



TOWN CLERK

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TOWN OF GRAFTON
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Bk: 53159 Pg: 251
Page: 1 of 8 12/16/2014 11:49 AM WD

CERTIFICATE OF NO APPEAL

APPROVAL: PLANNING BOARD
Special Permit and Site Plan Approval (1996-6)

PETITIONER: Mark Troiano d/b/a Troiano Trucking
109 Creeper Hill Road, North Grafton, MA 01536

OWNER: Mark Troiano d/b/a Troiano Trucking
109 Creeper Hill Road, North Grafton, MA 01536

DEED REFERENCE: 109 Creeper Hill Road
Assessors Map 17, Lot 2
Worcester District Registry of Deeds
Book 19840, Page 135

This is to certify that a copy of the Decision of the Planning Board of the Town of Grafton for Modification of a Special Permit & Site Plan Approval under Section 2.3.3.10 of the Grafton Zoning- By-Laws for the property at 109 Creeper Hill Road, North Grafton, MA was received and filed in the Office of the Town Clerk on November 25, 2014 at 11:26A.M.

No Notice of Appeal of the Decision was filed within the twenty days next, the appeal period ending on December 15, 2014.

A true copy,
Attest:
(Seal)


Town Clerk – Grafton, Massachusetts



RECEIVED TOWN CLERK
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GRAFTON, MA J-6

**DECISION
GRAFTON PLANNING BOARD**

**MODIFICATION OF SPECIAL PERMIT (SP 1996-6) AND SITE PLAN APPROVAL
Expansion of Building Footprint
109 Creeper Hill Road, North Grafton, MA 01536**

Mark Troiano d/b/a Troiano Trucking (Applicant / Owner)

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Mark Troiano d/b/a Troiano Trucking (hereinafter the APPLICANT) for Modification of a Special Permit (SP 1996-6) and Site Plan Approval under Section 1.3.3.10 of the Grafton Zoning By-Law for property located at 109 Creeper Hill Road, North Grafton (hereinafter the SITE) and shown on the Grafton Assessor's Map 17, Lot 2, and owned Troiano Trucking LLC (OWNER) by deed recorded in the Worcester District Registry of Deeds Book 19840, Page 135. The application was formally received on October 14, 2014.

I. BACKGROUND

The above referenced Application for Modification of a Special Permit and Site Plan Approval (hereinafter Application) was submitted on October 14, 2014. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 22 and October 29, 2014 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was held on November 10, 2014.

The following Board members were present throughout the public hearing: Vice Chairman Michael Scully, Clerk Sargon Hanna, Members Robert Hassinger and Linda Hassinger; and Associate Andrew Clarke. Chairman David Robbins was absent during the hearing. At the hearing, Attorney Rob Knapik 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.

At the time of Decision, Chairman Robbins appointed Associate Member Andrew Clarke as a voting member of the Board solely for the purpose of voting on this application. Chairman Robbins recused himself from the voting due to his absence from the public hearing.

II. PROJECT HISTORY AND OVERVIEW

This application represents a modification of Special Permit (SP 1996-6) and Site Plan Approval for 109 Creeper Hill Road where there is a food recycling business in operation. This modification deals specifically with a change in the site plan resulting from an enlarged building footprint than was previously approved. 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. Request for Minor Modification of Special Permit (SP 1996-6) and Site Plan Approval - **Approved November 25, 2013** - to demolish an existing abandoned structure which as 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 (see EXHIBIT #1)

III. SUBMITTALS

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

- EXHIBIT 1.** Unbound application submission materials prepared and submitted by the Applicant, received October 14, 2014; consisting of the following:
- Application for Modification of Special Permit, 1 page.
 - Application for Modification of a Site Plan Approval, 1 page.
 - Certificate of Good Standing, signed by the Treasurer / Collector, September 25, 2014; 1 page.
 - Certified List of Abutters, dated October 9, 2014, 1 page.
 - Building Addition Site Plan for 109 Creeper Hill Road, Grafton, MA; prepared by ASA Engineering; dated August 11, 2013; 11" x 17" and 24" x 36", black & white; 1 page.
 - Certificate of No Appeal, Grafton Zoning Board of Appeals Case # 2014-791; recorded at the Worcester District Registry of Deeds on October 20, 2014; Book 52933, Page 266; 1 page.
- EXHIBIT 2.** Email correspondence with attachment (Site Plan Review Comments) from Graves Engineering, Troiano Trucking Modification; received October 20, 2014; 7 pages.
- EXHIBIT 3.** Project Review Memorandum, Police Department, received October 20, 2014; 1 page.
- EXHIBIT 4.** Project Review Memorandum, Treasurer / Collector's Office, received October 20, 2014; 1 page.
- EXHIBIT 5.** Project Review Memorandum, Conservation Commission, received October 21, 2014; 1 page.
- EXHIBIT 6.** Project Review Memorandum, Zoning Board of Appeals, received October 20, 2014; 3 pages.
- EXHIBIT 7.** Project Review Memorandum, Sewer Department, received October 21, 2014; 1 page.
- EXHIBIT 8.** Project Review Memorandum, Grafton Water District, received October 21, 2014; 1 page.
- EXHIBIT 9.** Correspondence from ASA Engineering re: Troiano Trucking, 109 Creeper Hill Road, Response to Peer Review (includes updated stormwater report); dated October 22, 2014, received October 27, 2014; 19 pages.

- EXHIBIT 10.** Building Addition Site Plan for 109 Creeper Hill Road, Grafton, MA; prepared by ASA Engineering; revised through October 22, 2014; 24" x 36", black & white; 1 sheet.
- EXHIBIT 11.** Project Review Memorandum, Fire Department, received November 1, 2014; 1 page.
- EXHIBIT 12.** Correspondence from Graves Engineering re: Troiano Trucking, 109 Creeper Hill Road, Site Plan Review; dated November 7, 2014, received November 10, 2014; 4 pages.
- EXHIBIT 13.** Grafton Planning Board Decision, Modification of Special Permit (SP 1996-6) & Site Plan Approval; filed with the Worcester District Registry of Deeds on June 19, 2014; 7 pages.
- EXHIBIT 14.** Grafton Planning Board Decision, Special Permit (SP 1996-6) & Site Plan Approval; filed with the Grafton Town Clerk on May 21, 1996; 4 pages
- EXHIBIT 15.** Public Hearing Sign In Sheet, November 10, 2014 hearing; 1 page.

IV. FINDINGS

At their meeting of November 24, 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 Mrs. Hassinger) voted 5-0 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 during the public hearing the Applicant presented an overview of the requested modification. The Applicant reviewed the history of the site including the time line of original approval in 1996 (see EXHIBIT #14) and the modification approved in 2013 (see EXHIBIT #13). During the course of constructing the approved structure it became necessary 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 on March 20, 2014.
- F4. That during the public hearing the Board and the Applicant discussed the correlation between the ZBA variance and the request for Minor Modification of the Special Permit and Site Plan Approval. During the process of the variance application process it was determined that the change in building footprint would impact the conditions set forth in the previous approval thereby making it null and void. In order to receive final approval to construct the reconfigured the building the Applicant was informed that a modification of the Special Permit and Site Plan Approval would be required as well.
- F5. That during the public hearing the Board and the Applicant discussed the nature of the encroachment. The Applicant stated that the footprint has been enlarged towards the front lot line along Creeper Hill Road and that it now encroaches in the required front yard setback area in several places (see

EXHIBIT #1 and #6). It was noted that the new footprint would be approximately 32 feet set back from the travelled way of Creeper Hill Road and that vehicular sight lines would not be compromised.

- F6. That during the public hearing the Board and the Applicant discussed the previous modification 2013 and the importance of ensuring that all conditions were met. The Board noted that any approval of the modification request currently before the Board does not eliminate the conditions previously approved. Specifically discussed were the conditions relating to the on-site stormwater management system and future soil testing. The Applicant stated that they were fully aware that all previous conditions were in full force and effect. The purpose of this modification is to align the site plan to reflect the Zoning Board of Appeals approval which in turn will allow the Applicant to proceed with construction.

At their meeting of November 24, 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 Mrs. Hassinger) voted 5-0 to make the following Findings with regard to the specific issues listed in Section 1.3.3 of the ZBL:

- F7. That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F8. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Applicant did not request any waivers.
- F9. That the applicant did satisfy the submission requirements for a site plan as required in Section 1.3.3.3 of the Zoning By-Law.

At their meeting of November 24, 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 Mrs. Hassinger) voted 5-0 to make the following Findings with regard to the specific issues listed in Section 1.5.5 of the ZBL:

- F10. With regard to Section 1.5.5(a), that based on EXHIBIT #10 and the FINDINGS stated within this Decision, ingress and egress to the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe is adequate.
- F11. With regard to Section 1.5.5(b), that based on EXHIBIT #10 and the FINDINGS stated within this Decision, that off-street parking is adequate. The Board further finds with regard to Section 1.5.5(b) that the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties generally in the district are satisfactory.
- F12. With regard to Section 1.5.5(c) that based on EXHIBIT #10 and the FINDINGS stated within this Decision, that refuse collection or disposal and service areas are satisfactory.
- F13. With regard to Section 1.5.5(d), that based on EXHIBIT #10 and the FINDINGS stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate.

- F14. With regard to Section 1.5.5(e), and based upon on EXHIBIT#10 and the FINDINGS stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district.
- F15. With regard to Section 1.5.5(f), that based upon on the EXHIBITS and the FINDINGS stated within this Decision, the required yards and other open space requirements are adequate.
- F16. With regard to Section 1.5.5(g), that based upon on the EXHIBITS and the FINDINGS stated within this Decision, that the proposed use of the facility is generally compatible with adjacent properties and other properties in the district.
- F17. With regard to Section 1.5.5(h), that based upon on the EXHIBITS and the FINDINGS stated within this Decision and upon satisfying and complying with all applicable requirements of the Massachusetts DEP and all other applicable agencies, the proposed facility will not have any significant adverse impact on any public or private water supply.
- F18. With regard to Section 1.5.5(i), the Board finds that the site is located within the Water Supply Protection Overlay District and that there will not be any significant or cumulative impact upon municipal water supplies.
- F19. With regard to Section 1.5.5(j), important historic, cultural and scenic landscapes are protected.

V. DECISION

At their meeting of November 24, 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 Mrs. Hassinger, seconded by Mr. Hanna) voted 5-0 to **APPROVE** the Modification of the Special Permit and Site Plan Approval with the following conditions:

- C1. This Modification of Special Permit (SP 1996-3) and Site Plan Approval (and modified in 2013) is for an enlarged building footprint (EXHIBIT #1 and EXHIBIT #10) encroaching on the front yard setback. This modification will align the site plan in conformance with the Zoning Board of Appeals decision to allow for the encroachment (see FINDING #F4 and EXHIBITS #1 and #6).
- C2. All conditions previously approved in Special Permit (SP 1996-6) & Site Plan Approval and the approved Modification in 2013 remain in full force and effect (see FINDING #F6).
- C3. Any modification to the building, site improvements, internal roadway configuration or approved uses shown on the Plans or authorized by this Decision (EXHIBIT #10) shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision 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 Decision. Any Modification of this Decision shall be made pursuant to Sections 1.5 and 1.3.3 of the Zoning By-law, and any other applicable regulations.

- C4. In accordance with Section 1.5.8 of the ZBL, this Special Permit 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.
- C5. This Special Permit decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period.
- C6. A copy of such recorded Special Permit decision, including Deed Book and Page Number shall be submitted to the Planning Board office within thirty (30) days of recording.
- C7. 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.
- C8. Unless modified by this Decision, the Site shall be developed, constructed and maintained in accordance with all applicable Federal, State and Local regulations, and as shown on the Plans identified as EXHIBIT #1 or as modified by the Conditions within this Decision. All required permits and approvals shall be secured by the Applicant at the appropriate stage of construction.

cc: Applicant / Owner
• Robert Knapik, Attorney at Law
• Building Inspector

VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted to approve the Applicant's application for a Modification of a Special Permit (SP 1996-6) and Site Plan Approval based on the information received at the public hearing and the aforementioned findings, and subject to the aforementioned conditions.

<u>David Robbins, Chairman (NOT VOTING)</u>	<u>Linda Hassinger, Member</u>
<u>Michael Scully, Vice Chairman</u>	<u>Robert Hassinger, Member</u>
<u>Sargon Hanna, Clerk</u>	<u>Andrew Clarke, Associate Member</u>

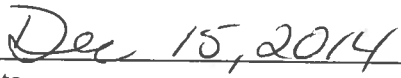
DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

11-25-14


Joseph Laydon, Town Planner

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

A true copy,
Attest:


Donna M. Girouard, Town Clerk
Grafton, MA.