

**DECISION
GRAFTON PLANNING BOARD**

**MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2019-9)
& PRELIMINARY PLAN APPROVAL**

“11 WHEELER ROAD DEVELOPMENT PLAN”

Stanley W. and Lisa A. McGriff (Applicant / Owner)

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Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Stanley W. and Lisa A. McGriff (hereinafter the APPLICANT), 11 Wheeler Road, for a Major Residential Special Permit (MRSP 2019-9) / Preliminary Plan Approval for a Flexible Development residential subdivision on property located at 11 Wheeler Road (Grafton Assessor's Map 45, Lot 1) owned by the APPLICANT by deed recorded at the Worcester District Registry of Deeds, Book 20122, Page 145.

I. BACKGROUND

The above referenced Application for a Major Residential Special Permit and Preliminary Plan Approval (hereinafter Application) was submitted on June 5, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on June 20 and June 27, 2019 and posted with the Town Clerk's Office on June 14, 2019. Abutters were notified by First Class Mail. The public hearing on the Application was opened July 8, and continued, at the request of the applicant with concurrence of the Planning Board, to the following meetings: August 12, 2019; August 26, 2019 (no testimony received); September 9, 2019 and October 7, 2019. Following public input, the hearing was closed on October 7, 2019.

The following Board members were present throughout the public hearing: Chair David Robbins, Vice Chair Robert Hassinger, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman. At the hearings Travis Brown of Andrews Survey & Engineering, Inc. and the Applicant were present to discuss the Application. 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. SUBMITTALS

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

EXHIBIT 1. Original Application Submission, received June 5, 2019 to include the following:

- a. Application for a Special Permit, signed by Stanley W. and Lisa A. McGriff, dated May 14, 2019, date stamped by the Town Clerk on June 12, 2019, and date stamped received by the Planning Board on June 5, 2019, 1 page.
- b. Application for Approval of a Preliminary Plan, signed by Stanley W. and Lisa A. McGriff, dated May 14, 2019, date stamped by the Town Clerk on June 12, 2019, and date stamped received by the Planning Board on June 5, 2019, 1 page.
- c. Certificate of Good Standing, signed by Beth Schrottman, Treasurer/Collector, dated March 26, 2019, and date stamped received by the Planning Board on June 5, 2019, 1 page.
- d. Abutters Listing for Map 45, Lot 1 (11 Wheeler Road), dated March 25, 2019 and signed by Ken O'Brien, MMA, Grafton Data Collector, and date stamped received by the Planning Board on June 5, 2019, 1 page

- e. Map showing site location of “Preliminary Development, 11 Wheeler Road, Grafton, Massachusetts,” prepared by Andrews Survey & Engineering, Inc. and date stamped received by the Planning Board on June 5, 2019, 1 color page.
 - f. “Major Development, 11 Wheeler Road, Grafton Massachusetts, Project Description and Narrative,” date stamped received by the Planning Board on June 5, 2019, 2 pages.
 - g. Letter addressed to the Grafton Planning Board regarding “Request for Subdivision Waivers, Preliminary Plan & Special Permit Application, 11 Wheeler Road, Grafton, Massachusetts, ASE Project No. 2018-207,” from Travis R. Brown, Senior Project Engineer, Andrews Survey & Engineering, Inc., and date stamped received by the Planning Board on June 5, 2019, 2 pages.
 - h. Memo regarding “Sight Distances and Speed Data at 11 Wheeler Road, Grafton, MA,” from Stephen O’Connell, dated March 27, 2019 and date stamped received by the Planning Board on June 5, 2019, 3 pages.
 - i. Letter to the Planning Board regarding “Waiver Request to accompany Application for Approval of Definitive Subdivision Plan,” signed by Andrew Baum, PE, dated April 2, 2019 and date stamped received by the Planning Board on April 2, 2019, 3 pages.
- EXHIBIT 2. Plan Set: “Preliminary Flexible Development Plan, 11 Wheeler Road,” dated April 23, 2019, revised May 30, 2019, prepared by Andrews Survey & Engineering, Inc., and received by Planning on June 5, 2019, 4 sheets (24”X36”).
- EXHIBIT 3. Plan Set: “Preliminary Conventional Development Plan, 11 Wheeler Road,” dated April 23, 2019, revised May 30, 2019, prepared by Andrews Survey & Engineering, Inc., and received by Planning on June 5, 2019, 4 sheets (24”X36”):
- EXHIBIT 4. Public Hearing Notice, date stamped by the Town Clerk on June 14, 2019, 1 page.
- EXHIBIT 5. Email from Leah Cameron, Conservation Commission, dated June 17, 2019, and date stamped received by the Planning Board on June 17, 2019, 1 page.
- EXHIBIT 6. Email from Nancy Connors, Health Department, dated June 19, 2019, and date stamped received by the Planning Board on June 19, 2019, 1 page.
- EXHIBIT 7. Email from Katrina Koshivos, Zoning Board of Appeals, dated June 19, 2019, and date stamped received by the Planning Board on June 19, 2019, 1 page.
- EXHIBIT 8. Peer Review: “11 Wheeler Road, Preliminary Plan and MRDSP Review,” prepared by Jeffrey M. Walsh, P.E., Graves Engineering, Inc., dated July 6, 2019 and date stamped received by the Planning Board on July 8, 2019, 2 pages.
- EXHIBIT 9. Letter to the Planning Board from Shelbee L. Hundley, Regional Counsel, Aggregate Industries-Northeast Region, Inc., dated July 3, 2019 and date stamped received by the Planning Board on July 8, 2019, 1 page.
- EXHIBIT 10. Public Hearing Sign-In Sheet, dated July 8, 2019, 1 page.
- EXHIBIT 11. Public Hearing Continuance form, signed by Michael S. Lotti, dated July 8, 2019, and date stamped received by the Planning Board on July 8, 2019, 1 page:
- EXHIBIT 12. Public Meeting Sign-In Sheet, dated July 8, 2019, 2 pages:

- EXHIBIT 13. Letter to the Planning Board regarding “Peer Review Comment Responses, 11 Wheeler Road – Major Residential Special Permit Review, Grafton, MA 01519, ASE Project #2018-207,” dated July 29, 2019 and date stamped received by the Planning Board on July 31, 2019, 2 pages.
- EXHIBIT 14. Plan Set: “Preliminary Flexible Development Plan, 11 Wheeler Road,” dated April 23, 2019, revised on May 30, 2019 and July 29, 2019, prepared by Andrews Survey & Engineering, Inc., and received by Planning on July 31, 2019, 4 sheets (24”X36”).
- EXHIBIT 15. Plan Set: “Preliminary Conventional Development Plan, 11 Wheeler Road,” dated April 23, 2019, revised on May 30, 2019 and July 29, 2019, prepared by Andrews Survey & Engineering, Inc., and received by Planning on July 31, 2019, 4 sheets (24”X36”).
- EXHIBIT 16. Peer Review: “11 Wheeler Road, Preliminary Plan and MRDSP Review,” prepared by Jeffrey M. Walsh, P.E., Graves Engineering, Inc., dated August 9, 2019 and date stamped received by the Planning Board on August 9, 2019, 4 pages.
- EXHIBIT 17. Public Hearing Sign-In Sheet, dated August 12, 2019, 1 page.
- EXHIBIT 18. Public Hearing Continuance form, signed by Stan McGriff, dated August 12, 2019, and date stamped received by the Planning Board on August 12, 2019, 1 page.
- EXHIBIT 19. Email from Leah Cameron, Conservation Commission, dated August 21, 2019, and date stamped received by the Planning Board on August 21, 2019, 1 page.
- EXHIBIT 20. Email requesting public hearing continuance, from Travis Brown, Andrews Engineering, dated August 23, 2019 and date stamped received by the Planning Board on August 23, 2019, 1 page.
- EXHIBIT 21. Plan Set: “Preliminary Flexible Development Plan, 11 Wheeler Road: Preliminary Grading & Utility Plan” dated April 23, 2019, revised on May 30, 2019 and July 29, 2019, and prepared by Andrews Survey & Engineering, Inc., 1 sheet (24”X36”).
- EXHIBIT 22. Plan Set: “Preliminary Flexible Development Plan, 11 Wheeler Road,” dated April 23, 2019, revised on May 30, 2019, July 29, 2019 & September 6, 2019, prepared by Andrews Survey & Engineering, Inc., 4 sheets (24”X36”).
- EXHIBIT 23. Email from Ken Crater, dated September 8, 2019, regarding “11 Wheeler Road – Flexible Development Plan,” and date stamped received by the Planning Board on September 9, 2019, 2 pages.
- EXHIBIT 24. Public Hearing Sign-In Sheet, dated September 9, 2019, 1 page:
- EXHIBIT 25. Public Hearing Continuance form, signed by Stan McGriff, dated September 9, 2019, and date stamped received by the Planning Board on September 9, 2019, 1 page.
- EXHIBIT 26. Letter addressed to the Grafton Planning Board regarding “Preliminary Plan & Special Permit Application, Section 5.3 – Major Residential Development, 11 Wheeler Road, Grafton, Massachusetts, ASE Project No.: 2018-27,” from Travis R. Brown, Senior Project Engineer, Andrews Survey & Engineering, Inc., dated September 10, 2010 and date stamped received by the Planning Board on October 3, 2019, 1 page.

III. FINDINGS

At their meeting of December 23, 2019, 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. Wood, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following General 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. The site is located within the Water Supply Protection Overlay District.
- F3. That Major Residential Developments are permitted in an 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 waiver requests for the Preliminary Plan – Flexible Development were based on a number of factors unique to this Application and within the context of the Grafton Zoning By-Law.
- F6. 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.
- F7. 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.
- F8. 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.
- F9. That the final submission of the Conventional Development Plan submitted by the Applicant (EXHIBIT #15) depicts a total of six (6) lots. The Board also finds that the final submission of the Flexible Development Plan (EXHIBIT #22) depicts a total of six (6) proposed lots. The total size of the site is 8.3+/- acres.
- F10. The Applicant proposes to provide public sewer and water service for the proposed development.
- F11. That the Applicant requested waivers from the Subdivision Rules and Regulations for Flexible Development Plan (see EXHIBIT #53) which include the following:
 - Section 4.1.3.6 – intersections to be at least 600 feet apart
 - Section 4.7.6 – street lighting

- F12. That during the public hearing the Board and the Applicant reviewed the existing conditions of the site. The site is 8.3 +/- acres in Grafton. The property is currently improved with an existing single-family structure and accessory structures. The property abuts Grafton Land Trust’s Gummere Wood property to the east and south.
- F13. That during the public hearings the Board received testimony, verbal and written, from:
- Robert Aberg, 42 South Street. Mr. Aberg, representing the Grafton Land Trust, commented that the Trust is an abutter to the property and expressed concerns about impacts to the Trusts trail system. He expressed concern about maintaining a buffer between the proposed development and the trail. He also said the detention basin could be moved farther away to reduce impacts to the Trust’s land and the trail, which is often muddy and may be impacted by additional water being introduced to the area.
 - Kenneth Crater, 116 Brigham Hill Road. He stated his concern for the impacts of the development on the environment and specifically the ability of the detention basin to manage water and the requirements for maintenance. He said he was concerned about traffic and safety due to the proximity of the development to Worcester Street and that it requires waivers from Worcester Street and Meadow Lane to be built. He stated that when the owners bought the property, they would have expected to put in only two house lots and said he did not support granting waivers (see meeting minutes). In a second email (Exhibit 23), he commented on the permanent nature the new residential properties represent and the proposed buffer does not warrant the granting of waivers.
 - Justin Compton, 13 Wheeler Road. He expressed concern about the Worcester Street and Wheeler Road intersection noting that there had been 11 accidents at the intersection in recent years. He said the proximity of the Grafton Land Trust parking lot exacerbates safety issues. He added that the 40B Traffic Study conducted for a development further up Wheeler Road indicated the intersection operated at a Level of Service F. (See meeting minutes)
 - Shelbee Hundley, Regional Counsel, Aggregate Industries, 116-118 Worcester Road [sic]. Letter dated July 3, 2019 (Exhibit #9) stating that the Planning Board reference the existing operation at 116-118 Worcester Road [sic] and that large trucks are required to enter and exit onto Worcester Road [sic] to support the operation.

During the course of the public hearing the Applicant reviewed these issues and provided documentation to clarify their position (see FINDINGS and EXHIBITS).

- F14. That during the public hearing, the Board and the Applicant discussed the conventional and the flexible development proposals. A number of revisions were submitted to both concepts throughout the public hearing which reflect comments received from the Board and Graves Engineering, the Board’s peer review consultant.

The Board finds that the Applicant submitted a written declaration to pursue the Flexible Development Plan at the public hearing on January 23, 2017 (see EXHIBIT #51). This was submitted in accordance with Section 5.3.9 of the Grafton Zoning By-Law.

- F15. That during the public hearing, the Board and the Applicant discussed traffic impacts and sight lines along Wheeler Road. A traffic analysis was provided (see EXHIBIT #1j). Concerns were raised about the following:
- **Sight Distances:** The Traffic Report provided information on available sight distance for the proposed subdivision road. Looking to the east, sight distance was calculated to be 35 feet, the obstruction in sight distance being due to existing trees. To the west, sight distance was calculated at 85 feet due to trees and a utility pole and then 122 feet to 290 feet until further sight distance was disturbed due to the vertical curve of Wheeler Road. The Traffic Report recommended clearing trees to achieve sight distance.
 - **Stopping Sight Distance:** The Traffic Report stated there was 315 feet of stopping sight distance from Worcester Street to the subdivision road and 500 feet of stopping sight distance along Wheeler Road approaching the subdivision road.
- See also: WAIVER #W1.
- F16. That during the public hearing, the Board and the Applicant discussed the proposed open space plan. The Board notes that the Applicant stated that it was their intent to transfer the open space portion of the site to the Grafton Land Trust to provide a buffer to the development and through a land exchange top move the detention basin away from an existing trail thereby reducing the impact the development will have on the Grafton Land Trust property. (see EXHIBIT #26),
- F17. That during the public hearing, the Board expressed concern that the adjacent open space would be negatively impacted through the construction of the detention basin, removal of existing vegetation, and changes to the hydrology of the site that would result in wet conditions for the adjacent GLT trail.
- F18. That during the public hearing, the Board and the Applicant discussed issues related to intersection offset distance between the subdivision road and Worcester Street and Meadow Lane. The Applicant stated the waiver did not create a hazard and that sight distance and stopping distance requirements are met. The Board reiterated that the 600-foot separation requirement is tied to land development and road network policies and standards and that there must be a public benefit associated with granting of waivers. See WAIVER #W1.
- F19. That during the public hearing, the Board and the Applicant discussed the waiver for eliminating street lighting noting that the development is small in size and that lighting will be available through lighting associated with the individual residences. The Board noted that since the roadway and infrastructure will be eligible for acceptance by the Town, input should be provided by the Select Board, however lighting at the entrance of the subdivision would improve safety and visibility. See Waiver #W2
- F20. 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 Flexible Development Plan in full conformance with zoning, Subdivision Rules, health codes, wetland bylaws, and other applicable requirements is not to exceed six (6).
- F21. The Board further finds that the Applicant submitted a written statement electing to pursue the Flexible Development Plan to the Board at the October 7, 2019 public hearing (EXHIBIT 26) as required by Section 5.3.9 of the ZBL. On September 9, 2019, prior to the close of the public hearing, the Board voted unanimously 5-0 to recommend the Flexible Development Plan as most beneficial to the Town

pursuant to Section 5.3.9 of the Grafton Zoning By-Law. 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 December 23, 2019, 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. Wood, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings under Section 5.3.4 (b) of the Zoning By-Laws:

- F22. With regard to Section 5.3.4(b)1, that the materials submitted in association with this Application satisfies the filing requirements of this Section regarding a Conventional Development Plan.
- F23. With regard to Section 5.3.4(b)2, that the materials submitted in association with this Application satisfies the filing requirements of this Section regarding a Flexible Development Plan.
- F24. With regard to Section 5.3.4(b)3, that the materials submitted in association with this Application satisfies the filing requirements of this Section regarding a Land Use Plan.
- F25. With regard to Section 5.3.4(b)4, that the materials submitted in association with this Application satisfies 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.
- F26. With regard to Section 5.3.4(b)5, that the materials submitted in association with this Application satisfies the filing requirements of this Section regarding a list of requested waivers from the Rules and Regulations. See EXHIBIT #1.g.
- F27. With regard to Section 5.3.4(b)6, that the materials submitted in association with this Application satisfies the filing requirements of this Section regarding the number of copies of required plans and/or reports.

At their meeting of December 23, 2019, 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. Wood, seconded by Mr. Venkataraman) 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 except as noted below:

- F28. With regard to Section 1.5.5(a), and based upon the Findings stated within this Decision, the Grafton Planning Board (motion by Mr. Wood, seconded by Mr. Venkataraman) voted 4-1, with Mr. Hassinger voting against the motion, 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 as it relates to the submission of a preliminary plan. The Applicant stated in the Traffic Study, submitted as Exhibit 1.h, the subdivision road is located 415’ east of Meadow Lane and 315’ west of Worcester Street. The Applicant’s traffic engineer stated in their study that Stopping Sight Distance is 315’ all the way to Worcester Street and 500 feet looking west. The Traffic Report provided information on available sight distance for the proposed subdivision road. Looking to the east, sight distance was calculated to be 35 feet, the obstruction in sight distance being due to existing trees. To the west, sight distance was calculated at 85 feet due to trees and a utility pole and then 122 feet to 290 feet until further sight distance was

disturbed due to the vertical curve of Wheeler Road. Per the Traffic Report, sight distance can only be obtained by clearing trees. Sidewalks are included on east side of the proposed road, however there are no sidewalks on Wheeler Road. No direct access by trail is proposed from within the subdivision. Regarding access in case of fire or catastrophe, the Fire Department was provided with a copy of the plans but did not submit formal comment. Planning Department staff and the Peer Review Engineer stated that the roadway width conforms to the Planning Board Subdivision Rules and Regulations.

- F29. 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, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory as it relates to the submission of a preliminary plan. The Board finds that detailed information regarding this requirement would be addressed as part of a definitive plan submission. Surrounding uses are residential in nature; the site abuts Grafton Land Trust land to the east and south. Density of development would likely generate noise levels exceeding existing ambient levels in the area as the site is primarily undeveloped. However, the residential use is in keeping with the surrounding area particularly to the west where there are frontage lots and subdivision development. Driveways are to be provided to each house lot. The Applicant has requested a waiver from streetlights. Lights are anticipated at driveways and on structures. While headlights will be introduced to rear of currently undeveloped portion of property, glare would be mitigated by maintaining vegetation in the open space buffer.
- F30. 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. The Board finds that this does not apply given the nature of the project.
- F31. 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 applicable to the submission of a preliminary plan. Existing vegetative cover is to be used as buffer / screening. Applicant will be deeding a portion of the property to the Grafton Land Trust to provide more buffer area adjacent to existing GLT parcel. A strip of land along the western property line will be retained in existing conditions and act as a buffer between proposed lots and the neighboring lot. The Board, through the Definitive Plan stage, will have the opportunity to review existing vegetation for retention and have additional opportunities to review and discuss specific screening and buffering options.
- F32. 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 not applicable as no sign with lighting is proposed as part of this application. The Board finds that detailed information regarding this requirement would also be addressed as part of a definitive plan submission.
- F33. 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. The Board finds that the Preliminary Plan has adequately addressed these issues. Further refinement is to be developed during the Definitive Plan permitting phase.
- F34. With regard to Section 1.5.5(g), that the project is generally compatible with adjacent properties and other property in the district. The property contains one single family residence and a few accessory

structures. The proposed number of dwelling units conforms to zoning and is similar to abutting properties. The area is residential in nature to the north and west, lots on the south side of Wheeler Road primarily contain structures closer to the street with rear of lots remain wooded. To the east and south of the property, open space is owned by Grafton Land Trust and the Town of Grafton along the west side of the Quinsigamond River.

- F35. With regard to Section 1.5.5(h), that 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. The site will be served by the Grafton Water District and Town of Grafton Sewer.
- F36. With regard to Section 1.5.5(i), that there will not be any significant or cumulative impact upon municipal water supplies. The site will be served by the Grafton Water District and Town of Grafton Sewer.
- F37. 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 as it relates to the submission of a preliminary plan. The property is adjacent to Grafton Land Trust (GLT) land and Ekblaw Landing. The Applicant is providing an open space parcel that will act as a buffer to existing trails on the adjacent GLT land. A swap of land is also proposed to move the detention basin farther away from the GLT trail head compared to initial drafts of the plan. Wheeler Road is not a Scenic Road.

IV. WAIVERS

- W1. At their meeting of December 23, 2019, 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. Wood) voted 5-0 to DENY the Applicant's request for the following Waiver from the *Rules and Regulations*, as specified below:

Section 4.1.3.6 - Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals of from six hundred feet (600') to twelve hundred feet (1200')

Applicant's Request: The Applicant requests a waiver from this requirement as the existing property is located within six hundred feet (600') of both Worcester Street (Rt. 140) and Meadow Lane. Although the requirement of this section cannot be met, the proposed roadway has been placed in a location that is generally equidistant for each existing adjacent road while also providing adequate sight distance in both directions along Wheeler Road.

The Applicant stated in the Traffic Study, submitted as Exhibit 1.h, the subdivision road is located 415' east of Meadow Lane and 315' west of Worcester Street. The Applicant's traffic engineer stated in their study that Stopping Sight Distance is 315' all the way to Worcester Street and 500 feet looking west. The Intersection Sight Distance is 35' to east (obstructed by trees) and 85' to west (obstructed by tree and telephone pole) then 122' to 290' (then vertical curve in street). Traffic Study recommended clearing to the east to achieve sight distance.

The Applicant, in responding to the Planning Board’s statement that there should be a public benefit associated with the consideration of the waiver, modified the Flexible Development Plan that was originally submitted to increase the size of the open space and to enter into a land swap with the Grafton Land Trust to maximize separation of the development from GLT trails and proposes granting the open space to the Land Trust. The Applicant, per Exhibit 26, proposes to provide 2.75 acres of open space to the Grafton Land Trust.

The Board finds that Section 6.1.a) of the Subdivision Rules and Regulations grants the Board the ability to grant waivers “when in the judgement of the Board such action is in the public interest and not inconsistent with the Subdivision Control Law... and with the purpose(s) and intent(s) of these Regulations”. The Board finds that, based on the review of circumstances presented WAIVER #1, the Applicant **has not** presented a compelling argument that the granting of the waiver is in the public interest and that the granting of the waiver is not inconsistent with the Subdivision Control Law and these Regulations. The Board finds that additional documentation and mitigation is required for the Board to consider granting of WAIVER #1. The Applicant should refer to CONDITIONS #C2 and #C3 for guidance and on how to request reconsideration of WAIVER #1.

W2. At their meeting of December 23, 2019, 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. Wood) voted 5-0 to **DENY** the Applicant’s request for the following Waiver from the *Rules and Regulations*, as specified below:

- Section 4.7.6 – Street lighting shall be located at a minimum, at intersections and every 300 feet and shall be in accordance with all requirements of the Select Board and utility provider

Applicant’s Request: The Applicant requests a waiver from the requirement of street lighting as the anticipated development will have low traffic and pedestrian volumes and street lighting would not be necessary on a short dead-end street in a quiet neighborhood. Typically, the individual homes will provide the site lighting necessary on each lot.

The Board finds that, based on the subdivision being designed to be eligible to be accepted as a Town Way, that further input is required by the Select Board as they are responsible for approving and accepting streetlights. For the purpose of this decision, WAIVER #2 is **DENIED**. The Applicant is encouraged to resubmit the waiver request at the time of definitive subdivision approval so that Select Board input can be incorporated into the final plans.

V. **DECISION and CONDITIONS**

A. **MAJOR RESIDENTIAL SPECIAL PERMIT - RECORD OF VOTE**

At their meeting of December 23, 2019, 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. Wood, seconded by Mr. Venkataraman) voted 4-1, as follows, to **APPROVE** the Applicant’s application for a **Major Residential Special Permit** with Conditions as noted below.

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

CONDITIONS

- C1. This Major Residential Development Special Permit is for a Flexible Development Plan.
- C2. Prior to the submission of a Definitive Plan Approval application the Applicant will prepare an open space maintenance plan that proposes how the open space parcels will be protected from trespass and dumping associated with lots internal to the development. The Applicant will work with Town Staff and representatives from the Grafton Land Trust to develop a plan that will include at a minimum, signage, deed restrictions, enforcement mechanisms to ensure that the open space is not encroached upon or used for dumping of yard waste. The open space maintenance plan shall be submitted prior to the Definitive Plan Application for review and approval by the Board.
- C3. Prior to the submission of a Definitive Plan Approval application, the Applicant shall prepare a trail improvement plan for the adjacent GLT property. The Board found in Finding 17 that the development of land as proposed by the Applicant will result in the increase of impervious surface area, removal trees, increased lawn area, and the construction of a drainage basin to accommodate increased runoff. The changes will change surface water flow and groundwater flow that may negatively impact the condition of the trail. The Applicant will work with Town Staff and representatives from the Grafton Land Trust to identify improvements to the trail on the adjacent property and shall prepare for submission to the Board. Any such plan for improvements shall also not represent a burden on the GLT to maintain. The Applicant shall consult with the Conservation Commission and/or Staff to ensure that any proposals are feasible and are permissible. The trail improvement plan shall be submitted prior to the Definitive Plan Application for review and approval by the Board and for determination that proposed improvements will result in improved accessibility and conditions of the trail that would be impacted by the development.
- C4. The total number of dwelling unit lots that could be developed under this Major Residential Special Permit Decision for the Conventional Development Plan shall not exceed six (6) single family lots. 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.
- C5. Any definitive plan filed pursuant to this Decision shall demonstrate that they have satisfied the requirements of the Article 33: Shade Tree, Section 5(f), of the Town of Grafton General By-laws.
- C6. Any definitive plan filed pursuant to this Decision shall demonstrate that they have satisfied the public safety requirements of the 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 depict resolution of outstanding issues.

- C8. 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 Major Residential 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 #22 and modified pursuant to CONDITIONS #C2 and #C3 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.
- C9. Pursuant to Section 5.3.10.3 of the ZBL, the Planning Board reserves the right to require changes to the Flexible Development Plan and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of the Bylaw.
- C10. Pursuant to Section 5.3.10.4 of the ZBL, subsequent to the granting of this Major Residential Special Permit for a Flexible Development 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 Major Residential 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 Major Residential 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.
- C11. If during the review of any Plans derived from this Major Residential Special Permit, the Planning Board determines that a conflict exists between information from which this Decision is based and the information associated with such Plans, the Planning Board may, upon its determination, require a new Major Residential Special Permit if it finds that the proposed changes are substantial in nature and of public concern.
- C12. The lots shown on the Plans shall be serviced by public water and sewer as agreed upon by the Applicant. This Approval shall not be construed as final approval of any off-site improvements or work 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 Grafton Water District, 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.
- C13. Any Order of Conditions and/or permits from the Conservation Commission that require substantial modification(s) to any of the plans approved by the Planning Board or conditions of this Major Residential Special Permit, shall follow the procedure specified within the Condition #C10 of this Decision.

- C14. In accordance with Section 1.5.8 of the ZBL, this Major Residential 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 and if construction has not occurred under any definitive subdivision approval and any conditions relating to the validity of said definitive subdivision approval. 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.
- C15. 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.
- C16. 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.
- C17. 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.
- C18. 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.

B. PRELIMINARY PLAN - RECORD OF VOTE

At their meeting of December 23, 2019, 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. Wood) voted 5-0 to **DENY** the Applicant's application for a **Flexible Development Preliminary Plan** with Conditions as noted below.

The Board finds that the Preliminary Plan did not comply with the strict requirements of the Subdivision Rules and Regulations and that the Applicant did not satisfy requirements for granting waivers as documented in WAIVER #1 and WAIVER #2. The Applicant may refer to Conditions #C2 and #C3 for the preparation of additional material for the reconsideration of WAIVER #1, which may be submitted as a request in advance of the submission of a Definitive Subdivision application. The Board further notes that the Applicant is required to present an open space maintenance plan (see CONDITION #C2).

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

12-30-2019

Date

cc: Applicant /Owner

- Owner
- Graves Engineering
- Building Inspector
- Board of Health
- Assessor
- Grafton Water District

To Whom It May Concern: This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk’s office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

Date