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GRAFTON, MA.

**DECISION
GRAFTON PLANNING BOARD**

DEC 2 3 47 PM '02

**SITE PLAN APPROVAL
Construction/Renovation of Little League Field, Children's Soccer Field, and
Expansion/Improvements to Existing Parking Area
North Street ("Norcross Park"), Grafton, MA
(Grafton Assessor's Map 65, Lot 145)**

Town of Grafton, MA (Applicant/Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of the Town of Grafton, MA, 30 Providence Road, Grafton, MA (hereinafter the Applicant), for Site Plan Approval for the construction/renovation of the Little League field, children's soccer field, and expansion/improvements to the existing parking area on property located on North Street ("Norcross Park"), as shown on Grafton Assessor's Map 65, Lot 145 hereinafter the Site), and owned by the Town of Grafton by deed recorded in the Worcester District Registry of Deeds: Book 394, Page 579.

I. BACKGROUND

The above referenced application for Site Plan Approval (hereinafter Application) was submitted on July 18, 2002. The public hearing on the application was opened on August 12, 2002, and continued, at the request of the applicant with concurrence of the Planning Board, to the September 9, October 7 and October 28, 2002 meetings. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 24 and 31, 2002, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. At the public hearing, all those wishing to speak to the petition were heard.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Martin Temple, Clerk Stephen Dunne, and Keith Regan. At the hearing, Mark Allen of Guerriere & Halnon, Inc., and Dennis Miner presented the proposal. 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: Application for Site Plan Approval.
- EXHIBIT 2: Plan entitled: *Site Plan for The Edward P. Miner Memorial Field in Grafton Massachusetts* (cover sheet), prepared by Guerriere & Halnon, Inc., dated 6/27/02, including the following sheets:

- *Existing Conditions Plan* (sheet 2 of 6), dated 6/27/02, scale 1" = 30';
- *Site Layout & Utility Plan* (sheet 3 of 6), dated 6/27/02, scale 1" = 30';
- *Site Grading, Drainage, & Erosion Control Plan* (sheet 4 of 6), dated 6/27/02, scale 1" = 30';
- *Site Landscape Plan* (sheet 5 of 6), dated 6/27/02, scale 1" = 30';
- *Site Detail Sheet* (sheet 6 of 6), dated 6/27/02, scale 1" = 30';

- EXHIBIT 3: Notice of Intent, dated July 2002.
- EXHIBIT 4: Drainage Analysis for Parking Area, with cover letter received by Planning Board on 7/18/02.
- EXHIBIT 5: Certified List of Abutters.
- EXHIBIT 6: Public Hearing Legal Notice.
- EXHIBIT 7: Notice of August 6, 2002, Grafton Conservation Commission Public Hearing.
- EXHIBIT 8: Correspondence from Grafton Conservation Commission, received by Planning Office on 7/25/02.
- EXHIBIT 9: Return memo from Grafton Sewer Department, received by Planning Office on 7/25/02.
- EXHIBIT 10: Correspondence from William Winner, received by Planning Office on 7/29/02.
- EXHIBIT 11: Return memo from Town Clerk's Office, received by Planning Office on 8/6/02.
- EXHIBIT 12: Correspondence from Nancy J. Hazen, received by Planning Office on 8/6/02.
- EXHIBIT 13: Correspondence from Graves Engineering, dated 8/6/02.
- EXHIBIT 14: Correspondence from Guerriere & Halnon, Inc., re: EXHIBIT 13, received by Planning Office on 8/8/02.
- EXHIBIT 15: Correspondence from Building Inspector, received by Planning Office on 8/12/02.
- EXHIBIT 16: Correspondence from Mark and Debra Steinmetz, received by Planning Office on 8/12/02.
- EXHIBIT 17: Planning Board "Sign-In Sheet" for 8/12/02 Public Hearing.
- EXHIBIT 18: Copy of correspondence from Ann Leo to Russell Connor, dated 10/23/01, received at Planning Board meeting on 8/12/02.
- EXHIBIT 19: Copy of M.G.L. Chapter 85, Section 3, received at Planning Board meeting on 8/12/02.
- EXHIBIT 20: Copy of correspondence from Ann Leo to Russell Connor (3 pages), dated 9/28/01, received at Planning Board meeting on 8/12/02.
- EXHIBIT 21: Copy of correspondence from Kopelman and Paige, P.C. to Ann Leo (3 pages), dated 8/27/01, received at Planning Board meeting on 8/12/02.
- EXHIBIT 22: Applicant's written request for continuance of the Public Hearing to 9/9/02.
- EXHIBIT 23: Correspondence from Town Administrator/Board of Selectmen, received by Planning Office on 8/23/02.

- EXHIBIT 24: Correspondence from Grafton Police Department, received by Planning Office on 10/28/02.
- EXHIBIT 25: Correspondence from Grafton Board of Health, received by Planning Office on 8/28/02.
- EXHIBIT 26: Request from Applicant's Contact Person for continuance of the Public Hearing.
- EXHIBIT 27: Applicant's written request for continuance of the Public Hearing.
- EXHIBIT 28: Correspondence from Grafton Recreation Department, received by Planning Office on 9/19/02.
- EXHIBIT 29: Drainage Analysis, dated September 20, 2002, prepared Guerriere & Halnon, Inc.
- EXHIBIT 30: Correspondence from Town Administrator (3 pages), received by Planning Office on 9/19/02.
- EXHIBIT 31: Plans entitled: *Edward P. Miner Field*, prepared by HOK Sports Facilities Group, LLC, dated 9/28/02, including the following sheets:
- *Plans* (Sheets A1-1 and A1-2);
 - *Elevations* (Sheet A2-1);
 - *Sections* (Sheet A3-1);
- EXHIBIT 32: Plans identified in EXHIBIT 2, revised 8/30/02.
- EXHIBIT 33: Correspondence from Graves Engineering, dated 10/4/02.
- EXHIBIT 34: Correspondence from Town Planner to Planning Board (2 pages), dated 10/4/02.
- EXHIBIT 35: Planning Board "Sign-In Sheet" for 10/7/02 Public Hearing.
- EXHIBIT 36: Applicant's written request for continuance of the Public Hearing to 10/28/02.
- EXHIBIT 37: Plans identified in EXHIBITS 2 and 32, revised 10/24/02.
- EXHIBIT 38: Correspondence from Town Administrator (7 pages), received by Planning Office on 10/28/02.
- EXHIBIT 39: Correspondence from Grafton Board of Health, received by Planning Office on 10/28/02.
- EXHIBIT 40: Planning Board "Sign-In Sheet" for 10/28/02 Public Hearing.

III. FINDINGS

At their meeting of November 25, 2002, 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. Dunne, seconded by Mr. Regan) voted 3 – 0 in favor (Mr. Temple absent) 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 EXHIBITS submitted and presented in association with the Application.

- F2.) That determinations regarding the following findings are also predicated upon satisfactory completion of the site improvements shown on the Plan (EXHIBIT 37) 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 subject Site is located in a Residential R-40 zoning district.
- F4.) That this petition is for the construction/renovation of the Little League field, children's soccer field, and expansion/improvements to the existing parking area at Norcross Park. The Board further finds that Site Plan Approval is required for said petition as the Grafton Zoning By-law (hereinafter ZBL) states, in part, that Site Plan Review is "For the purpose of assuring proper drainage, screening, safe access, adequate parking and loading spaces, public convenience and safety, adequate consideration of abutting land owners and compliance with the provisions of this By-Law,...".
- F5.) That an issue was raised during the public hearing regarding whether or not the proposed work required a Special Permit as concern was expressed that the proposed work was a substantial change to the current use of the Site. The Planning Board further finds that the Building Inspector/Zoning Enforcement Officer issued a determination (EXHIBIT 15) that only a Site Plan Review was required for the proposed work as he did not believe a substantial change in use was proposed.
- F6.) That during the public hearing, an issue was raised regarding whether the above referenced Application was properly before the Planning Board as concern was expressed regarding the ownership of the property and whether the "owner" identified and represented on the Application was appropriate with regard to legality.
- F7.) That the Planning Board acknowledges the concerns noted in Finding # 6, however the Board further finds that the Application was made in good faith and that the individual(s) signing the Application are legally representing that he/she/they are the rightful and legal owner(s) of the property. The Board further finds that based upon the information submitted by the Applicant in response to this matter (EXHIBIT 38), the Board feels the owner(s) of the property are as represented on the Application.

- F8.) That the Planning Board acknowledges the concerns of the Grafton Recreation Commission, as noted in the correspondence identified as EXHIBIT 28 of this Decision. The Board also finds that during the public hearing, as well as in the EXHIBITS identified within this Decision, issues were raised regarding whether the use of the park, and more specifically the use of the park by various Town organizations, would be affected by the proposed work and subsequent use. The Board further finds that it is beyond the Planning Board's jurisdiction under Site Plan Review to place any restrictions or conditions on the abilities of individual groups/organizations to use the park for its intended purposes, and such decisions are solely the discretion of the property owner.
- F9.) That the Planning Board acknowledges the concerns noted in correspondence submitted, as well as comments presented during the public hearing, regarding the maintenance of the proposed restrooms on the Site, as well as the Site overall. The Board also finds that maintenance of such restroom facilities, as well as specifying the individual(s) responsible for maintenance of the overall Site, is beyond the Board's jurisdiction under Site Plan Review. The Board further finds that it does, as a standard practice in its approvals, place conditions that require Sites subject to Site Plan Review to be maintained in accordance with all applicable Federal, State and Local regulations, and as shown on the Plans identified in the Decision.
- F10.) That according to Section 3.2.3.1 (Recreational Uses) of the ZBL, public recreational facilities are permitted in a R-40 zoning district only upon the issuance of a Special Permit from the Planning Board. The Board further finds that although the use is a pre-existing condition, it is not subject to the provisions of Section 3.2.3.1 due to Finding # F5 of this Decision.
- F11.) That the Applicant stated that no additional lighting for the park was being proposed as part of this Application. The Board further finds that the addition of lighting at a future date for the purposes of using the Site beyond the hours it is currently used (e.g., the addition of night-time baseball games), would be a substantial change in use and would therefore require a Special Permit in accordance with Sections 3.4.3 and 1.5.5 of the ZBL.
- F12.) That during the public hearing, a direct abutter to the Site expressed concern that their property could be impacted by drainage from the Site as a result of the grading/drainage improvements, as well as construction of the wall/fence surrounding the baseball field.
- F13.) That the Applicant has indicated, during the public hearing and through correspondence to the Board, that a License Agreement will be executed prior to any construction activity and will govern both the construction and use of the improvements to the park.

- F14.) That based upon Finding # F13, the Planning Board will forward to the Board of Selectmen the concerns identified within the Findings of this Decision for the reasons noted within said Findings.

IV. DECISION and CONDITIONS

At their meeting of November 25, 2002, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based on the Findings stated within this Decision, the Grafton Planning Board (motion by Mr. Dunne, seconded by Mr. Regan) voted 3 – 0 in favor (Mr. Temple absent) to APPROVE the Application for Site Plan Approval with the following conditions:

- 1.) 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 37 (Plans) of this Decision. All required permits and approvals shall be secured by the Applicant at the appropriate stage of construction and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
- 2.) All grading and construction shall be performed in accordance with the Plans, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways, resource areas and abutting properties from the site and its associated improvements during, and after completion of, construction.
- 3.) All site development and improvements shall be inspected at the appropriate stage of construction by the Planning Board or its designee upon request made by the Applicant to the Planning Board or its designee.
- 4.) Based upon Finding # F 12 of this Decision, the Planning Board reserves the right to require corrective work, at the Applicant's expense, for up to one (1) year after the completion of the improvements shown on the Plans or the issuance of an occupancy permit (whichever occurs later), in order to satisfactorily address any impact(s) to direct abutters of this Site as a result of work associated with grading and drainage improvements. The Building Inspector/Zoning Enforcement Officer shall be responsible for certifying the date of completion of said improvements and shall notify the Planning Board in writing of such date.
- 5.) Based upon Finding # F6, if it is determined, in the opinion of the Building Inspector/Zoning Enforcement Officer, that the Application that is the subject of this Decision contains a misrepresentation of facts or false statements, this Decision shall be considered void.

- 6.) Any work to be performed within the layout of North Street (a public way), including the proposed modifications to the points of ingress/egress to and from the site, shall be performed in accordance with all requirements of the Grafton Department of Public Works Director.
- 7.) Any signage required by this Decision, or proposed at a later date, shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. Signage and pavement markings for traffic and pedestrian safety, in addition to that specified on the Plan, may be added at the discretion of the DPW Director provided said signage and markings conform to the provisions of the Grafton Zoning By-law and all other applicable regulations.
- 8.) Any signage for purposes other than traffic/pedestrian safety, including but not limited to signs for the advertising of products, businesses, organizations, etc., shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be misconstrued as approving or authorizing any such signage.
- 9.) The Planning Board reserves the right to require additional parking control measures (e.g., signage, pavement markings, etc.) for up to one (1) year after the date of completion of the parking area improvements shown on the Plans or the issuance of an occupancy permit (whichever occurs later), if the Board deems such measures are necessary. The Building Inspector / Zoning Enforcement Officer shall be responsible for certifying the date of completion of said improvements and shall notify the Planning Board in writing of such date.
- 10.) Based upon Findings # F13 and # F14 of this Decision, this Decision (and all conditions contained herein) shall be incorporated into any License Agreement for work and subsequent use of the park associated with this Decision, and shall constitute a condition of any such Agreement.
- 11.) Landscaping and pavement markings shall be installed according the Plan identified as EXHIBIT 37 of this Decision, in accordance with all requirements of the Town of Grafton Department of Public Works.
- 12.) No lighting is authorized as part of this Decision.

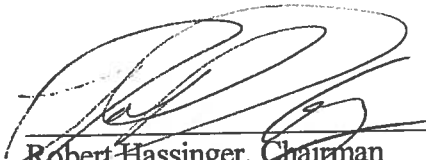
- 13.) Any modification to the use or site as described within this Decision and as presented to the Board during the public hearing and in the above referenced EXHIBITS shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially 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 (or other approvals if deemed necessary) 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.

- 14.) Any modification to the building(s) and/or site improvements shown on the Plans identified as EXHIBIT 37 (such as noted in Finding # F11) 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 in accordance with the procedure identified in Condition # 13 of this Decision.


- 15.) This Site Plan Approval is subject to approval by the Grafton Conservation Commission regarding the work shown on the Plans identified as EXHIBIT 37 of this Decision. Any Order of Conditions and/or permits issued by the 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 modifications to the Plans identified as EXHIBIT 37 of this Decision, 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 in accordance with the procedure identified in Condition # 13 of this Decision.

- 16.) The Planning Board reserves the right, pursuant to Section 1.5.1.1 of the ZBL, to utilize the services of a professional engineer in reviewing any materials required to be submitted as conditions of this Decision, or conducting any inspections or other work associated with the construction of the Site. In accordance with Section 1.5.1.1, any fees or expenses associated with such reviews shall be the responsibility of the Applicant. Such inspections or reviews will not be conducted if a zero or negative balance exists in any account established by the Planning Board for the purposes stated in this Condition. Payment of all fees associated with this condition shall be made prior to the issuance of an Occupancy Permit.
- 17.) Any inability or failure or refusal by the Applicant to comply with the requirements of this Site Plan Approval Decision, or any applicable Federal, State or Local regulations or approval, when notified of failure of compliance shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

WITNESS our hands this 2nd day of December, 2002.


Robert Hassinger, Chairman


Keith Regan, Member


Stephen Dunne, Clerk

cc: Applicant
Board of Selectmen
Board of Health
Conservation Commission
Board of Appeals

Town Engineer
Building Inspector
Highway Supervisor
Water District
Board of Sewer Commissioners