. Any such Plan(s) submitted to the Planning Board for approval shall contain reference to this Decision, as well as other related approvals, indicating that such plan(s) is(are) prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers.
- C19. A copy of such recorded Special Permit Decision, including WDRD Book and Page numbers, shall be submitted to the Planning Board Office within thirty (30) days of recording.
- C20. By recording this Special Permit Decision in the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns.

C21. Any inability or failure or refusal by the Applicant to comply with the requirements of this Special Permit, when notified of failure of compliance, shall be grounds for the revocation of this Special Permit.

At their meeting of May 19, 2014 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Hanna) voted 5-0 in favor to **DENY** (by roll call vote: Scully – AYE; Hassinger – AYE; Robbins – AYE; Prisby – AYE; Hanna – AYE) the **Preliminary Plan Approval**.

The Board finds that the Applicant did not adequately address the waiver request pertaining to Section Section 4.1.6.3 of the Grafton *Subdivision Rules and Regulations* which requires that dead end streets and their extensions or segments, if any, shall not be shorter than one hundred fifty feet (150’), nor longer than five hundred feet (500’) (see FINDING #F16). Said waiver request was denied for reasons stated in Waiver W2 of this Decision.

VII. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted to approve the Applicant’s application for a Major Residential Special Permit and Preliminary Plan Approval based on the information received at the public hearing and the aforementioned findings, and subject to the aforementioned conditions.

David Robbins, Chairman

Robert Hassinger, Member

Michael Scully, Vice Chairman

Sargon Hanna, Member

Edward Prisby, Clerk

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

May 21, 2014


Joseph Laydon, Town Planner

cc: Applicant

- Owner
- Graves Engineering
- Town Engineer
- Building Inspector
- Conservation Commission
- Board of Assessors

*DECISION – Grafton Planning Board
MRSP 2013-9 “Gristmill Village” Subdivision
Off 4 Gristmill Road & Pleasant St, Grafton, MA
Casa Building & Developers Corp. (Applicant)
Maintainis Realty Trust and William J. & Mary J. Maintainis & Stephen A. Wilson (Owner)
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To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Donna Girouard, Town Clerk

Date

