

**DECISION  
GRAFTON PLANNING BOARD**

**MODIFICATION #1 OF  
SPECIAL PERMIT (SP 2014-7) & SITE PLAN APPROVAL  
To Allow for a Second Companion Horse on Site  
15 Blanchard Road, Grafton, MA 01519**

**Leslie & Ron Anderson (Applicant / Owner)**

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Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Leslie & Ron Anderson (hereinafter the APPLICANT) for Modification of a Special Permit & Site Plan Approval for the keeping an additional companion horse on less than five acres land for property located at 15 Blanchard Road, Grafton, MA (hereinafter the SITE) and shown on the Grafton Assessor's Map 88, Lot 169, and owned by Leslie & Ron Anderson by deed recorded in the Worcester District Registry of Deeds Book 17528, Page 276. The application was formally received on November 16, 2015.

**I. BACKGROUND**

The above referenced Application for a Special Permit (hereinafter APPLICATION) was submitted on November 16, 2015. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 25 and December 3, 2015 and posted with Town Clerk's Office. The Planning Board considered the Application at a properly posted meeting of said Board on December 14, 2015. Following public input the hearing was closed on December 14, 2015.

The following Board members were present during the entire public hearing process: Chairman Sargon Hanna, Vice Chairman Michael Scully, Clerk Robert Hassinger, and Members Linda Hassinger and David Robbins. 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 the Office of the Planning Board.

**II. SUBMITTALS**

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

**EXHIBIT #1.** Unbound application packet prepared by the Applicant, received November 16, 2015; including the following:

- Application for Modification of a Special Permit; SP 2014-7.1; dated November 16, 2015; 1 page
- Application for Modification of a Site Plan Approval; SP 2014-7.1; dated November 16, 2015; 1 page
- Certificate of Good Standing; signed by the Treasurer & Collector's Office October 19, 2015; 1 page.
- Certified Abutters list; signed by the Assessor's Office Manager; dated October 22, 2015; 1 page.
- Project Narrative; 1 page.
- Site Images of Horses in paddock; 8 1/2" X 11"; color; no date; 1 page.

- Site Plan showing fence location approved in original Special Permit & Site Plan approval; 8 1/2" X 11"; color; dated July 28, 2014; 1 page.
- Site Plan showing new fence location; 8 1/2" X 11"; color; dated July 28, 2014; 1 page.
- Correspondence from Abutter Chris Marino, 13 Blanchard Road; no date; 1 page.
- Correspondence from Abutter Kevin Shattuck, 1 Patricia Drive; dated October 31, 2015; 1 page.
- Correspondence from Abutters Diane and Michael Eddy, 5 Patricia Drive; dated October 25, 2015; 1 page.

**EXHIBIT 2.** Departmental Comments Form; Zoning Board of Appeals; dated and received November 20, 2015; 1 page.

**EXHIBIT 3.** Email Correspondence; submitted by Amy Maguire, 35 Blanchard Road; dated and received December 08, 2015; 1 page.

**EXHIBIT 4.** Email Correspondence; submitted by Ken Pieciak; 3 Patricia Drive; dated and received December 10, 2015; 8 1/2" X 11"; color; 3 pages.

**EXHIBIT 5.** Email Correspondence; submitted by Ken Pieciak; 3 Patricia Drive; dated and received December 10, 2015; 2 pages.

**EXHIBIT 6.** Email Correspondence from John Carlson, Inspector of Animals; submitted by Nancy Connors, Office Manager, Health Department; dated December 10, 2015; received December 11, 2015; 1 page.

**EXHIBIT 7.** Images of 15 Blanchard Road.; Submitted by Leslie Anderson, Applicant; 8 1/2" X 11"; color; received on December 14, 2015; 2 pages.

**EXHIBIT 8.** Planning Board Public Hearing Sign-In Sheet, December 14, 2015; 1 page.

### **III. FINDINGS**

At their meeting of January 11, 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 / or 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 classification of "raising and keeping of livestock, including but not limited to horses, cattle, sheep, goats, swine, fur animals and poultry, on a parcel under 5 acres in Section 3.2.3.1 of the ZBL

(Use Regulation Schedule) was used in making determinations regarding the original Special Permit and Site Plan Approval approved by the Board on September 22, 2014

- F4. That the Site is located in a Residential 40 (R-40) zoning district. The site is located within the Water Supply Overlay District. The site is approximately 2.03 acres in size.
- F5. That raising and keeping of livestock (horses) on less than five (5) acres of land is allowed in an R-40 zoning district only upon the issuance of a Special Permit by the Planning Board. Condition #C2 of the original permit states:

*The total number of horses permitted on site are not to exceed one (1) and a companion animal not to exceed one (1).*

The Applicant / Owner is seeking to modify the existing permit to allow for a second companion animal.

- F6. That during the public hearing, the Board and the Applicant discussed the nature of the proposal. Ms. Anderson reviewed the history of the original permit which was granted for the purpose of allowing her to accommodate her horse and a companion animal to her property behind her house. Since the original permit had been issued she had completed the barn and had fenced in a portion of the approved paddock area. The horse and the original companion animal, a miniature horse, have been moved to the site. After the horses were moved to the site it was discovered that the companion horse was pregnant and subsequently foaled. Once the foal was weaned Ms. Anderson had planned to move it off site as a third animal was not permitted under the approved Special Permit & Site Plan Approval. Ms. Anderson is seeking to modify the permit to allow for the second miniature horse to stay on site. The miniature horses stand 36 inches and 32 inches tall. (See EXHIBIT #1).
- F7. That during the public hearing the Board received testimony from Ken Pieciak of 3 Patricia Drive, the immediate abutter to the south of the site. Mr. Pieciak also submitted two emails to the Board outlining his concerns about the location of the fence and the use which he interpreted to be as a kennel. Town Planner Joe Laydon noted that the private barn and paddock do not qualify as a kennel under the Town's zoning by-law and that the keeping of livestock, including horses, in this zoning district, is allowed with a Special Permit.

With regards to the fenced paddock area, Mr. Pieciak stated that it was too close to his property line and that the enjoyment of his back yard and deck would be compromised once the full paddock area was fenced as the horses would be close to his yard and that the odor of the manure would be a nuisance. Ms. Anderson noted that the original permit showed the paddock area to be setback only five feet from the property line. However, due to the configuration of the land, the fence has been installed at a twenty five foot setback thus putting a greater distance between the abutters and the horses. She noted that only a portion of the site has been fenced in at this time. The back area of site is being prepared for pasture use which then will be fenced according to the plans. The site has been cleared but needs to stabilize as a field before the horses can be allowed on it. Completion of the pasture and fencing are expected in the summer of 2016. Once completed, the horses will have a wider area to occupy.

- F8. That during the public hearing the Board received testimony Amy Maguire of 35 Blanchard Road expressing concerns about odor which she claimed was a nuisance and difficult to live with especially in the summer months. It is noted that the same concerns were submitted to the Planning Board via email (see EXHIBIT #3). Ms. Anderson noted that she is implementing the approved manure management plan and noting that she follows a composting system that involves regular

turning of the manure piles. It was further noted that the manure pile is situated on the northern side of her site which is approximately 110 feet from the abutting residential neighborhood to the south. Ms. Maguire noted that while the odor was not noticeable at this time of year that it was very pungent during the summer months.

Tom Donahue of 2 Patricia Drive stated that the smell was present during the summer months and was concerned about the keeping of an additional horse on site in terms of the potential for the additional odor. Ms. Anderson noted that the all three horses have been on site since the beginning as the foal had not weaned when they moved the animals to the site after the permit was granted. The foal has since reached maturity. There will be no increase in the existing conditions. Mr. Donahue requested that the Board consider a way to ensure that if the modification is approved that it be specific to the existing miniature horse. He was concerned that if a larger companion animal were to replace the proposed miniature horse as a companion animal that there would be an increase in manure and odor.

The Board noted that it had received correspondence from the Animal Inspector (see EXHIBIT #6) who had inspected the site on December 11, 2015. It was noted that:

*“From every position I took I could not smell an overbearing odor, except the normal smell that would come from an establishment of this type. The prominent odor was that of hay. In my opinion there was no offensive odor emanating from this property.”*

The Board noted that complaints about odor can be filed with the Inspector of Animals and that odor was subjective in nature. It was suggested that the Applicant / Owner further review their composting system to find ways to ensure that it is producing the minimal amount of odor.

- F9. That during the public hearing the Board noted that several letters of support were received including immediate abutters (see EXHIBITS #1).

At their meeting of January 11, 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 with regard to the Modification presented by the Applicant / Owner:

- F10. 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.
- F11. 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 Modification of the Special Permit on adjoining properties and properties generally in the district are satisfactory. With regard to odor the Board defers to the professional assessment presented by the Inspector of Animals (EXHIBIT #6 and FINDING #F8).
- F12. 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. No changes are proposed as part of the requested Modification.

- F13. 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 are proposed as part of the requested Modification.
- F14. 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 changes are proposed as part of the requested Modification.
- F15. 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 are proposed as part of the requested Modification.
- F16. With regard to Section 1.5.5(g) of the ZBL, that based upon the Findings stated within this Decision, that the proposed use is compatible with adjacent properties and other properties within the district as established in the original Special Permit and Site Plan Approval. No changes are proposed as part of the requested Modification.
- F17. 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 site is connected to water service (see FINDING #F7 of the original Special Permit).
- F18. 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. The proposed use is in the Water Supply Protection Overlay District.
- F19. 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 use is satisfactory. No changes are proposed as part of the requested Modification.

## **V. DECISION AND CONDITIONS**

At their meeting of January 11, 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 **GRANT** the Modification of the Special Permit and Site Plan Approval with the following conditions:

- C1.** This Modification is granted to modify Condition #C2 of Special Permit SP2014-7 and Site Plan Approval to allow for a second companion horse. The total number of horses now permitted on site is not to exceed one (1) and companion animals not to exceed two (2). All other conditions of the original permit remain in full force and effect.
- C2.** The Applicant is required to continue to use and seek out best management practices for the care and keeping of the horses so as not to be a cause of nuisance to the abutting properties with regards to odor and noise.
- C3.** Failure to comply with the requirements of Section 1.5 of the Grafton Zoning By-law (or as modified by this Decision), as well as all applicable Federal, State and local regulations, shall cause this Special Permit to be invalid.

- C4. 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 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.
- C5. This Modification of Special Permit SP 2014-7 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.
- C6. 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.

**V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted 5-0 to **GRANT** the Applicant's Special Permit with Conditions for the Modification of Special Permit 2014-7 – addition of a second companion animal - 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>AYE</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

1-12-2016  
\_\_\_\_\_  
Date

cc: Applicant / Owner

- Inspector of Animals

- Building Inspector
- Board of Health

**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