

**DECISION
GRAFTON PLANNING BOARD**

2021 NOV 24 PM 12: 24

**SPECIAL PERMIT (SP 2021-07) & SITE PLAN APPROVAL
Application of Wood Preservative/Pesticide Treatment to Existing Utility Structures in the
Water Supply Protection Overlay District
323 Transmission Line, Grafton, MA**

New England Power Company (Applicant/Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of New England Power Company (hereinafter the Applicant) of 40 Sylvan Road, Waltham MA 02451, for a Special Permit (SP 2021-07) and Site Plan Approval under Sections 1.5.7, 1.3.3 and 7.4.d.7 (Water Supply Protection Overlay District –Special Permit Uses) of the Grafton Zoning By-law (ZBL) to allow the application of wood preservative/pesticide treatment to existing utility structures in the Water Supply Protection Overlay District (WSPOD) for thirteen (13) wood pole structures located along the 323 Transmission Line, (hereinafter the Site), and shown on Exhibit 2, and owned by New England Power Company (hereinafter the Owner).

I. BACKGROUND

The application for the above referenced Special Permit & Site Plan Approval (hereinafter Application) was submitted on September 9, 2021. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 7 and 14, 2021 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was held on October 25, 2021. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on October 25, 2021.

The following Board members were present throughout the public hearing: Chairman David Robbins, Vice Chairman Justin Wood, Clerk Linda Hassinger, Members Robert Hassinger, Prabhu Venkataraman, and Associate Member Maura McCormack. At the hearing, Samantha Walker, BSC Group, presented the Application on behalf of Dawn Travalilni, New England Power Company.

II. EXHIBITS

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

1. Unbound application materials submitted by the Applicant, received on September 9, 2021, including the following:
 - Application for Special Permit; received by the Town Clerk September 9, 2021; 1 page.
 - Application for Site Plan Approval; received by the Town Clerk September 9, 2021; 1 page.
 - Certificate of Good Standing; signed by Treasurer /Collector September 9, 2021; 16 pages.

- Project Narrative, dated August 18, 2021, prepared by Dawn Travalilni, New England Power Company, 2 pages.
 - Waiver Request Form, 3 pages.
 - Treatment Substance Technical Cutsheets, Hollow Heart CB, MITC-FUME, MP500-EXT, 3 pages.
 - Abutters List, dated August 24, 2021, 15 pages.
2. Plan: “FY22 NE PIT AND C-TRUSS PROJECT LINE 323”; prepared by BSC Group; undated; received September 9, 2021; 7 sheets.
 3. Public Hearing Notice; received by the Town Clerk on October 8, 2021; 1 page.
 4. Email correspondence: Various Locations - New England Power Company - Pesticide Application; ZBA; dated & received October 19, 2021; 1 page.
 5. Email correspondence: Re: Request for Comments: SP 2021-07 / SPA, Various Locations, New England Power; Fire Dept; dated & received October 19, 2021; 1 page.
 6. Email correspondence: Re: Request for Comments: SP 2021-07 / SPA, Various Locations, New England Power; Board of Health; dated & received October 19, 2021; 1 page.

III. FINDINGS

At their meeting of November 22, 2021, 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 Robert Hassinger voted four (4) in favor and zero (0) opposed, with one (1) member absent, to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and Exhibits submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work 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.
3. That the Site, as identified by the Applicant and shown in Exhibit #1 & #2 of this Decision, is located within the Low Density Residential (R40), Medium Density Residential (R20), and Residential Multifamily (RMF) zoning districts, as well as the Water Supply Protection Overlay District (WSPOD).
4. That per ZBL Section 7.4.D.2 any use involving secondary and minimal usage or storage of herbicides, pesticides or fertilizers, other than the amounts normally associated with

- household or agricultural use may be authorized with the issuance of a Special Permit within the WSPOD. The Applicant is proposing to treat thirteen (13) existing utility pole structures.
5. That during the public hearing the Board and the Town Planner discussed the impacts the proposed pesticide treatment would have on the water supply. It was noted that given the minimal proposed treatment, in accordance with routine maintenance procedures conducted by certified professionals, the Board does not view the work as proposed as a potential threat to ground water.
 6. The Board notes that the Board of Health, Fire Department and Zoning Board of Appeals, had no objections to the proposed treatment and do not view it as a potential threat to ground water.
 7. That ZBL Section 1.3.3.2 requires that the procedure for Site Plan Review be incorporated into the procedure for reviewing Special Permits. 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.
 8. That with respect to the nature of this particular Application for Wood Preservative/Pesticide Treatment to Existing Utility Structures within the WSPOD as described within Exhibit #1 of this Decision, the resulting site plan, is not contradictory or inconsistent with the intent and purposes set forth in Sections 1.2 and 1.3.3.1 of the ZBL.
 9. 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 do not change. The Board finds that this requirement does not apply to the Application based on the nature of the proposal.
 10. 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 does not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
 11. 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 do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.

12. 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 not applicable to this Application based on the nature of the proposal.
13. 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. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
14. 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 do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
15. With regard to Section 1.5.5(g) of the ZBL, that the proposed Wood Preservative/Pesticide Treatment to Existing Utility Structures (as presented in the Exhibits stated within this Decision) is generally compatible with adjacent properties and properties in the district.
16. 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.
17. 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, there will not be any significant or cumulative impact upon municipal water supplies.
18. 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 does not change. No resources of these kinds were identified during the course of the public hearing.

IV. WAIVERS

1. At their meeting of November 22, 2021, 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 Robert Hassinger voted four (4) in favor and zero (0) opposed, with one (1) member absent, to **GRANT** the Applicant's request for waivers from the following requirements of Section 1.3.3.3 (d) Site Plan Requirements of the ZBL with regard to preparing site plans, for the reasons stated within the Exhibits and Findings of this Decision:
 - (2.) Name of the owner(s) of the subject propert(ies), if different

- (3.) Present use(s) of the land and description and use(s) of existing building(s) thereon, if any
 - (4.) Proposed use(s) of the land
 - (5.) Proposed use(s) of existing buildings, if any
 - (6.) Description and proposed use(s) of the proposed building(s), if any
 - (7.) Zoning District(s) in which the parcel is located, including floodplain, if applicable
 - (12.) Existing and proposed topography at two-foot (2') elevation intervals
 - (14.) Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials
 - (15.) Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/ landscaped areas
 - (16.) Parking calculations for proposed use(s), including all existing use(s) that will continue to exist on the property, if applicable
 - (17.) Calculations of the volume of earth material to be removed or filled on the property, and delineation of the location(s) of such activity
 - (18.) Driveways and driveway openings/entrances
 - (19.) Parking and loading spaces
 - (20.) Service areas and all facilities for screening
 - (21.) Landscaping
 - (22.) Lighting
 - (23.) Proposed signs
 - (24.) Sewage, refuse and other waste disposal
 - (25.) Stormwater Management facilities (drainage)
 - (27.) Exterior storage areas and fencing
 - (28.) Utilities and their exterior appurtenances (e.g., fire connections)
 - (29.) Provisions for dust and erosion control
 - (30.) Any existing vegetation
2. At their meeting of November 22, 2021, 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 Robert Hassinger voted four (4) in favor and zero (0) opposed, with one (1) member absent, to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (e) Stormwater Management Hydrological Study** of the ZBL with regard to preparing a Stormwater Management Hydrological Study, for the reasons stated within the Exhibits and Findings of this Decision:
 3. At their meeting of November 22, 2021, 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 Robert Hassinger voted four (4) in favor and zero (0) opposed, with one (1) member absent, to **GRANT** the Applicant's request for waivers from the requirements of **Section 1.3.3.3 (f) Earthwork Calculations** of the ZBL, for the reasons stated within the Exhibits and Findings of this Decision.
 4. At their meeting of November 22, 2021, 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 Robert Hassinger voted four (4) in favor and

zero (0) opposed, with one (1) member absent, to **GRANT** the Applicant's request for waivers from the requirements of **Section 8.2 Traffic Study** of the ZBL, for the reasons stated within the Exhibits and Findings of this Decision.

V. DECISION and CONDITIONS

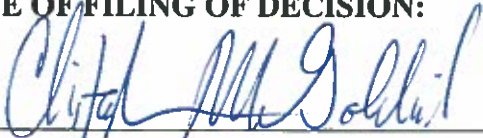
At their meeting of November 22, 2021, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Justin Wood, seconded by Robert Hassinger voted four (4) in favor and zero (0) opposed, with one (1) member absent, to **GRANT** the Special Permit (2021-07) and Site Plan Approval with the following conditions:

1. Unless specifically modified by this Decision, the wood preservative/pesticide treatment to existing utility structures authorized by this Special Permit shall be installed in accordance with, and maintained to conform to, the Conditions stated within this Decision, all applicable requirements of the Grafton Zoning Bylaw, and all applicable Federal, State and Local regulations.
2. All other applicable Federal, State or Local permits and approvals for the proposed use shall be secured by the Applicant at the appropriate time, and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
3. In accordance with ZBL Section 1.5.8, 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 ZBL Section 1.5.
5. The Special Permit and wood preservative/pesticide treatment to existing utility structures shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number.
6. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision.
7. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

VI. RECORD OF VOTE

<u>David Robbins, Chair</u>	<u>AYE</u>	<u>Robert Hassinger, Member</u>	<u>AYE</u>
<u>Justin Wood, Vice Chair</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>ABSENT</u>
<u>Linda Hassinger, Clerk</u>	<u>AYE</u>	<u>Maura McCormack, A. Member</u>	<u>.</u>

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Christopher J. McGoldrick, Town Planner

11/24/2021

Date

cc:

- Applicant/Owner
- Building Inspector
- Conservation Commission
- Zoning Board of Appeals

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 Lavallee, Town Clerk

Date