

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2019-2) & SITE PLAN APPROVAL  
Multi-Family Dwellings  
41 Church and 14 West Streets**

**David W. Brossi (applicant)  
David W. Brossi and Brigati Village, LLC (owners)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of David W. Brossi, 15 Juniper Lane, Grafton, MA 01519 (hereinafter the Applicant), for a Special Permit for multi-family dwellings on property located at 41 Church and 14 West Streets, Grafton, MA, and shown as *Grafton Assessor's Map 74, Lots 33 and 30*, owned by David Brossi, and Brigati Village, LLC, by deed recorded in the *Worcester District Registry of Deeds: Book 55774, Page 378; and Book 91, Page 97*.

**I. BACKGROUND**

The application for the above referenced Special Permit (hereinafter Application) was received on February 12, 2019. The public hearing on the Application was opened on March 25, 2019 and continued, at the request of the applicant with concurrence of the Planning Board, to the April 22, and May 20, 2019 meetings. Notice of the public hearing and the subject matter thereof was published in the Grafton News on March 7 and 14, 2019, and posted with the Town Clerk's Office.

Due to the resignation of one regular member and the associate member and an election whereby one member did not seek re-election, the Board could not maintain enough members to act on the application. The public hearing was re-advertised, and abutters were mailed new legal notice for a public hearing on June 10, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on May 23 and 30, 2019. Abutters were notified by First Class Mail.

Due to delays in filling vacancies for the one regular member and the associate member, the June 10, 2019 hearing was continued with no testimony to June 24, 2019. The public hearing formally was re-opened on June 24, 2019 with a full Board and Associate Planning Board member. The hearing was continued, at the request of the applicant with concurrence of the Planning Board, to the July 8, and August 12, 2019 meetings. At the public hearings, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on August 12, 2019 by a vote of 4-1.

The following Board members were present throughout the public hearing: Chairman David Robbins, Vice-Chairman Robert Hassinger, Clerk Justin Wood, Prabhu Venkataraman, Linda Hassinger, and Vikram Dave via Mullin Rule Certification. At the hearing, Wayne Belec, of WDA Design Group, Westborough, MA and David Brossi, Applicant, 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:

1. Original Application Submission, received February 12, 2019 to include the following;
  - a. Application for Special Permit, signed by David W. Brossi, dated February 7, 2019, date stamped by the Town Clerk on February 12, 2019 and date stamped received by the Planning Board on February 12, 2019, 1 page.
  - b. Application for Site Plan Approval, signed by David W. Brossi, dated February 7, 2019, and date stamped by Planning on February 12, 2019, 1 page.
  - c. Certificate of Good Standing for 41 Church Street, signed by JoAnn Haffty, dated January 31, 2019, and date stamped received by the Planning Board on February 12, 2019, 1 page.
  - d. Certificate of Good Standing for 14 West Street, signed by JoAnn Haffty, dated January 31, 2019, and date stamped received by the Planning Board on February 12, 2019, 1 page.
  - e. Abutters Listing for 41 Church Street and 14 West Street, dated January 31, 2019 and signed by Tammy Kalinowski, Office Manager, and date stamped received by the Planning Board on February 12, 2019, 2 pages.
  - f. Letter addressed to Mr. Hassinger and Members of the Board, regarding "Special Permit & Site Plan Approval, 'Brigati Village,' 41 Church Street & 14 West Street, Grafton, Massachusetts," including project narrative, and date stamped received by the Planning Board on February 12, 2019, 9 pages.
2. Report entitled "Surface Report, Earthworks-Volume;" prepared by WDA Design Group, dated February 9, 2019 and date stamped received by the Planning Board on February 12, 2019, 1 page.
3. Plan entitled "National Flood Hazard Layer FIRMette," dated August 16, 2018 and date stamped received by the Planning Board on February 12, 2019, 1 page (color).
4. Plans entitled "Special Permit / Site Plan Approval for Brigati Village in Grafton, Massachusetts," prepared by WDA Design Group, dated February 7, 2019 and date stamped received by the Planning Board on February 12, 2019, 22 sheets (24" x 36").
5. Report entitled "Traffic Impact and Access Study, Proposed Residential Development," prepared by Tetra Tech, dated January 2019 and date stamped received by the Planning Board on February 12, 2019, 196 pages.

6. Report entitled “Stormwater Management Report,” prepared by WDA Design Group, dated February 2019 and date stamped received by the Planning Board on February 12, 2019, 134 pages.
7. Public Hearing Notice, date stamped by the Town Clerk on February 14, 2019, 1 page.
8. Email from Katrina Koshivos, Zoning Board of Appeals, dated February 14, 2019 and date stamped received by the Planning Board on February 14, 2019, 1 page.
9. Email from Nancy Connors, Board of Health, dated February 14, 2019 and date stamped received by the Planning Board on February 14, 2019, 1 page.
10. Peer Review: “Brigati Village – Proposed Multi-Family Development, 14 West Street and 41 Church Street, Special Permit, Site Plan, Wetland Regulations and Stormwater Regulations Review,” prepared by Jeffrey M. Walsh, P.E., Graves Engineering, Inc., dated March 16, 2019 and date stamped received by the Planning Board on March 18, 2019, 5 pages.
11. Letter to the Grafton Planning Board regarding “Brigati Village LLC located at 41 Church Street and 14 West Street: Proposed construction of a 57-unit Multi-Family Residential development,” from Denise Galante, 64 Nottingham Road, Grafton, MA, dated March 17, 2019 and date stamped received by the Planning Board on March 18, 2019, 3 pages.
12. Plan entitled “Existing Conditions, Brigati Village,” dated March 18, 2019, prepared by WDA Design Group and date stamped received by the Planning Board on March 19, 2019, 1 sheet (color).
13. Plan entitled “Conceptual Site Plan, Brigati Village,” dated March 18, 2019, prepared by WDA Design Group and date stamped received by the Planning Board on March 19, 2019, 1 sheet (color).
14. Email from Daniel A. Vellone, 51 Church Street, Grafton, MA, dated March 25, 2019, and date stamped received by the Planning Board on March 25, 2019, 5 pages.
15. Public Hearing Continuance form, signed by David Brossi (applicant), dated March 25, 2019, and date stamped received by the Planning Board on March 25, 2019, 1 page.
16. Public Hearing Sign-In Sheet dated March 25, 2019, 2 pages.
17. Email from Monique Rinner, 32 South Street, Grafton, MA, dated March 26, 2019 and date stamped received by the Planning Board on March 27, 2019, 1 page.
18. Report: “Transportation Peer Review Comments, Brigati Village, 41 Church Street and 14 West Street, Grafton, MA,” dated March 28, 2019, signed by Robert J. Michaud, P.E., and date stamped received by the Planning Board on April 1, 2019, 6 pages.
19. Letter addressed to the Planning Board Chairman Robert Hassinger, from Thomas Winston, regarding “Brigati Village Development,” dated April 18, 2019, and date stamped received by the Planning Board on April 19, 2019, 1 page.
20. Email addressed to the Planning Board Chairman Robert Hassinger, from Linda Hutchins, regarding “Public Comment, Proposed Brigati Village Development, 41

- Church St. and 14 West St. SP 2019-2,” dated April 21, 2019, and date stamped received by the Planning Board on April 22, 2019, 3 pages.
21. Plan entitled “Landscape Buffer Exhibit, Brigati Village,” dated April 17, 2019, prepared by WDA Design Group and date stamped received by the Planning Board on April 22, 2019, 1 sheet (11”x17”, color).
  22. Mullin Rule Certification for the March 25, 2019 public hearing, signed by Sharon Carroll-Tidman on April 22, 2019 and date stamped received by the Planning Board on April 22, 2019; 1 page.
  23. Public Hearing Continuance form, signed by Wayne Belec (for David Brossi), dated April 22, 2019, and date stamped received by the Planning Board on April 22, 2019, 1 page.
  24. Public Hearing Sign-In Sheet dated April 22, 2019, 1 page.
  25. Email from Wayne Belec of WDA Design Group, dated May 13, 2019, requesting a public hearing continuance and date stamped received by the Planning Board on May 16, 2019, 1 page.
  26. Report entitled “Response to Traffic Comments, Proposed Brigati Village Residential Development, Grafton, MA,” address to Joseph Laydon, Grafton Town Planner, from Robert I. Woodland, PE and Courtney E. Jones, PE, Tetra Tech, dated May 17, 2019 and date stamped received by the Planning Board on May 17, 2019, 92 pages.
  27. Material submitted by Daniel Vellone, 51 Church Street, Grafton, MA, at the Planning Board Meeting of April 22, 2019 and date stamped received by the Planning Board on April 22, 2019, 37 pages.
  28. Letter addressed to the Grafton Planning Board, with attachments, from Daniel A. Vellone, 51 Church Street, dated May 20, 2019, entitled “SP 2019-2/SPA, DEP#164-970/WP#792/SWP#18-7, Brigati Village LLC Special Permit/Site Plan Approval, Proposed Construction of a 57-Unit Multi-Family Residential Development, 41 Church Street & 14 West Street, Grafton, MA,” and date stamped received by the Planning Board on May 20, 2019, 44 pages.
  29. PowerPoint presentation entitled “Proposed Brigati Village Residential Development Transportation Presentation,” prepared by Courtney E. Jones, PE, Tetra Tech, dated May 20, 2019 and received by Planning on May 20, 2019, 11 pages.
  30. Peer Review Letter addressed to the Grafton Planning Board, from Robert J. Michaud, P.E., Managing Principal, MDM Transportation Consultants, Inc., regarding “Transportation Peer Review Comments, Brigati Village, 41 Church Street and 14 West Street, Grafton, MA, dated May 20, 2019 and date stamped received by the Planning Board on May 20, 2019, 8 pages.
  31. Public Hearing Sign-In Sheet dated May 20, 2019, 1 page.
  32. Public Hearing Continuance form, signed by Wayne Belec (for David Brossi), dated May 20, 2019, and date stamped received by the Planning Board on May 20, 2019, 1 page.
  33. Public Hearing Notice, date stamped by the Town Clerk on May 16, 2019, 1 page.

34. Letter addressed to Mr. Robert Hassinger, Chair, regarding "Special Permit & Site Plan Approval, Notice of Intent, Wetlands Protection Bylaw Permit & Stormwater Management Bylaw Permit Applications (DEP File #164-0970), "Brigati Village," 41 Church Street & 14 West Street, Grafton, Massachusetts," from Wayne M. Belec, Associate, WDA Design Group, Inc., dated May 20, 2019 and date stamped received by the Planning Board on May 20, 2019, 11 pages.
35. Report entitled "Addendum-1, Stormwater Management Report," prepared by WDA Design Group, original report dated February 2019, revised May 2019 and date stamped received by the Planning Board on May 20, 2019, 79 pages.
36. Plans entitled "Special Permit / Site Plan Approval for Brigati Village in Grafton, Massachusetts," prepared by WDA Design Group, dated February 7, 2019, revised May 17, 2019 and date stamped received by the Planning Board on May 17, 2019, 22 sheets (24" x 36").
37. Proposed HydroCAD calculations, received from Wayne Belec, WDA Design Group, revised May 23, 2019, and date stamped received by the Planning Board on May 23, 2019, 46 pages.
38. Email requesting a public hearing continuance, from Wayne Belec, WDA Design Group, dated May 23, 2019 and date stamped received by the Planning Board on June 5, 2019, 1 page.
39. Peer Review letter "Brigati Village – Proposed Multi-Family Development, 14 West Street and 41 Church Street, Special Permit, Site Plan, Wetland Regulations and Stormwater Regulations Review," prepared by Jeffrey M. Walsh, P.E., Graves Engineering, Inc., dated June 18, 2019 and date stamped received by the Planning Board on June 18, 2019, 7 pages.
40. Report entitled "Geotechnical Engineering Report, Slope Stability Evaluation – Brigati Village, 41 Church Street, 14 and 15 West Street, Grafton, MA," by Mark M. Zambarnardi, P.E. and James M. Handanyan, P.E., Principal Engineers, Northeast Geotechnical, Inc., dated May 15, 2019, and date stamped received by the Planning Board on June 24, 2019, 24 pages.
41. Plan entitled "Figure 1: Roadway Improvements, Church Street and West Street, Grafton, MA," by TetraTech, dated June 12, 2019 and date stamped received by the Planning Board on June 24, 2019, 1 sheet (11"x17").
42. Email regarding "SP 2019-2/SPA, 41 Church Street & 14 West Street, Brigati Village LLC, Proposed 57-Unit Multi-Family Residential Development, Grafton, MA, DEP#164-970 / WP#792 / SWP#8-7," from Daniel Vellone, 51 Church Street, dated June 24, 2019 and date stamped received by the Planning Board on June 24, 2019, 2 pages.
43. Material submitted by Daniel A. Vellone at the Planning Board Meeting of June 24, 2019:
  - a. Excerpt from: "Technical Release 210-60, Earth Dams and Reservoirs, March 2018," Conservation Engineering Division, Natural Resources Conservation Service, United States Department of Agriculture, 8 pages.
  - b. Excerpt from: "Slope Stability," EM 1110-2-1902, 31 Oct 2003, Engineer Manual, Engineering and Design, U.S. Army Corps of Engineers, 4 pages.

- c. Excerpt from: "Geotechnical Engineering Circular No. 3, Design Guidance: Geotechnical Earthquake Engineering for Highways, Volume I-Design Principles," Publication No. FHWA-SA-97-076, May 1997, Office of Engineering, Office of Technology Applicants, Federal Highway Administration, U.S. Department of Transportation, 2 pages.
  - d. Excerpt from: "Stability and Performance of Slopes and Embankments – II," edited by Raymond B. Seed and Ross W. Boulanger. ASCE, 1992, 7 pages.
  - e. Excerpt from: "Soil Mechanics," Design Manual 7.01, Revalidated by Change 1 September 1986, Naval Facilities Engineering Command, United States Navy, 7 pages.
44. Public Hearing Sign-In Sheet dated June 24, 2019, 1 page.
  45. Public Hearing Continuance form, signed by David Brossi, dated June 24, 2019, and date stamped received by the Planning Board on June 24, 2019, 1 page.
  46. Email from Debra Lee George, 64 Nottingham Road, Grafton, MA, dated July 8, 2019, and date stamped received by the Planning Board on July 8, 2019, 2 pages.
  47. Letter regarding "SP 2019-2/SPA, DEP#164-970 / WP#792 / SWP#18-7, Brigati Village LLC, Special Permit / Site Plan Approval, Proposed Construction of a 57-Unit Multi-Family Residential Development, 41 Church Street & 14 West Street, Grafton, MA," from Daniel A. Vellone, M.S., PG, CPG, 51 Church Street, Grafton, MA, dated July 8, 2019 and date stamped received by the Planning Board on July 9, 2019, 10 pages.
  48. Email regarding public hearing continuance request to August 12, 2019, from Wayne Belec, dated July 8, 2019, and date stamped received by the Planning Board on July 8, 2019, 1 page.
  49. Email addressed to the Planning Board Chairman David Robbins, from Linda M. Hutchins, 3 Spanish River Road regarding "Public Comment, Proposed Brigati Village Development, 41 Church St. and 14 West St., SP 2019-2," dated July 21, 2019, and date stamped received by the Planning Board on July 22, 2019, 2 pages.
  50. Report entitled "Geotechnical Engineering Report Addendum #1, Slope Stability Evaluation – Brigati Village, 41 Church Street, 14 and 15 West Street, Grafton, MA," by Mark M. Zambarnardi, P.E. and James M. Handanyan, P.E., Principal Engineers, Northeast Geotechnical, Inc., dated July 12, 2019, and date stamped received by the Planning Board on July 22, 2019, 9 pages.
  51. Report entitled "Peer Review Comments, Brigati Village Slope Project, 41 Church Street, Grafton, Massachusetts," by O'Reilly, Talbot & Okun Associates, Inc., dated August 9, 2019, 64 pages.
  52. Email from Maeve Geer, 11 Oak Street, Grafton, MA, dated August 10, 2019, and date stamped received by the Planning Board on August 12, 2019, 1 page.
  53. Email from Jeanine Bellarosa, 24 Snow Road, Grafton, MA, dated August 11, 2019, and date stamped received by the Planning Board on August 12, 2019, 1 page.
  54. Email from Charlotte Jordan, 26 Church Street, Grafton, MA, dated August 11, 2019, and date stamped received by the Planning Board on August 12, 2019, 1 page.

- 55. Email from Christy Pease, J. Scott MacDuffie, Jay Husson and Callum L. MacDuffie, dated August 12, 2019, and date stamped received by the Planning Board on August 12, 2019, 1 page.
- 56. Public Hearing Sign-In Sheet dated August 12, 2019, 1 page.
- 57. Mullin Rule Certification, for Planning Board meeting of August 12, 2019, signed by Planning Board Member Vikram Dave, dated August 27, 2019 and date stamped received by the Planning Board on August 28, 2019, 1 page.

### **III. FINDINGS**

At their meeting of October 15, 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 Mr. Wood, seconded by Mr. Hassinger) voted 5-0 to make the following Findings, except those Findings voted on separately below:

- F1.) That determinations regarding the following findings are based upon the Plans identified in this Decision, as well as the materials and information 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 Plans (EXHIBIT 36 of this Decision) 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, as shown on the Plan, is located in a Multi-Family Residential (R-MF) zoning district and a Low Density Residential (R-40) zoning district and is comprised of two parcels of land as follows: 14 West Street, Assessor's Map 74, Lot 30 comprising approximately 38,169 sq. ft.; and 41 Church Street, Assessor's Map 74, Lot 33 comprising of 8.23± acres.
- F4.) The total lot area of the two parcels is 396,459 sq. ft. The total area within the RMF district, including 25' into the R-40 District, is 316,226 sq. ft.
- F5.) Pursuant to Section 5.2.2.1, the By-law requires "at least 5,500 sq. ft of land area for each dwelling proposed to be placed on a lot."
- F6.) Based on a total lot area of 396,459 sq. ft, and Section 5.2.2.1, the total number of dwelling units permitted by the By-law is 72.08 units. If considering only the area within the R-MF District and Section 5.2.2.1, the total number of dwelling units permitted by the By-law is 57.49 units.

- F7.) That this Application is for the construction of eleven, two-story residential multifamily, town house-style buildings containing three to six units for a total of 57 two-bedroom market rate rental units.
- F8.) That multi-family dwellings are permitted in a R-MF zoning district only upon the issuance of a Special Permit by Planning Board, in accordance with Sections 5.2 and 1.5 of the Grafton Zoning By-law (hereinafter ZBL).
- F9.) That the Application is not subject to amendments to Section 5.2 of the Grafton ZBL requiring 20% of units within a rental development to be affordable due to the Application being filed on February 12, 2019 in advance of the advertisement date of March 7, 2019 for the public hearing of the amendment.
- F10.) The Site is to have access from West Street, which was identified as a private road. While frontage is available on Church Street, no access is proposed. Initial designs included access off Church Street for four units, but it was not included in application submission based on opinions of Staff and the Board's consultant engineering. (Exhibit 1)
- F11.) The Applicant stated Drive "A" and "B," including associated infrastructure and drainage, shall be privately maintained and not to be accepted as town roads. (Exhibit 1)
- F12.) The Site will be accessed through the extension of West Street into the property, which is approximately 312.1 feet in length. The Site driveway will consist of two segments, Drive "A" will be 1,043.47 feet in length and Drive "B" will be 354.9 feet in length. (Exhibit 36)
- F13.) Drive "A" is proposed to have a "Gated Green Emergency Vehicle Access" portion running from Station 8+83.4 to Station 10+43.47 at the end of the road. The "Gated Green Emergency Vehicle Access" area is proposed to be treated with a Grasspave (or equal substitute) to allow for a stable driving surface for emergency vehicles while allowing for Grass to grow in the voids. Area will be secured by bollards and chains to prevent regular vehicular access. (Exhibit 36)
- F14.) The Plans show as the preferred option the treatment of the end of Drive "A" with pervious grass pavers. Exhibit 36 shows the pavement of this area if the Board does not support pervious surface treatment.
- F15.) The total length of Drive "A" is 1,355.57 feet as measured from the Church Street/West Street intersection to the end of the loop road. However, with the end of Drive "A" consisting of the emergency drive then the total length of the dead-end street is to the farthest point that can be traveled by the general public, then the length is 1,195.5 feet.



- F16.) The total length of Drive “B” is 1,052.8 feet and is comprised of the summation of the following lengths: 312.1 feet (length of West Street), 385.8 (length of Drive “A”), and Drive “B” 354.9 feet. (Exhibit 36)
- F17.) Drive “A” is designed as a loop and intersects with itself at approximately Station 1+86.05+- ft. Total distance of the loop intersection from the Church Street/ West street intersection is approximately 498.15 ft.
- F18.) Subdivision Rules and Regulation, Section 4.1.6.3 establishes a maximum length of 500 feet for dead end streets.
- F19.) Subdivision Rules and Regulation, Section 2.1.1.27 defines dead-end streets as “A street, extension of a street, or system of streets connected to another street at one (1) point only. Any proposed street which intersects with a dead-end street shall be deemed to be an extension of the dead-end street.”
- F20.) The Board found that for the purpose of determining the length of the dead-end street, if the loop is open to through traffic along the whole length of Drive “A” then distance shall be measured as the furthest point of the loop, which is located at Station 6+14.76 resulting in a maximum length of 926.6 as measured from the Intersection of Church Street and West Street.
- F21.) The Board found that should public driving access not be possible due to the end of Drive “A” consisting of the emergency drive then the total length of the dead-end street is to the farthest point that can be traveled by the general public is 1,195.5 feet.
- F22.) The Board received the following written comments from the public:
- a. Denise Galante (Exhibit 11) commented on impacts of development plan to adjacent condominium units relating to the proximately to the proposed project to existing units, lack of buffer/screening, runoff, construction hours, and other environmental concerns.
  - b. Daniel Vellone (Exhibits 14, 27, 28, 43, and 47) commented on soil characteristics, the design methodology of the geotechnical report, interpretation of soil tests, safety factors used for the design, and the recommendation that the plans be redesigned and methodology be revised to expand the areas of slopes used for analysis.
  - c. Thomas Winston (Exhibit 19) commented his support of the project.
  - d. Linda Hutchins (Exhibits 20 and 49) commented that the site plan was not modified to reflect the recommendations of the report, she expressed concern about the slope stability and off-site impacts due to construction activities on the slope facing Church Street, and the impacts associated with traffic, pedestrian safety, excessive density, and impacts to the town center.

- e. Monique Rinner (Exhibit 17) commented on the traffic study's peak hour rates, the impacts the development will have at the Church Street intersection at the common, and about the speed of cars traveling on Church Street.
  - f. Debra Lee George (Exhibit 46) commented about the visual impacts to units within the Bruce Hollow development, the loss of trees, and the potential traffic impacts.
  - g. Maeve Geer (Exhibit 52) commented against the development, that the project will negatively impact traffic, about drainage impacts, and impact to the neighborhood.
  - h. Jeannine Bellarosa (Exhibit 53) commented about impacts to traffic at commuting times and on Saturdays and about another housing project on Prentice Street.
  - i. Charlotte Jordan (Exhibit 54) commented that as a resident of Church Street the signs and radar detection will not be adequate, recommended traffic lights and/or physical speed humps, expressed concern about drainage impacting abutting properties, and expressed concern about wildlife displacement.
  - j. Christy Pease (Exhibit 55) commented that project should not occur near Grafton Center and should be located on Rt 30 near the train station and the Vet School.
- F23.) That the Applicant submitted a Geotechnical Engineering Report dated May 15, 2019 (Exhibit 40), the purpose of which was to "assess the subsurface stability using the results of test borings and subsequent laboratory testing, and to develop geotechnical engineering recommendations for use by the project team in design and construction."
- F24.) That the Applicant submitted an Addendum #1 dated July 12, 2019 (Exhibit 50) that reflects elimination of stormwater infiltration in specific basins and updated site plans provided by the design engineers that were amended to reflect changes through the peer review process.
- F25.) The Board retained a peer consultant to review the Applicant's geotechnical report and addendum (Exhibits 40 and 50) and comment on public comment raised by Linda Hutchins (Exhibits 20 and 49) and Daniel Vellone (Exhibits 14, 27, 28, 43, and 47).
- F26.) The Board's peer review consultant, O'Reilly, Talbot & Okun submitted a report dated August 9, 2019.
- F27.) That the Board's peer consultant, in an email dated October 10, 2019 clarified that the sentence that read "*Since the the minimum required value for both analyses it is our opinion that an adequate factor of safety has been achieved.*" on page 5 should have said "*Since the computed factor of safety for each analysis is above the*

*minimum required factor of safety, it is our opinion that the proposed design meets accepted engineering standards.”*

- F28.) That the Board’s peer consultant concluded that after their review of the Applicant’s plans and geotechnical report, that it was their “opinion that the proposed design meets accepted engineering standards.”
- F29.) That a traffic study is required under Section 8.2.1 of the ZBL for this Application.
- F30.) That the Applicant submitted a traffic study (EXHIBIT 5 of this Decision) to satisfy the requirements of Section 8.2.1 of the ZBL.
- F31.) That the Applicant’s Traffic Engineer concluded the 57-unit multi-family residential development will generate 26 vehicle trips in the morning peak hour and 32 vehicles in the evening peak hour; that the development will have “no material impact” on the adjacent intersection of Church Street and West Street and that it will continue to operate at Level of Service C or better, and that the Pleasant Street/ Providence Road intersection will not be impacted. (Exhibit 5)
- F32.) That the Applicant proposes to improve the intersection of Church Street and West Street with the re-alignment of sidewalks, the installation of radar activated speed warning signs, pedestrian crossing signage, and the installation a pedestrian control beacons at the re-aligned crosswalks to address suboptimal existing pedestrian crossing conditions and to address existing speeding issues on Church Street as detailed in the traffic study. (Exhibits 5, 26, 30, and 41)
- F33.) That the Board retained the services of a traffic engineer to review the Applicant’s Traffic Study (Exhibits 5 and 26) and recommendations for mitigation (Exhibits 29 and 41) and concluded “in summary, MDM finds the Applicant had addressed all previous comments in its initial peer review report (Exhibits 18 and 30).
- F34.) The proposal was reviewed with the Police Department, Fire Dept, DPW, engineering and Town Administrator and the proposal (Exhibit 41) was supported.
- F35.) That during the public hearing, the Planning Board and Applicant’s team discussed snow removal. At the June 24, 2019 public hearing, the Applicant stated a contractor will be hired to plow the development and due to the Town’s priority of plowing through roads, his contractors will likely be plowing West Street first to get into the development. He stated that should snow storage areas become full, snow will be removed from the site.
- F36.) The Applicant submitted a waiver request from the following Section of the Rules and Regulations (as specified below and listed in Exhibit 34):

W1) Section 4.1.3.2 - The minimum centerline radius of a minor street must be 100 feet. The Plans show centerline radii of 74 feet at Drive "A" at Station 5+00 and 75 feet at Drive "B" at Station 0+50.

W2) Section 4.1.3.3 - A tangent of at least one hundred and fifty (150) feet in length shall separate all reverse curves.

W3) Section 4.1.5.2 - The maximum centerline grade for streets must not exceed 4%. The Plans show approximately 400 feet of the Drive "A" roadway is proposed at a grade of 7%.

W4) Section 4.1.5.3 - A minimum K-value of 28 must be used for crest curves and 35 for sag curves. The Plans show a crest K-value of 14 and a sag K-value of 33.

W5) Section 4.7.6.3 - Dead - end streets may not be longer than 500 feet. The Plans show the total length of Drive "B" is in excess of 500 feet with a total length of 1,052.8 feet from West Street.

W6) Section 4.1.6.7 – Dead-end streets must have a circular turnaround with a radius of 100 feet. The Plans call for a "T" turn-around at the end of Drive "B."

F37.) The Board found that the Applicant's requested for a waiver from Section 4.1.3.3 (See F36 W2) under the Subdivision Rules and Regulations was not needed as the revised plans demonstrated compliance with requirements since for radius of curvature is in excess of the minimum requirement of two (2) times the 100 feet for a minor street and that the requirement of the 150 feet is only required when the radius is less than two times the minimum of 100 feet.

F38.) The Board found that the Applicant did not request a waiver from Section 4.7.6.3 for the maximum length of dead-end streets for Drive "A" as established in Finding F20. Motion to approve Finding was made by Mr. Wood, second by Mr. Hassinger, Board voted 5-0.

F39.) That Section 5.2.1.3 of the ZBL requires, as criteria for approval of a special permit for multi-family dwellings, that such structures must be connected to public water and sewer systems. The Board further finds the Plans submitted indicate that the proposed structures will be connected to public water and sewer systems.

F40.) That with regard to Section 5.2.2.2 of the ZBL, the Board makes the following findings:

- a. The Board **finds** that screening of parking areas is sufficient in that parking areas are located within driveways and internal garages and that guest parking spot locations are screened with adequate evergreen material to provide year-

- round screening provided that additional plantings at the southern emergency turn-around may be required following as determined by the Planning Board's Agent in the field during construction of the project. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 5 to 0.
- b. The Board **finds** that screening of lighting on parking areas is adequate in that no lighting is proposed of the guest parking areas, that lighting is to be provided on the facades of the buildings to illuminate the driveways, streetlights are only proposed at the mailbox area and at the intersection of Driveway "A" and "B," and that the street lights are cu-off fixtures that direct light downward and not outward to adjacent properties. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 5 to 0.
  - c. The Board **finds** that avoidance (whenever possible) of major topographic changes has been achieved through the Applicant's proposal of 7% grade. The maintaining of West Street's 7% grade into the project reduces cuts to the property and therefore the amount of earth moves and removed from the site. Disturbance to wetlands and to land adjacent to Church Street has been minimized allowing existing vegetation and trees to be maintained. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 5 to 0.
  - d. The Board **finds** removal of existing trees has been minimized through the avoidance of disturbance to the area off Church Street and to the east of the detention basin, within the Residence 40 Zoning District. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 4-0-1, with Mr. Venkataraman voting present.
  - e. The Board **finds** that the Plans preserve water, wetlands or other scenic views from streets. Wetlands to the east of the project are protected and trees have been retained between Church Street and proposed grading for the detention basin to minimize impacts to views along Church Street into the property to the maximum extent feasible. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 5 to 0.
- F41.) That with regard to Section 5.2.2.3 of the ZBL, said Section requires that a minimum of twenty-five percent (25%) of the lot area of multi-family dwellings only in the R-MF district shall be retained as unoccupied space (as defined in said Section). The Board further finds that Exhibit 1.f (page 5 of 9) and Sheet GN1.01 of the Plans identified as EXHIBIT 4 of this Decision indicate that sixty-one percent  $\pm$  (61% $\pm$ ) of such unoccupied space has been provided.
- F42.) That with regard to Section 5.2.2.4 of the ZBL, said Section requires that within the minimum unoccupied space requirements of Section 5.2.2.3, one thousand (1,000) square-feet of useable common open space per dwelling unit (as defined in said Section) shall be provided. The Board further finds that Exhibit 1.f (page 5 of 9) and Sheet GN1.01 of the Plans identified as EXHIBIT 4 of this Decision indicate

that 2,440± square feet of such useable common open space has been provided for the units, as delineated on the Plans.

- F43.) That with regard to Section 5.2.2.5 of the ZBL, the requirements of said Section are not applicable at this time as the Applicant indicated during the public hearing that the open space associated with the Site shall be retained by the owner of the property or an association comprised of the owners of the individual dwelling units.

The Board further finds that this requirement shall be effective should the Applicant or others offer the open space to the Town at a future date, however no transfer of said land shall occur except in accordance with the procedure defined in Section 5.2.2.5.

- F44.) That with regard to Section 5.2.2.7 of the ZBL, the design and location of collection points for the disposal of garbage and trash, including the proposed screening of those locations, are satisfactory. The Board further finds that the Applicant stated at the public hearing that garbage and trash shall be collected by a private entity.

- F45.) That with regard to Section 5.2.2.8 of the ZBL, the Plans identified as EXHIBIT 52 of this Decision indicate that all proposed utilities shall be installed underground at the time of initial construction, and that lighting facilities as described in said Section are arranged in a manner that satisfies the illumination requirements stated in Section 5.2.2.8.

- F46.) That with regard to Section 5.2.2.9 of the ZBL, said Section requires a minimum of thirty feet (30') between each structure. The Board further finds that Sheet C2.01 of the Plans identified as EXHIBIT 36 of this Decision indicate that a minimum of thirty-one ± feet (31.0'±) between each structure has been provided.

- F47.) That with regard to Section 5.2.2.10 of the ZBL, the requirements of said Section regarding construction of drainage, utilities and roadways in accordance with the *Rules and Regulations* remain in effect and shall govern any and all development of the Site unless modified by any Special Permit issued by the Planning Board for such development.

- F48.) With regard to Section 1.5.5(a) of the ZBL, that based upon the Findings stated within this Decision, 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 in that the Applicant has committed to mitigation at the intersection of Church Street and West street to improve pedestrian accommodations including speed warning devices and that Fire Department access and circulation has been accommodated as shown on Sheet EX1.02 (Exhibit 36).

- F49.) With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, 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.
- F50.) With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, that refuse collection or disposal and service areas are satisfactory.
- F51.) With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate.
- F52.) With regard to Section 1.5.5(e) of the ZBL, that based upon 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.
- F53.) With regard to Section 1.5.5(f) of the ZBL, that based upon the Findings stated within this Decision, the required yards and other open space requirements are adequate.
- F54.) With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property (as presented in the EXHIBITS stated within this Decision and by the Applicant during the public hearing) is generally compatible with adjacent properties and properties in the district.
- F55.) With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply.
- F56.) With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, and upon satisfying all of the conditions contained in all permits/approvals required for the work proposed by this Application, there will not be any significant or cumulative impact upon municipal water supplies.
- F57.) With regard to Section 1.5.5(j) of the ZBL, that protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory.
- F58.) That for the reasons stated within the Findings of this Decision, the special permit application is in harmony with the general purpose and intent of the ZBL.

- F59.) That for the reasons stated within the Findings of this Decision, the special permit application if granted would not create a nuisance, hazard or congestion. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 3 to 2 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Hassinger: Nay; and Mr. Venkataraman: Nay.
- F60.) That for the reasons stated within the Findings of this Decision, the special permit application if granted would not cause a substantial harm to the neighborhood. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 3-1-1 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Venkataraman: Nay; and Mr. Hassinger: Present.
- F61.) That for the reasons stated within the Findings of this Decision, the special permit application if granted would not derogate from the general purpose and intent of the By-law or the stated district objectives or applicable use criteria. Motion to approve Finding was made by Mr. Wood, second by Mrs. Hassinger, Board voted 3 to 2 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Hassinger: Nay; and Mr. Venkataraman: Nay.

#### **IV. WAIVERS**

At their meeting of October 15, 2019 for Waivers 3 through 6 and October 22, 2019 for Waiver 1, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board considered the Applicant's request for a waiver from the following Section of the Rules and Regulations (as specified below and listed in Exhibit 34) and voted on each waiver as follows:

W1) Section 4.1.3.2 - The minimum centerline radius of a minor street must be 100 feet. The Plans show centerline radii of 74 feet at Drive "A" at Station 5+00 and 75 feet at Drive "B" at Station 0+50.

Motion to approve Waiver 1 was made by Mr. Wood, second by Mr. Venkataraman, Board voted 3-1-1 to grant the waiver from Section 4.1.3.2 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Hassinger: Nay; and Mr. Venkataraman: Present.

W2) Section 4.1.3.3 - A tangent of at least one hundred and fifty (150) feet in length shall separate all reverse curves.

Planning Board response: The Board found that the Applicant's requested for a waiver from Section 4.1.3.3 (See F36 W2) under the Subdivision Rules and Regulations was not required as the revised plans demonstrated compliance with requirements since for radius



of curvature is in excess of the minimum requirement of two (2) times the 100 feet requirement for a minor street and that the requirement of the 150 feet is only required when the radius is less than two times the minimum of 100 feet.

W3) Section 4.1.5.2 - The maximum centerline grade for streets must not exceed 4%. The Plans show approximately 400 feet of the Drive "A" roadway is proposed at a grade of 7%.

Motion to approve Waiver 3 was made by Mr. Wood, second by Mrs. Hassinger, Board voted 3 to 2 to grant the waiver from Section 4.1.5.2 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Hassinger: Nay; and Mr. Venkataraman: Nay.

W4) Section 4.1.5.3 - A minimum K-value of 28 must be used for crest curves and 35 for sag curves. The Plans show a crest K-value of 14 and a sag K-value of 33.

Motion to approve Waiver 4 was made by Mr. Wood, second by Mrs. Hassinger, Board voted 3 to 2 to grant the waiver from Section 4.1.5.3 as follows: Mr. Wood: Aye; Mrs. Hassinger: Aye; Mr. Robbins: Aye; Mr. Hassinger: Nay; and Mr. Venkataraman: Nay.

W5) Section 4.7.6.3 - Dead - end streets may not be longer than 500 feet. The Plans show the total length of Drive "B" is in excess of 500 feet with a total length of 1,052.8 feet from West Street.

Motion to approve Waiver 5 was made by Mr. Wood, second by Mrs. Hassinger, Board voted 2 to 3 to grant the waiver from Section 4.7.6.3 as follows: Mr. Wood: Aye; Mr. Robbins: Aye; Mrs. Hassinger: Nay; Mr. Hassinger: Nay; and Mr. Venkataraman: Nay. Motion failed to gain majority vote thereby denying waiver request.

W6) Section 4.1.6.7 – Dead-end streets must have a circular turnaround with a radius of 100 feet. The Plans call for a "T" turn-around at the end of Drive "B."

Motion to approve Waiver 6 was made by Mr. Wood, second by Mrs. Hassinger, Board voted 5 to 0.

## **V. DECISION and CONDITIONS**

At their meeting of October 15, 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. Hassinger) voted 5 – 0 to **DENY** the Applicant's request for Special Permit and Site Plan Approval for fifty-seven (57) multi-family dwellings on property located at 41 Church and 14 West Streets, Grafton, MA. The Board's denial is predicated upon the denial of the waiver for maximum length of dead-end street as requested in Waiver 5 for Drive "B" and the requirement of a waiver

for Drive "A" that was not requested, per Findings F20 and F44, but was also denied by the Board, and that without the granting of Waiver 5 from Section 4.7.6.3, the project cannot be approved.

The Board voted on October 21, 2019 to re-affirm its vote upon review of the final Decision.

**RECORD OF VOTE**

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

**DATE OF FILING OF DECISION:**

**BY ORDER OF THE BOARD**

  
Joseph Laydon, Town Planner

10-22-2019  
Date

cc: Applicant  
Owner  
Select Board  
Board of Health  
Conservation Commission  
Board of Appeals

Town Engineer  
Building Inspector  
DPW Department  
Water District  
Board of Sewer Commissioners

**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 Lavalley, Town Clerk

\_\_\_\_\_  
Date