

**DECISION  
GRAFTON PLANNING BOARD**

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GRAFTON, MA

**MODIFICATION  
SPECIAL PERMIT (SP 2000-11.1) & SITE PLAN APPROVAL**

2018 JAN 23 PM 1:59

**Gasoline Station Site Improvements  
88 Worcester Street, North Grafton, MA**

**Petrogas Group New England, Inc. c/o Bowditch & Dewey, LLP (Applicant)  
Leemilt's Petroleum, Inc. (Owner)**

Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Petrogas Group New England Inc. c/o Bowditch & Dewey, LLP (hereinafter the APPLICANT) for a Modification of Special Permit & Site Plan Approval (SP 2000-11.1) to renovate the exterior and interior portions of the building and replace the existing canopy on property located at 88 Worcester Street (hereinafter the SITE) which is located in the Commercial Business (CB) Zoning District and the Water Supply Protection Overlay District (WSPOD) and shown on the Grafton Assessor's Map 55, Lot 94, and owned by Leemilt's Petroleum, Inc. (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds Book 30031, Page 98. The application was formally received on November 8, 2017.

## **I. BACKGROUND**

The above referenced application for Modification of Special Permit (SP 2000-11.1) and Site Plan Approval (hereinafter the Application) was submitted on November 8, 2017. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 24 and December 1, 2017, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail.

A public hearing on the Application was opened on December 11, 2017 and continued to January 8, 2018. The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk J. Daniel Graham, Members David Robbins and Linda Hassinger. Attorney Joshua Lee Smith of Bowditch & Dewey LLC and Huseyin Sevincgil P.E. of MHF Design Consultants, Inc. 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 January 8, 2018.

This application is the first modification of Special Permit and Site Plan Approval (SP 2000-11) for 88 Worcester Street, which was approved on February 28, 2001. This modification is requested to renovate the exterior and interior portions of the building and replace the existing canopy and associated site improvements.

## **II. SUBMITTALS**

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

1. Unbound Application packet submitted by Petrogas Group New England Inc. c/o Bowditch & Dewey, LLP (Applicant), received November 8, 2017, including the following:
  - Application for Modification of a Special Permit & Site Plan Approval, 1 page.

- Certificate of Good Standing, signed by the Treasurer / Collector's Office on November 8, 2017, 1 page.
  - Certified Abutters List, signed by the Assessor's office on August 17, 2017; 1 page.
  - Statement of Support of Petrogas Group New England, Inc. for 88 Worcester Street, Grafton, MA; 5 pages.
  - Proposed Elevations; prepared by Upland Architects; dated October 24, 2017; 11"x17", color; 2 sheets.
2. Site Plan Set, prepared by MHF Design Consultants, Inc. & Harbinger, stamped by David Jordan, dated November 7, 2017; 22 sheets (11x17).
  3. Stormwater Management Report, prepared by MHF Consultants, Inc., stamped by David Jordan, dated November 7, 2017; 130 pages.
  4. Traffic Impact Study, prepared by GPI, Inc., stamped by Rebecca Brown, dated November 2017; 123 pages.
  5. Revised Plan Sheets No. 1, 2 & 4, prepared by MHF Consultants, Inc., stamped by David Jordan, dated November 8, 2017; 3 sheets (11x17)
  6. Revised Plan Sheet No. 4, prepared by MHF Consultants, Inc., stamped by David Jordan, dated November 13, 2017; 1 sheet (11x17)
  7. Email, Subject: 88 Worcester Street / Leemilt's Petroleum, from Nancy Connors (BoH), dated/received November 20, 2017; 1 page.
  8. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from K. Koshivos (ZBA), dated/received November 20, 2017; 1 page.
  9. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from Town Administrator's Office, dated/received November 20, 2017; 1 page.
  10. Email, Subject: Mod. Special Permit 2000-11 & Special Permit 2017-9 – Leemilt's Petroleum – 88 Worcester St., from N. Crepeau (Police Chief), dated/received November 22, 2017; 1 page.
  11. Peer Review, prepared by Graves Engineering, Inc., Subject: Proposed Site Improvements 88 Worcester Street, dated/received 11/29/17; 3 pages
  12. Peer Review, prepared by MDM Transportation Consultants, Inc., Subject: Transportation Peer Review Comments, dated/received 12/8/17; 9 pages
  13. Abutter Comments, Homefield CU, dated 12/7/17, received 12/11/17; 1 page
  14. Email, Subject: Sign and Canopy Comments, from J. Laydon (Town Planner), dated/received December 11, 2017; 1 page
  15. Plans - Canopy Sign Details; prepared by Federal Heath, dated December 6, 2017, received December 11, 2017; 2 pages (11x17)
  16. Photos – Typical finished signs, no date, received December 12, 2017; 2 pages
  17. Email, Subject RE: Sign and Canopy Comments, from J. Lee Smith (Bowditch & Dewey, LLP), dated/received December 11, 2017; 4 pages
  18. Request to Continue Public Hearing to January 8, 2018, signed by Haseyin Sevincgil, PE, dated December 11, 2017; 1 page
  19. Peer Review, prepared by Graving Engineering, Inc., Subject: Proposed Site Improvements, dated/received January 3, 2018, 4 pages.
  20. Plan, Titled: Proposed Exterior Rendering, prepared by Upland Architects, dated December 27, 2017, received January 3, 2018.

21. Plan set, Subject: Proposed Site Improvement Plans, Prepared by MHF Design Consultants, Inc., revised December 28, 2017, Received January 3, 2018, 18 pages.
22. Letter from MHF Design Consultants, Inc., Subject: Response to Graves Engineering, dated December 28, 2017, received January 3, 2018, 2 pages.
23. Letter from MHF Design Consultants, Inc., Subject: Revised Site Plan submittal to Planning Board, dated December 29, 2017, received January 3, 2018, 2 pages.
24. Letter from MHF Design Consultants, Inc., Subject: Response to MDM Comments, dated December 29, 2017, received January 3, 2018, 2 pages.
25. Plan, Subject: Proposed Rendered Exterior Elevations, prepared by Upland Architects, dated December 27, 2017, received January 3, 2018.
26. Colored Drawing, Subject: Site Plan, Prepared by MHF Design Consultants, Inc., revised December 28, 2018, received January 8, 2018.
27. Colored Drawing, Subject: Retail Fuel Canopy Elevations, Prepared by MHF Design Consultants, Inc., revised December 28, 2018, received January 8, 2018.
28. Email, Subject: Restricting Circulation, Response from Robert Michaud, MDM Transportation Consultants, Inc. to Planner, dated/received January 8, 2018.

### III. FINDINGS

At their meeting of January 22, 2018 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 Mrs. Hassinger) voted 5-0 to make the following Findings:

1. The application for Modification of a Special Permit is being sought to renovate the exterior and interior portions of the existing gasoline station with two services bays to a convenience store and replace the fueling gasoline filling station canopy. The proposed renovations would not alter the existing building's footprint.
2. That the Applicant submitted Special Permit for the proposed signage (SP 2017-9) and this Decision should not be considered as acceptance of proposed signs.
3. That the Site is approximately 0.704 acres located in a Commercial Business (CB) zoning district. The site is located within the Water Supply Protection Overlay District.
4. That during the public hearing the Applicant reviewed the existing conditions of the site and the proposed scope of work. The proposed site improvements would consist of the following renovations and alterations (Exhibit #1):
  - Converting the existing 2,080 square foot service station to include the three bays, to a 24-hour convenience and package store, without altering the footprint,
  - Remove and replace the existing fuel dispensing canopy consisting of three dispensers (6 fueling locations) and a separate diesel dispenser (2 fueling locations), with a 50' x 40' (short side to the street) canopy with four new dispenser islands, one diesel (8 fueling locations) and keeping the existing underground storage tanks,
  - Remove and replace the existing pavement and curbing with the standard MassDOT required pavement and vertical concrete curbing within the site,

- New paint striping for 18 parking spaces, to include one van accessible,
  - New landscaping, signage stormwater facilities and the removal of donation bins.
5. That during the public hearing the Board discussed adjusting the access drives to a one way in order to streamline traffic flow on and off of Worcester Street. The Town's Peer Review Traffic Engineer submitted comments to the Board's concern (Exhibit #28), stating that restricting the traffic flow to one way would not be recommended based on varied fueling position on vehicles and that there was no evidence from the MassDOT crash database to support such a restriction.
  6. The Board notes that it has received a peer review report from Graves Engineering which addressed outstanding issues identified at the December 11, 2017 and January 2, 2018 hearing dates. The Board notes that all items and issues had been addressed to the satisfaction of the peer review engineer and that no outstanding issues remain with regards to the submission materials and specifically to the plan set revised through December 28, 2017 (Exhibit #21). The Board notes that the Applicant submitted a final revised plan set which reflects the changes required by the Conservation Commission and incorporated all changes required by the Planning Board.
  7. That determinations regarding the above referenced 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.
  8. That determinations regarding the above referenced 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.
  9. That the Application as described within the Exhibits of this Decision, the waivers requested, and the resulting site plan, are not contradictory or inconsistent with the intent and purposes set forth in Section 1.3.3.1 of the ZBL.
  10. That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
  11. 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 finds that the Applicant satisfies this requirement.
  12. The Board 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 Board finds that the Applicant did not submit a waiver request.
  13. With regard to Section 1.5.5(a), the Board finds that based on the Exhibits stated within this Decision, ingress and egress to the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, is adequate. The Board notes that the site circulation was discussed and that per the Traffic Engineer's Peer Review (Exhibit #28) no adjustments to the site plan were required based on the location of the site and nature of the proposed use.

14. With regard to Section 1.5.5(b), the Board finds that based on the Exhibits and the Findings stated within this Decision, that off-street parking is adequate, the Applicant is providing 18 spaces when only 9 are required. The Board further finds with regard to Section 1.5.5(b) that the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties generally in the district are satisfactory. No public comment was received regarding impacts associated with this condition for granting.
15. With regard to Section 1.5.5(c), the Board finds that based on the Exhibits and Findings stated with in this Decision, refuse collection or disposal and services areas will be concealed behind a 6' chain link fence with woven vinyl screening and its location allows for adequate access for collection.
16. With regard to Section 1.5.5(d), the Board finds that based on the Exhibits and the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate. The Board and the Applicant discussed ensuring the height of the plants installed in the center landscaping island within the Worcester Street right of way would not exceed a maximum height of 2-3 feet. The Applicant agreed and noted that MassDOT has specific standards and regulations as to the allowable plant materials installed within their right of ways to ensure maximum sight distances.
17. With regard to Section 1.5.5(e), the Board finds and based upon on the Exhibits and 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. The Applicant will be removing and replacing the existing free standing sign and the Board noted that the Applicant submitted a separate Special Permit (SP 2017-9) for the proposed signage. Exterior lighting will be limited to building entrances and fueling station canopy (Exhibit #21 & #25).
18. With regard to Section 1.5.5(f), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, the required yards and other open space requirements are adequate (Exhibit #21).
19. With regard to Section 1.5.5(g), the Board finds that based upon on the Exhibits and the Findings stated within this Decision, that the proposed use of the facility is generally compatible with adjacent properties and other properties in the district. The Board notes that the site is located within a Community Business (CB) zone and that the abutting properties and other surrounding uses are commercial in nature. No public comment was received regarding this condition for granting.
20. With regard to Section 1.5.5(h), the Board finds that based upon on the Exhibits and the Findings stated within this Decision and upon satisfying and complying with all applicable requirements of the Massachusetts DEP, Grafton Water District, and all other applicable agencies, the proposed facility will not have any significant adverse impact on any public or private water supply. The Board notes that the Applicant adequately satisfied this required through the peer review process (Exhibit #21).
21. With regard to Section 1.5.5(i), the Board finds that the site is located within the Water Supply Protection Overlay District and while the use is not permitted, it is considered pre-existing non-conforming and that the Applicant has demonstrated compliance with Section 7.5 (Design and Operation Criteria). The Board further finds that, based upon on the Exhibits and the Findings stated within this Decision, and all other applicable agencies, there will not be any significant adverse impact upon municipal water supplies.

22. With regard to Section 1.5.5(j), the Board finds that important historic, cultural and scenic landscapes are protected. It is noted that proposed work includes new landscaping, a 12% reduction of impervious area and removal of donation bins on the site which will enhance the area. No comments were received from potentially interested parties in this matter.

#### **IV. CONDITIONS**

At their meeting of January 22, 2018 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 Mrs. Hassinger) voted 5-0 to **approve** the Modification of Special Permit (SP 2000-11.1) & Site Plan Approval with the following conditions:

##### **A. Standard Conditions**

1. This Modification of a Special Permit and Site Plan Approval specifically authorizes the renovation of the interior and exterior of the existing building along with replacing the fueling island canopy and associated site improvements, access drive and landscaping as described within the above referenced Exhibits and Findings of this Decision.
2. The work authorized by this Modification of a Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #A1 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. See Special Permit 2017-9 for Sign Decision.
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 or if an appeal has been made the date appeal was denied, or 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 WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

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

1. The Applicant shall provide an updated pavement marking plan that reflects MassDOT's requirements and shall be inspected by the Planning Board or its designee to determine compliance with the Decision.
2. Prior to the commencement of work, the Planning Board shall be provided with the following:
  - a. Six (6) full size, 24" x 36", one of which shall be sent directly to the Town's peer review consulting engineer.
  - b. An electronic copy of the plan set. The electronic copy shall be in a "PDF" compatible format.
3. The Applicant shall schedule a Pre-Construction Meeting with the Planning Board or its designee.
4. Prior to any clearing the site shall be inspected by the Planning Board or its designee to review the delineated limits of work, erosion control and site stabilization measures.
5. The Applicant shall provide copies of any MassDOT District 3 approvals.

**C. Conditions to be Met During Construction**

1. Hours of construction and earthwork proposed shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
2. 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.
3. Site identification signage to be installed along Worcester Street shall be reviewed and approved by the Town Planner prior to installation to ensure consistency with site plan with particular regards to location, grading, and landscaping. Installation shall not commence until the Applicant has received written approval from the Town Planner.

**D. Conditions to be Met After Construction**

1. The Applicant / Owner shall ensure that the landscaping is maintained for the life of the permit in order to ensure a healthy landscape screening and buffering plan. The Applicant will adhere to the following:
  - a. Ensure that the plant material is maintained properly especially during the first three years after installation.

- b. Replace any plant materials that fail to thrive either through death or disease in a timely manner. Replacement material shall be in kind. Any change in plant material must be approved by the Board or its Agent.
  - c. Regular Inspections – the Planning Board or its Agent reserves the right to inspect the site, with particular attention to the landscaping, to ensure continued compliance with this Special Permit and Site Plan Approval.
2. The Applicant / Owner shall submit as-built plans showing actual locations of new construction in a format comparable to MassGIS's "Standard for Digital Plan Submittals to Municipalities".

**V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted 5-0 to **approve** the Modification of a Special Permit (SP 2000-11.1) & Site Plan Approval Application with Conditions to renovate the exterior and interior portions of the existing building, replace the existing canopy and work associated with site improvements 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>David Robbins, Member</u>	<u>AYE</u>
<u>J. Daniel Graham, Clerk</u>	<u>AYE</u>		

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

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

*1-23-2018*  
\_\_\_\_\_  
Date

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



*DECISION – Grafton Planning Board  
Special Permit (SP 2000-11.1) & Site Plan Approval  
Site Improvements – 88 Worcester Street, Grafton  
Petrogas Group New England Inc. (Applicant); Leemilt's Petroleum LLC (Owner)  
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**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.

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Kandy Lavalley, Interim Town Clerk

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Date