

DECISION

GRAFTON PLANNING BOARD SPECIAL PERMIT (SP 2020-07) & SITE PLAN APPROVAL

**Landscape Construction
Light Industrial, Manufacturing**

**20 Milford Road
Z&J Realty, LLC (Applicant)
Richmand Properties, Inc. (Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Z&J Realty, LLC, 29 Grove Street, Shrewsbury, MA 01545 (hereinafter the APPLICANT), for a Special Permit and Site Plan Approval under Section 3.2.3.1 of the Grafton Zoning By-law to operate a landscape construction business (contractor's yard) on property located at 20 Milford Road, Grafton MA, and shown on Grafton Assessor's Map 131, Lot 20 and owned by Richmand Properties, Inc. (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds in Book 21585, Page 108.

I. BACKGROUND

The above referenced application for a Special Permit / Site Plan Approval (hereinafter APPLICATION) was submitted on June 22, 2020. Notice of the public hearing and the subject matter thereof was published in the Grafton News on June 25th & 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 a Special Permit, signed by Kevin Leone, Z&J Realty, LLC (Applicant), dated May 22, 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. Application for a Site Plan Approval, signed by Kevin Leone, Z&J Realty, LLC (Applicant), dated May 22, 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.
- c. Certificate of Good Standing, signed by Amy Perkins, dated June 22, 2020 and date stamped received by the Planning Board on June 22, 2020, 1 page.

- d. Abutters Listing for 20 Milford Road, Map 131, Lot 20, dated May 20, 2020, signed by Mary M. Oliver, Principal Assessor, 1 page.
- e. Project Narrative, dated May 27, 2020, prepared by John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, 3 pages.
- f. Letter from John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, to the Grafton Planning Board, dated May 27, 2020, 1 page.

EXHIBIT 2. Plan: “Site Plan”, dated May 27, 2020, prepared by John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, received by the Planning Board on June 22, 2020, 6 sheets.

EXHIBIT 3. Plan: “Site Development Plan”, dated May 27, 2020, prepared by John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, received by the Planning Board on June 22, 2020, 2 sheets.

EXHIBIT 4. Report: “Stormwater Management Report”, dated May 27, 2020, prepared by John Grenier, J.M. Grenier Associates, Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545, received by the Planning Board on June 22, 2020, 65 pages.

EXHIBIT 5. Public Hearing Notice, stamped by the Town Clerk’s office on June 25, 2020; 1 page.

EXHIBIT 6. Public Hearing Continuance Request, dated July 17, 2020, signed by Kevin Leone, Z&J Realty, LLC, received by the Planning Board on July 21, 2020, 1 page.

EXHIBIT 7. Email from Nancy Connors, Board of Health, regarding Request for Comments; 20 Milford Road, SP 2020-07/SPA, dated July 21, 2020, received by the Planning Board on July 21, 2020, 1 page.

EXHIBIT 8. Email from Katrina Koshivos, Zoning Board of Appeals, regarding 20 Milford Road - Z&J Realty, LLC- Landscape Construction, dated July 22, 2020, received by the Planning Board on July 22, 2020, 1 page.

EXHIBIT 9. Peer Review: “20 Milford Road”, dated July 24, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages.

EXHIBIT 10. Public Hearing Continuance Request, dated July 30, 2020, signed by Kevin Leone, Z&J Realty, LLC, received by the Planning Board on July 30, 2020, 1 page.

EXHIBIT 11. Peer Review: “20 Milford Road”, dated August 10, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages.

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 Justin Wood, 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 during the public hearing the Board and the Applicant discussed the nature of the application. The site consists of 5 acres. Presently on site is a 15,760sf commercial building and gravel yard/parking. The Applicant is proposing to retain the existing building as office space material storage and vehicle storage/repair and to operate a landscape construction (contractor's yard) with associated storage on the subject property. The existing gravel yard/parking is proposed to be expanded to approximately 30,000sf with additional concrete storage blocks and associated stormwater recharge basin.
- F5. That during the public hearing the Applicant noted the hours of operation would need to be 6:00 am to 7:00 pm, in order to accommodate the worker's schedules with flexibility to accommodate the snow plowing service. The trucks to be operated on site are primarily pickup trucks and trucks with quieter emissions. Parking will be provided at the rear and side of the property, away from the residential abutters.
- F6. 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.
- F7. 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.
- F8. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are satisfactory.
- F9. 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.
- F10. 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.
- F11. 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 and have met the requirements of the Zoning By Law.

- F12. With regard to Section 1.5.5(g) of the ZBL, that the proposed use (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.
- F13. 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.
- F14. With regard to Section 1.5.5(i) of the ZBL, the subject property is not located within the Water Supply Protection Overlay District. 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 or cumulative impact upon municipal water supplies.
- F15. With regard to Section 1.5.5(j) of the ZBL, that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory. No material was submitted to address these issues and no public input was received.
- F16. That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F17. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Applicant requested a waiver from Section 8.2.1 (Traffic Study).

IV. WAIVERS

- W1. 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 a waiver from the requirements of *Section 8.2 – Traffic Study*.

V. DECISION and CONDITIONS

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** this Special Permit and Site Plan Approval with the following conditions:

A. Standard Conditions

1. This Special Permit and Site Plan Approval specifically authorizes the operation of a landscape construction (contractor's yard) with associated storage on the subject property and associated site improvements as described within the EXHIBITS and FINDINGS of this Decision.

2. The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
3. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. If such Order of Conditions and/or permits require substantial modifications to any of the plans approved by the Planning Board, the 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.
4. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any such signage.
5. 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 Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
7. By recording this Special Permit and Site Plan Approval Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.
8. The Planning Board reserves the right, pursuant to Section 1.5.1.1 of the Zoning By-Law, to utilize the services of a professional engineer in reviewing any materials required to be submitted as conditions of this Decision, and conducting any inspections or other work associated with the construction of the development. In accordance with the applicable sections of the ZBL, any fees or expenses associated with such reviews and inspections 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.
9. The Planning Board reserves the right to require the submission of an “as built” plan prepared by a professional engineer if it is determined upon inspection (by either the Board or its agent), and prior to the issuance of an occupancy permit, that the project was not constructed as shown on the approved plans.

10. Any inability, failure, or refusal by the Applicant to comply with the requirements of this Special Permit, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

B. Conditions to be Met Prior to the Start of Construction

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 than the plan presented within the EXHIBITS 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. Prior to commencement of work, a pre-construction meeting shall occur with representatives from the Applicant and appropriate Town Departments/ Board's. The Applicant shall contact the Planning Department to arrange the pre-construction meeting. A revised Plan Set plan set addressing Comments #6 and #11 of Exhibit #11 of this decision (Peer Review: "20 Milford Road", dated August 10, 2020, prepared by Graves Engineering, Inc., 100 Grove Street, Worcester, MA 01605, 3 pages), shall be provided to the Board for their review and approval in advance of scheduling the abovementioned meeting.
3. Prior to the start of any construction activity on the Site, an initial inspection of erosion control /site stabilization measures shall be performed by agent(s) of both the Planning Board and Conservation Commission in the presence of a representative of the Applicant/developer, and notice of such inspection forwarded to both Boards. No construction activity shall occur on the Site until the Applicant/developer receives written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures. The Planning Board reserves the right to require additional erosion control/site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deem such measures necessary. The Applicant/developer shall be notified in writing of the necessity for such additional measures, and shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Commission.
4. The Applicant shall provide a landscaping plan to the Planning Department for administrative review and approval as presented to the Board during the public hearing. Such plan shall include, at a minimum, details regarding existing and proposed vegetative buffering to reduce impacts of noise off site and provide an enhanced visual aesthetic to the site. The Town reserves the right to conduct a site inspection of the lot to verify that the approved landscaping has been properly installed and remains healthy. If plant material has failed (either by death or disease) within 24 months of initial planting, new material shall be installed at the expense of the Applicant and/or Owner. All work to replace plant material will be done to the satisfaction of the Planning Department.

C. Conditions to be Met During Construction

1. Hours of construction and site work shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
2. All construction vehicles and vehicles of all workers are to be parked on site and shall not impede traffic along Milford Road at any time.
3. All site construction, development and improvements shall be inspected at the appropriate stage(s) of construction by the Planning Board or its agent upon request made by the Applicant to the Planning Board or its agent, in accordance with any policies for such requests.
4. All grading and construction shall be performed in accordance with the approved 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 or resource areas during construction, and after completion, from the site and its associated improvements.
5. During clearing operations, all efforts will be taken to retain trees within the development. Trees along limits of work and adjacent to the roadway shall be examined during site inspections for being preserved where grading changes are minimal.
6. Upon commencing any construction activity on the Site, and in accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II requirements, a Stormwater Pollution Prevention Plan shall be maintained at all times on the Site by the Applicant/developer. A copy of this document shall be forwarded to the Planning Board, Conservation Commission and Department of Public Works, prior to commencing any construction activity.

D. Conditions to be Met After Construction

1. All stormwater management facilities and associated structures, including pipe, loaming, and seeding, shall be completed, and stormwater runoff suitably controlled, to the satisfaction of the Planning Board prior to the issuance of any Occupancy Permits for this development.

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



Date

- cc: Applicant / Owner
- Building Inspector
 - Assessors
 - Conservation Commission

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

Kandy Lavalley, Town Clerk

Date