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DECISION

**GRAFTON PLANNING BOARD
SITE PLAN APPROVAL (SPA 2017-1.1)
MODIFICATION #1
Professional Office / Chiropractic Care**

**126 Worcester Street, Grafton, MA 01519
Thomas O'Malley, O'Malley Family Chiropractic (Applicant)
RSO Realty, LLC (Owner)**

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the Board) on the petition of Thomas O'Malley, 27A Pineland Avenue, Worcester, MA 01604 (hereinafter the Applicant), for the Modification of a Site Plan Approval (SP 2017-1) to expand the parking at an existing chiropractic office on the subject property, located at 126 Worcester Street (hereinafter the Site), and shown on the Grafton Assessor's Map 45, Lot 33, and owned by RSO Realty, LLC (hereinafter the Owner) by deed recorded in the Worcester District Registry of Deeds Book 57516, Page 321.

The Site Plan Approval decision, dated June 28, 2017, is recorded in the Worcester District Registry of Deeds (WDRD) in Book 57581, Page 262. Condition #C4 of said Decision requires, prior to any modification to the building location or site improvements, 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 its Decision. The Planning Board may, upon its determination, require a modification of its 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 its Decision, in accordance with Section 1.3.3 of the Zoning By-law, and any other applicable regulations.

I. BACKGROUND

The application for the Modification of a Site Plan Approval (hereinafter Application) was filed with the Planning Board on June 22, 2020. Notice of the public hearing and the subject matter thereof was published in the Grafton News on June 25th and July 2nd, 2020 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on July 13, 2020 and continued to July 27, 2020 and August 10, 2020. During the public hearings, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on August 10, 2020.

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, the following people presented the Application: John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, Johnathan Leone, Z&J Realty, LLC and Kevin Leone, Z&J Realty, LLC.

II. SUBMITTALS

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

EXHIBIT 1. Original Application Submission, received June 22, 2020 to include the following:

- a. Application for Modification of a Site Plan Approval, signed by Thomas O'Malley, O'Malley Family Chiropractic (Applicant), dated June 12, 2020, date stamped by the Town Clerk on June 25, 2020 and date stamped received by the Planning Board on June 22, 2020, 1 page.

- b. Certificate of Good Standing, signed by Susan Rogers, dated June 15, 2020, 1 page.
- c. Abutters Listing for 126 Worcester Street, Map 45, Lot 33, dated April 28, 2017 and revised and signed on June 15, 2020 by Mary M. Oliver, Principal Assessor, 1 page.
- d. Project Narrative, dated June 17, 2020, prepared by Peter C. Engle, P.E., McClure Engineering, Inc., 119 Worcester Road, Charlton, MA 01507, 3 pages.
- e. Waiver Request form, 3 pages.

- EXHIBIT 2.** Plan: “SPA2017-1 Site Plan Modification”, dated June 17, 2020, prepared by Peter C. Engle, P.E., McClure Engineering, Inc., 119 Worcester Road, Charlton, MA 01507, 5 sheets.
- EXHIBIT 3.** Report: “Stormwater Management Report”, dated June 17, 2020, prepared by Peter C. Engle, P.E., McClure Engineering, Inc., 119 Worcester Road, Charlton, MA 01507, received by the Planning Board on June 22, 2020, 177 pages.
- EXHIBIT 4.** Public Hearing Notice, stamped by the Town Clerk’s office on June 25, 2020; 1 page.
- EXHIBIT 5.** Public Hearing Continuance Request, dated July 15, 2020, signed by Thomas O’Malley, O’Malley Family Chiropractic, received by the Planning Board on July 15, 2020, 1 page.
- EXHIBIT 6.** Email from Nancy Connors, Board of Health, regarding Request for Comments; 126 Worcester Street, SPA 2017-01.1, dated July 21, 2020, received by the Planning Board on July 21, 2020, 1 page.
- EXHIBIT 7.** Email from Katrina Koshivos, Zoning Board of Appeals, regarding 126 Worcester Street - RSO Realty, LLC- Modification of Site Plan Approval, dated July 22, 2020, received by the Planning Board on July 22, 2020, 1 page.
- EXHIBIT 8.** Peer Review: “O’Malley Family Chiropractic”, dated July 24, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages.
- EXHIBIT 9.** Response to Peer Review: “McClure Response to Graves Engineering, Inc.’s Peer Review Comments Date 7/24/2020”, dated July 24, 2020, prepared by Peter C. Engle, P.E., McClure Engineering, Inc., 119 Worcester Road, Charlton, MA 01507, 3 pages.
- EXHIBIT 10.** Plan: “SPA2017-1 Site Plan Modification”, dated June 17, 2020, revised July 6, 2020 and July 24, 2020, prepared by Peter C. Engle, P.E., McClure Engineering, Inc., 119 Worcester Road, Charlton, MA 01507, 5 sheets.
- EXHIBIT 11.** Peer Review: “O’Malley Family Chiropractic”, dated July 27, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages.
- EXHIBIT 12.** Public Hearing Continuance Request, dated August 5, 2020, signed by Thomas O’Malley, O’Malley Family Chiropractic, date stamped received by the Planning Board on August 5, 2020, 1 page.

III. FINDINGS

At their meeting of August 10, 2020 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

David Robbins seconded by Linda 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 plans identified in this Decision, as well as the information and materials 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 in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- F3. That the subject property is located within the Office / Light Industrial zoning district. The subject property is not located within the Water Supply Protection Overlay District.
- F4. That the subject property is located within the Office / Light Industrial zoning district. The subject property is also located within the Water Supply Protection Overlay District.
- F5. That during the public hearing the Board and the Applicant discussed the nature of the application. The proposed modification is to expand the parking at an existing chiropractic office on the subject property to accommodate additional customers and larger utility vehicles.
- F6. That the existing vegetation on site was sufficient to address the requirements for parking area plantings, as noted in Comment # 5 of Exhibit 11 (Peer Review: "O'Malley Family Chiropractic", dated July 27, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages).

IV. WAIVERS

At their meeting of August 10, 2020, 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 Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for waivers from the following requirements of *Section 1.3.3.3* of the ZBL with regard to preparing site plan for the reasons stated within the Findings of this Decision:

- *Section 1.3.3.3 (d)*
 - (17) Calculations of the volume of earth material to be removed or filled
 - (21) Landscaping
 - (22) Lighting
 - (23) Proposed signs
 - (24) Sewage, refuse and other waste disposal
 - (27) Exterior storage areas and fences
 - (28) Utilities and their exterior appurtenances

V. DECISION

At their meeting of August 10, 2020, 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 Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Modification of the Site Plan Approval (SPA 2017-1) with the following conditions:

- C1.) This approval specifically modifies Site Plan Approval (SPA 2017-1), dated June 28, 2017, as recorded in the Worcester District Registry of Deeds (WDRD) in Book 57581, Page 262. This approval as presented in this Decision specifically allows expansion of the parking at an existing chiropractic office on the subject property, located at 126 Worcester Street, as described within the EXHIBITS and FINDINGS of this Decision.
- C2.) Any modification to the building location or site improvements as shown on the Plans or authorized by this Decision 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 Section 1.3.3 of the Zoning By-law, and any other applicable regulations.
- C3.) This Modification of Site Plan Approval (SPA 2017-1) shall not take effect until the Decision has been recorded at the Worcester Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department, including the WDRD Book and Page Number and/or Instrument Number.
- C4.) All Conditions and requirements of Site Plan Approval (SPA 2017-1), unless modified by this Decision, shall remain in full force and effect.
- C5.) Prior to commencement of work, the applicant shall provide the Planning Department with the issued DEP File number, for the associated work.
- C6.) Prior to commencement of work, confirmatory soil testing as outlined in Comment #9 of Exhibit 11 (Peer Review: “O’Malley Family Chiropractic”, dated July 27, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages) shall be conducted and witnessed by the Town’s Peer Review Engineer, Graves Engineering, Inc. A confirmatory statement from Town’s Peer Review Engineer, Graves Engineering, Inc. indicating satisfactory results shall be provided to the Board for its review and approval.

VI. RECORD OF VOTE

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

DATE OF FILING OF DECISION:

BY ORDER OF THE BOARD



Christopher J. McGoldrick, Town Planner

8/21/2020

Date

- Applicant / Owner
- Assessor
- Graves Engineering
- Building Inspector
- Conservation Commission

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