

DECISION**GRAFTON PLANNING BOARD
SPECIAL PERMIT (SP 1996-6.4) & SITE PLAN APPROVAL
MODIFICATION #4**

2021 JUL 15 PM 12:05

Building Addition / Reconstruction**109 Creeper Hill Road
Feedback Earth, Inc. (Applicant)
Mark Troiano d/b/a Troiano Trucking (Owner)**

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Feedback Earth, Inc. (hereinafter the APPLICANT) for Special Permit & Site Plan Approval (SP 1996-6.4) – Modification #4 to reconstruct a building addition on a property located at 109 Creeper Hill Road (hereinafter the SITE) and shown on the Grafton Assessor's Map 17, Lot 2, and owned by Mark Troiano (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds Book 42692, Page 289. The application was formally received on April 28, 2021.

I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on April 28, 2021. A public hearing on the Application was opened on May 24, 2021. Notice of the public hearing and the subject matter thereof was published in the Grafton News on May 6 and 13, 2021, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman David Robbins, Clerk Justin Wood, Members Linda Hassinger and Prabhu Venkataraman, and Associate Member Vikram Dave. At the hearing, David Jenicek presented the Application to the Board on behalf the Applicant / Owner. At the public hearing, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on June 28, 2021.

II. PROJECT HISTORY AND OVERVIEW

This application represents a fourth modification of Special Permit and Site Plan Approval (SP 1996-6.3) for 109 Creeper Hill Road where there is a food recycling business in operation. This modification deals specifically with a request to reconstruct a building addition on the subject property. The permitting history of this site for this use includes:

1. Special Permit (SP 1996-6) and Site Plan Approval - *Approved May 20, 1996* – to construct a recycling transfer station with a variety of light industrial uses at the Site
2. Modification of Special Permit and Site Plan Approval (SP 1996-6.1) - *Approved November 25, 2013* - to demolish an existing abandoned structure which was damaged by fire in 2001 and in its place build a new 6,400 square foot structure. The new space to be used to expand existing operation on site which involves a green process whereby clean food waste is converted to livestock food pellets.

3. Grafton Zoning Board of Appeals Case # 2014-791 – Special Permit – ***Approved April 17, 2014*** - to allow for the construction of a building that encroaches in the 40-foot front yard setback by 17.32 feet at varying intervals.
4. Modification of Special Permit and Site Plan Approval (SP 1996-6.2) - ***Approved November 24, 2014*** - to modify the building foot print which encroached into the front yard setback. The Applicant was required to apply to the Zoning Board of Appeals for a variance to address the encroachment. The ZBA approved the variance and the Applicant sought to bring the Special Permit and Site Plan Approval in alignment with that approval.
5. Modification of Special Permit and Site Plan Approval (SP 1996-6.3) - ***Approved October 3, 2016*** - to extend period to construct. Since the time of the original approval (SP 1996-6), a number of issues required attending prior to the start of construction including ongoing permitting with Mass DEP and work associated with extending a gas line from Worcester to the site. It was noted that Mr. Troiano has continued to work closely with the Town including the Planning Department, the Building Department and the Zoning Board of Appeals as well as Mass DEP. All outstanding permitting issues had been resolved with the ZBA and Mass DEP the Applicant was ready to move forward with the expansion of the building footprint.

III. SUBMITTALS

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

- EXHIBIT 1.** Unbound Application packet submitted by David Jenicek, Feedback Earth, Inc. (Applicant), received April 28, 2021, including the following:
- Application for Modification of a Special Permit; dated April 28, 2021; 1 page.
 - Certificate of Good Standing; Signed by Treasurer/Collector’s Office on April 27, 2021; 3 pages.
 - Certified Abutters List; Signed by Assessor’s Office on April 23, 2021; 1 page.
 - Project Narrative, prepared by Alison Greenlee and David Jenicek, Feedback Earth, Inc. 5 pages.
- EXHIBIT 2.** Plan: “Existing Condition Plan”, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, dated April 22, 2021, 2 sheets.
- EXHIBIT 3.** Report: “Stormwater Management Report”, dated April 26, 2021, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, 42 pages.
- EXHIBIT 4.** Public Hearing Legal Notice, Grafton Planning Board; Town Clerk Stamp on May 5, 2021; 1 page.
- EXHIBIT 5.** Email from Katrina Koshivos, Zoning Board of Appeals, regarding “109 Creeper Hill Rd. - Feedback Earth, Inc. - Modification of Special Permit/SPA”, dated May 7, 2021, 1 page.

- EXHIBIT 6.** Plan: “Existing Condition Plan”, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, dated April 22, 2021, revised May 5, 2021, 2 sheets.
- EXHIBIT 7.** Public Hearing Continuance Request, signed by David Jenicek, COO, Feedback Earth, dated May 25, 2021, 1 page.
- EXHIBIT 8.** Email from Michael Killeen, Fire Department, regarding “ Request for Comments: 109 Creeper Hill Road, SP 1996-6.4/SPA, Feedback Earth, Inc.”, dated June 1, 2021, 1 page.
- EXHIBIT 9.** Email from Garrett Mills, 41 Creeper Hill Road, regarding, “109 Creeper Hill Rd. - Feedback Earth, Inc. - Modification of Special Permit/SPA”, dated June 14, 2021, 1 page.
- EXHIBIT 10.** Public Hearing Continuance Request, signed by David Jenicek, COO, Feedback Earth, dated June 14, 2021, 1 page.
- EXHIBIT 11.** Plan: “Existing Condition Plan”, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, dated April 22, 2021, revised May 5, 2021 and June 2, 2021, 2 sheets.
- EXHIBIT 12.** Peer Review: “109 Creeper Hill Road”, dated June 22, 2021, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages.
- EXHIBIT 13.** Response to Peer Review: “Response to Graves Engineering, Inc. Review comments Grafton Wetlands Regulations and Stormwater Regulations Review”, dated June 24, 2021, prepared by David Jenicek, COO, Feedback Earth, 4 pages.
- EXHIBIT 14.** Plan: “Existing Condition Plan”, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, dated April 22, 2021, revised May 5, 2021, June 2, 2021 and June 22, 2021, 2 sheets.
- EXHIBIT 15.** Report: “Stormwater Management Report”, dated April 26, 2021, revised June 24, 2021, prepared by ASA Engineering, 715 Main Street, Shrewsbury, MA, 42 pages.
- EXHIBIT 16.** Peer Review: “109 Creeper Hill Road”, dated June 25, 2021, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 4 pages.

III. FINDINGS

At their meeting of June 28, 2021, 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 Justin Wood, seconded by Robert Hassinger, voted five (5) in favor and zero (0) opposed to make the following Findings:

- F1.)** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.
- F2.)** That determinations regarding the following findings are also predicated upon satisfactory completion of the work and site improvements shown on the Plans and maintenance of the Site in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.

- F3.) That the Site is located in an Office / Light Industrial (OLI) zoning district. The site is not located within the Water Supply Protection Overlay District.
- F4.) That during the public hearing the Applicant presented the proposed modification. David Jenicek was present to discuss the Application. The property is currently under acquisition through foreclosure. In addition to renovations to the existing structure to improve operational quality, safety and efficiency, the applicant is proposing to reconstruct a portion of the structure that was previously damaged by fire in 2001.

IV DECISION

At their meeting of June 28, 2021, 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 Justin Wood, seconded by Robert Hassinger, voted five (5) in favor and zero (0) opposed to **APPROVE** the Special Permit (SP 1996-6.3) and Site Plan Approval – Modification #4 - with the following conditions:

- C1.) This Special Permit and Site Plan Approval (SP 1996-6.4) - Modification #4 - specifically authorizes the demolition of an existing structure and construction of a new 5,810 square foot building addition in the same location as noted in the Findings and EXHIBITS of this Decision. All other conditions within Special Permit and Site Plan Approval (SP 1996-6) as modified in SP 1996-6.1 (approved in 2013), SP1996.2 (approved in November 2014) and SP1996.3 (approved in October 2016) shall remain in full force and effect unless modified by this DECISION.
- C2.) The Applicant shall maintain the site in accordance with the originally approved plan and subsequent modifications granted by this Decision. The Applicant shall proceed in a manner that conforms to CONDITIONS set forth in this DECISION as well as the plans and identified within EXHIBIT #14.
- C3.) In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. 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.
- C4.) Verification that the Drain Reservoir of the Stormwater Management System has been engineered properly is required. The Board notes that this cannot be achieved until the old structure is demolished and access to an appropriate test site is available. Soil testing will be observed and approved by Board and / or their agent. If the test fails, then the Applicant is required to present an acceptable solution to the Board prior to commencement of site work.
- C5.) Selection of roofing material for the new structure had not been determined at the time of this DECISION. The Massachusetts Department of Environmental Protection requires pre-treatment of roof run off if certain materials such as metal are used. Lacking adequate information to make an informed decision on the issue, the Applicant is required to review the final roof material selection with the Board and/ or its agent prior to the issuance of a building permit. In addition, the Applicant

is required to adhere to MADEP requirements if they should choose a material that requires pre-treatment prior to run off.

- C6.)** Prior to commencement of work, a pre-construction meeting shall occur with representatives from the Applicant and appropriate Town Departments/Boards. The Applicant shall contact the Planning Department to arrange the pre-construction meeting.
- C7.)** All site construction, development and improvements shall be inspected at the appropriate stage(s) of construction by the Planning Board or its agent upon request made by the Applicant to the Planning Board or its agent, in accordance with any policies for such requests.
- C8.)** Prior to the start of any construction activity on the Site, an initial inspection of erosion control /site stabilization measures shall be performed by agent(s) of both the Planning Board and Conservation Commission in the presence of a representative of the Applicant/developer and notice of such inspection forwarded to both Boards. No construction activity shall occur on the Site until the Applicant/developer receives written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures. The Planning Board reserves the right to require additional erosion control/site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deem such measures necessary. The Applicant/developer shall be notified in writing of the necessity for such additional measures and shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Commission.
- C9.)** All other applicable Federal, State or Local permits and approvals for the proposed use shall be secured by the Applicant at the appropriate time, and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
- C10.)** Failure to comply with the requirements of the Grafton Zoning By-law (or as modified by this Decision), as well as all applicable Federal, State and local regulations, shall cause this Modification of a Special Permit and Site Plan Approval to be invalid, but only if such failure is both a) documented and b) unresolved according to the regulating body with jurisdiction.
- C11.)** This Decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period.
- C12.)** A copy of such recorded Decision, including Deed Book and Page Number shall be submitted to the Planning Board office within thirty (30) days of recording.
- C13.)** By recording this Decision in the Worcester Registry of Deeds, the applicant agrees to and accepts the conditions set forth in this Decision.
- C14.)** Any Order of Conditions and/or permits issued by the Grafton Conservation Commission with respect to this application are hereby incorporated by reference and constitute a condition to this Special Permit decision.

V. RECORD OF VOTE

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Robert Hassinger, Member</u>	<u>AYE</u>
<u>Justin Wood, Vice Chairman</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Linda Hassinger, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Christopher J. McGoldrick, Town Planner



Date

- cc: Applicant / Owner
- Building Inspector
 - Assessor
 - Board of Health
 - Conservation Commission
 - Graves Engineering

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.

Kandy Lavalley, Town Clerk

Date