

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2016-1) & SITE PLAN APPROVAL**

**Accessory Apartment  
7 Cheryl Drive, Grafton, MA**

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GRAFTON, MA

2016 FEB 24 AM 11 02

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**Patricia Gallo (Applicant / Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Patricia Gallo, 7 Cheryl Drive, Grafton, MA 01519 (hereinafter the APPLICANT / OWNER), for an Accessory Apartment on property located at 7 Cheryl Drive, Grafton, MA, Assessors Map 98, Lot 79, owned by APPLICANT / OWNER (hereinafter the SITE) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 54096, Page 236. Said property is located in a Medium Residential (R-20) zoning district and within the Water Supply Protection Overlay District.

The Application was filed with the Planning Board January 5, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on January 21 and January 28, 2016, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on February 9, 2016. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on February 9, 2016.

The following Board members were present throughout the public hearing: Chairman Sargon Hanna, Vice Chairman Michael Scully, Clerk Robert Hassinger, and members Linda Hassinger, David Robbins. At the hearing, the 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. Vice Chairman Michael Scully was not present at the time of DECISION.

## **II. SUBMITTALS**

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

**EXHIBIT 1.** Unbound application materials submitted by the Applicant, received January 5, 2016; includes the following:

- Application for Site Plan Approval; dated December 28, 2015; 1 page.
- Application for Special Permit; dated December 28, 2015; 1 page.
- Project Narrative; no date; 1 page.
- Site Images; color; 8" X 11" no date; no received date; 1 page.
- Certificate of Good Standing; dated December 28, 2015 by the Treasurer / Collector; 1 page.
- Certified Abutters List; dated December 28, 2015; 1 page.
- Waiver Request List; no date; 1 page.
- Floor Plan; hand drawn; black and white; 8" X 11"; no date; 1 page.
- GIS map with property information; color; 8" X 11"; dated December 28, 2016; 2 pages.

**EXHIBIT 2.** Departmental Comment Form, Building Department, received January 13, 2016; 1 page.

**EXHIBIT 3.** Departmental Comment Form, Health Department, received January 13, 2016; 1 page.

**EXHIBIT 4.** Public Hearing Sign In Sheet for the February 9, 2016 hearing, 1 page.

### **III. FINDINGS**

At their meeting of February 22, 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. Hassinger, seconded by Mrs. Hassinger) voted 4-0 to make the following Findings:

- F1.)** That this Application is for an accessory apartment on the Site as defined in Section 2.1 and Section 3.2.3.1 (Accessory Uses) of the Grafton Zoning By-law (hereinafter ZBL), and as shown on the plans identified in EXHIBIT #1 of this Decision.
- F2.)** That the Site is located in the Medium Density Residential (R-20) zoning district. The site is located within the Water Supply Protection Overlay District (WSPOD). The Board further finds that accessory apartments are permitted in an R20 zoning district only upon the issuance of a Special Permit by the Planning Board.
- F3.)** 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 Applications.
- F4.)** That determinations regarding the following Findings are also predicated upon the 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.
- F5.)** That during the public hearing the Owner presented the application to the Board. She is seeking the Special Permit and Site Plan Approval for the purpose of creating an accessory apartment for herself to be located entirely within the existing primary residence. No changes to the exterior of the building or additional square footage is proposed. Ms. Gallo noted that she and her daughter are the present Owners of the house. The accessory apartment will be in the lower level of the split level house and will be used by Ms. Gallo. The upstairs space, the primary residence, will be occupied by her daughter.
- F6.)** That during the public hearing the Board and the Applicant discussed access to the unit. The Applicant noted that the lower level has windows and a separate door leading to the backyard and is partially above grade given the design of the split level structure. Photos were included as part of the Application (see EXHIBIT #1).
- F7.)** That during the public hearing, the Planning Board informed the Applicant that previously issued special permits for accessory apartments typically included a condition that limited occupancy of such apartments to only family members and that the permit is only granted to the Applicant / Owner. The Board finds that the Applicant acknowledged this condition.
- F8.)** That during the public hearing the Board received testimony from Robert Misterka of 11 Cheryl Drive. He expressed concern about the occupancy of the unit noting that there were several in the neighborhood and was worried that these units would become rental units and change the nature of the single family neighborhood. The Planning Board noted that, if approved, the Decision will be conditioned to reflect that the Special Permit and Site Plan Approval will be limited strictly to the

Owner named in the Decision. If granted, the Special Permit and Site Plan Approval will become null and void in the event that the Applicant sells the house. The Board finds that the Applicant acknowledged this condition. (See also FINDING #F7).

- F9.)** That during the public hearing the Board received input from the Building Department (see EXHIBIT #2). The Departmental Review Form noted that the Building Department had no comment.
- F10.)** That during the public hearing the Board received input from the Health Department (see EXHIBIT #3). The Departmental Review Form noted that the property was served by Town water and sewer and that there were no additional comments.

At their meeting of February 22, 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. Hassinger, seconded by Mrs. Hassinger) voted 4-0 to make the following Findings:

- F11.)** 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. No changes to the existing structure or site are proposed as part of this Application (see EXHIBIT #1).
- F12.)** 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. No changes to the existing structure or site are proposed as part of this Application (see EXHIBIT #1).
- F13.)** 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. The Board finds that the accessory apartment will be occupied by one family member and does not require additional refuse resources. No service areas are needed or proposed (see EXHIBIT #1).
- F14.)** 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. No changes to the existing structure or site are proposed as part of this Application (see EXHIBIT #1 and FINDING #F5).
- F15.)** 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. No signs or exterior lighting are proposed (see EXHIBIT #1 and FINDING #8).
- F16.)** 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. No changes to the existing structure or site are proposed as part of this Application (see EXHIBIT #1 and FINDING #F5).

- F17.)** With regard to Section 1.5.5(g) of the ZBL, that the proposed accessory apartment 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 (see FINDING #F8).
- F18.)** 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. The Board of Health stated that the existing structure is tied into Town water and Town sewer with no further comment (see EXHIBIT #3).
- F19.)** 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. No changes to the existing structure or site are proposed as part of this Application (see EXHIBIT #1 and FINDING #F5).
- F20.)** 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 such resources were identified by Town staff or other parties with regards to this particular application.

At their meeting of February 22, 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. Hassinger, seconded by Mrs. Hassinger) voted 4-0 to make the following Findings:

- F21.)** 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.
- F22.)** 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.
- F23.)** 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 submitted waiver requests from Section 1.3.3 of the Grafton Zoning By-Law (see EXHIBIT #1).
- F24.)** 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.

#### **IV. WAIVERS**

- W1.** At their meeting of February 22, 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. Hassinger, seconded by Mrs. Hassinger) voted 4-0 to **GRANT** the Applicant's request for waivers from the following requirements of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision:

- **Section 1.3.3.3 (d) Site Plan Requirements**
  - (10.) Wetlands, ponds, streams, or other water bodies
  - (12.) Existing and proposed topography at two foot elevation intervals
  - (13.) All property lines, set backs, parking areas
  - (14.) Proposed surfaces – pervious and impervious
  - (15.) Lot coverage calculations
  - (16.) Parking calculations
  - (17.) Earth volume material calculations to be removed or filled on the property
  - (19.) Parking and loading spaces
  - (20.) Service areas and all facilities for screening
  - (21.) Landscaping
  - (22.) Lighting
  - (23.) Proposed Signs
  - (24.) Sewage, refuse, waste disposal
  - (25.) Stormwater management facilities - drainage
  - (26.) All structures and buildings associated with the proposed and existing uses
  - (28.) Utilities
  - (29.) Dust and erosion control
  - (30.) Existing vegetation
  - (31.) Any other details or information deemed necessary by the Planning Board
- **Section 1.3.3.3 (e) Stormwater Management and Hydrological Study**
- **Section 1.3.3.3 (f) Report on Volume of Earth Material to be Removed**
- **Section 1.3.3.3 (g) Report Written Statements**

The Planning Board specifically noted that voting to grant the above noted waivers was based on the size and scope of the project as well as the absence of specific concerns about the site plan during the public hearing.

## **V. DECISION and CONDITIONS**

At their meeting of February 22, 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. Hassinger, seconded by Mrs. Hassinger) voted 4-0 voted to **APPROVE** the Special Permit and Site Plan Approval Application with the following conditions:

- C1.)** This Special Permit / Site Plan Approval for the construction of an accessory apartment to be contained within an existing structure is granted specifically to the Owner of the property located at 7 Cheryl Drive as identified within this Decision.
- C2.)** Based on FINDING #F5, the accessory apartment is to be occupied by one of the property owners (the APPLICANT) only.

- C3.) Based on FINDING #F5 and #F8 this Special Permit is granted to the Owner, as identified within this Decision, and does not run with the land. Once the Owner sells the property, the new owner will be required to make application to the Board to use the space as an accessory apartment if so desired.
- C4.) 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.
- C5.) Any modification to work authorized by this Decision shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning 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.
- C6.) This Special Permit and Site Plan Approval shall not take effect until the Applicant has recorded this Special Permit and Site Plan Approval 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.
- C7.) 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.
- C8.) Any inability or failure or refusal by the Applicant to comply with the requirements of this Special Permit and Site Plan 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**

Constituting a majority of the Planning Board, the following members voted **4-0** to **APPROVE** the Special Permit & Site Plan Approval Application with Conditions for an accessory apartment at 7 Cheryl Drive based on the information received at the public hearing and the aforementioned findings.

<u>Sargon Hanna, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Michael Scully, Vice Chairman</u>	<u>Absent</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Clerk</u>	<u>AYE</u>		

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

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

2-24-2016  
\_\_\_\_\_  
Date

- cc: Applicant / Owner
- Building Inspector
  - Assessor

**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.

\_\_\_\_\_  
Donna Girouard, Town Clerk

\_\_\_\_\_  
Date

