

# DECISION

## GRAFTON PLANNING BOARD SPECIAL PERMIT (SP 1996-6.) & SITE PLAN APPROVAL MODIFICATION #3

### Extend Period of Validity of Permit

109 Creeper Hill Road  
Mark Troiano d/b/a Troiano Trucking (Applicant / Owner)

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Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Mark Troiano d/b/a Troiano Trucking (hereinafter the APPLICANT/OWNER) for Special Permit & Site Plan Approval (SP 1996-6.3) – Modification #3 to extend the period to construct of a building on a property located at 109 Creeper Hill Road (hereinafter the SITE) and shown on the Grafton Assessor's Map 17, Lot 2, and owned by Mark Troiano by deed recorded in the Worcester District Registry of Deeds Book 19840, Page 135. The application was formally received on August 31, 2016.

## I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on August 31, 2016. A public hearing on the Application was opened on September 26, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on September 8 and September 15, 2016, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk David Robbins (via Mullin Certification), Members Linda Hassinger and Tracy Lovvorn, and Associate Member Sharon Carroll-Tidman. At the hearing, Fred Trifone presented the Application to the Board on behalf the Applicant / Owner. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on September 26, 2016.

## II. PROJECT HISTORY AND OVERVIEW

This application represents a third modification of Special Permit and Site Plan Approval (SP 1996-6.3) for 109 Creeper Hill Road where there is a food recycling business in operation. This modification deals specifically with a request to extend the period of validity of the permit for one year. The permitting history of this site for this use includes:

1. Special Permit (SP 1996-6) and Site Plan Approval - *Approved May 20, 1996* – to construct a recycling transfer station with a variety of light industrial uses at the Site
2. Modification of Special Permit and Site Plan Approval (SP 1996-6.1) - *Approved November 25, 2013* - to demolish an existing abandoned structure which as damaged by fire in 2001 and in its place build a new 6,400 square foot structure. The new space to be used to expand existing operation on site which involves a green process whereby clean food waste is converted to livestock food pellets.

3. Grafton Zoning Board of Appeals Case # 2014-791 – Special Permit – **Approved April 17, 2014** - to allow for the construction of a building that encroaches in the 40 foot front yard setback by 17.32 feet at varying intervals.
4. Modification of Special Permit and Site Plan Approval (SP 1996-6.2) - **Approved November 24, 2014** - to modify the building foot print which encroached into the front yard setback. The Applicant was required to apply to the Zoning Board of Appeals for a variance to address the encroachment. The ZBA approved the variance and the Applicant sought to bring the Special Permit and Site Plan Approval in alignment with that approval.

### **III. SUBMITTALS**

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

**EXHIBIT 1.** Unbound Application packet submitted by the Mark Troiano , Troiano Trucking, LLC (Applicant), received August 31, 2016, including the following:

- Application for Modification of a Special Permit; dated August 30, 2016;; 1 Page.
- Correspondence from Mark Troiano of Troiano Trucking, Inc.; dated August 30, 2016; 1 page.
- Certificate of Good Standing; Signed by Treasurer/Collector’s Office on August 30, 2016; 1 page.
- Certified Abutters List; Signed by Assessor’s Office on August 31, 2016; 1 page.
- Building Addition Site Plan for 109 Creeper Hill Road Grafton, MA; prepared by ASA Engineering; 24” x 36”; black and white; revised August 11, 2014; 1 sheet.

**EXHIBIT 2.** Public Hearing Legal Notice, Grafton Planning Board; Town Clerk Stamp on September 2, 2016; 1 page.

**EXHIBIT 3.** Interdepartmental Review Email Correspondence; Re: Mod. Of a Special Permit (SP 1996-6.3) & SPA – Extend Period to Construct a Recycling Transfer Station – 109 Creeper Hill Road – Troiano Realty, LLC; From Grafton Conservation Commission; dated and received September 8, 2016; 1 Page.

**EXHIBIT 4.** Interdepartmental Review Email Correspondence; Re: Modification of a Special Permit (SP 1996-6.3) & Site Plan Approval; From Grafton Police Department; received September 16, 2016; 1 Page.

**EXHIBIT 5.** Interdepartmental Review Email Correspondence; Re: Request for Department Comments – Mod. of a Special Permit (SP 1996-6.3) & SPA – Extend Period to Construct a Recycling Transfer Station – 109 Creeper Hill Road – Troiano Realty, LLC; From Grafton Board of Health; received September 19, 2016; 1 page.

**EXHIBIT 6.** Public Hearing Sign In Sheet for the September 26, 2016 hearing, 1 page.

**EXHIBIT 7.** Mullin Certification for David Robbins, dated October 1, 2016; received October 3, 2016; 1 page.

### **III. FINDINGS**

At their meeting of October 3, 2016, 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. Robbins, seconded by Mr. Hassinger) voted 5-0 to make the following Findings:

- F1.)** That determinations regarding the following findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Application.
- F2.)** That determinations regarding the following findings are also predicated upon satisfactory completion of the work and site improvements shown on the Plans and maintenance of the Site in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- F3.)** That the Site is located in an Office / Light Industrial (OLI) zoning district. The site is not located within the Water Supply Protection Overlay District.
- F4.)** That during the public hearing the Applicant presented the proposed modification Mr. Mark Troiano was present to discuss the Application. Mr. Laydon reviewed the permitting history of the site (see SECTION II. PROJECT HISTORY AND OVERVIEW). Since the time of the original approval (SP 1996-6.1) a number of issues required attending prior to the start of construction including ongoing permitting with Mass DEP and work associated with extending a gas line from Worcester to the site. (See EXHIBIT #1). It was noted that Mr. Troiano has continued to work closely with the Town including the Planning Department, the Building Department and the Zoning Board of Appeals as well as Mass DEP. All outstanding permitting issues have been resolved with the ZBA and Mass DEP the Applicant is ready to move forward with the expansion of the building footprint.
- F5.)** The Board notes that it received correspondence from the Conservation Agent regarding review of the Application (see EXHIBIT #3). It is stated that they have no comments on the proposed modification.
- F6.)** The Board notes that it received correspondence from the Police Department regarding review of the Application (see EXHIBIT #4). They state that they have no comments or objections to the application as proposed.
- F7.)** The Board notes that it received correspondence from the Board of Health regarding review of the Application (see EXHIBIT #5). The Board of Health notes “MADEP has approved the facility. As long as Troiano is going to follow the permit conditions, I have no comments to add for the hearing.”
- F8.)** No public comment was received during the public hearing.

#### **IV DECISION**

At their meeting of October 3, 2016, 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. Robbins, seconded by Mr. Hassinger) voted 5-0 to **APPROVE** the Special Permit (SP 1996-6.3) and Site Plan Approval – Modification #3 - with the following conditions:

- C1.)** This approval specifically modifies Condition #C4 of the Special Permit and Site Plan Approval Decision which states:

*In accordance with Section 1.5.8 of the ZBL, this Special Permit shall lapse within one (1) year from the date of the expiration of the appeal period of substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedures specified in Section 1.5 of the ZBL.*

Said permit was approved on dated November 24, 2014 and is recorded in the Worcester District Registry of Deeds. This approval as presented in this Decision specifically allows an extension of period of validity of said permit to **October 3, 2017**.

- C2.)** This Special Permit and Site Plan Approval (SP 1996-6.3) - Modification #3 - specifically authorizes the extension of the period of validity of the permit as noted in Condition #1. All other conditions within Special Permit and Site Plan Approval (SP 1996-6) as modified in SP 1996-6.1 (approved in 2013) and SP1996.2 (approved in November 2014) shall remain in full force and effect unless modified by this DECISION.
- C3.)** In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C4.)** This Special Permit decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period. A copy of such recorded Special Permit decision, including Deed Book and Page Number shall be submitted to the Planning Board office within thirty (30) days of recording.
- C5.)** 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.

#### **V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted 5-0 to **APPROVE** the Modification of Special Permit & Site Plan Approval Application with Conditions to extend the period of the

validity of the permit for one year to October 3, 2017 based on the information received at the public hearing and the aforementioned findings.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Tracy Lovvorn, Member</u>	<u>AYE</u>
<u>David Robbins, Clerk</u>	<u>AYE</u>		

**DATE OF FILING OF DECISION: BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Joseph Laydon, Town Planner

10-4-16  
\_\_\_\_\_  
Date

- cc: Applicant / Owner
- Building Inspector
  - Assessor
  - Board of Health
  - Conservation Commission
  - Graves Engineering

**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.

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Donna Girouard, Town Clerk

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Date

