

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2016-2) & SITE PLAN APPROVAL
Accessory Apartment
7 Bruce Street, Grafton, MA**

Richard Cornell (Applicant / Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Richard Cornell, 7 Bruce Street Drive, Grafton, MA 01519 (hereinafter the APPLICANT / OWNER), for an Accessory Apartment on property located at 7 Bruce Street, Grafton, MA, Assessors Map 110, Lot 83, owned by the APPLICANT / OWNER (hereinafter the SITE) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 45253, Page 58. Said property is located in a Low Density Residential (R-40) zoning district.

The Application was filed with the Planning Board January 14, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on February 4 and February 11, 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 22, 2016. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on February 22, 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.

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 / Owner, received January 14, 2016; includes the following:

- Application for Site Plan Approval; dated January 14, 2016; 1 page.
- Application for Special Permit; dated January 14, 2016; 1 page.
- Project Narrative; no date; 1 page.
- Site Images – Existing Front View and Back of House Showing Existing Deck; color; 8" X 11" no date; no received date; 2 pages.
- Certificate of Good Standing; signed November 17, 2015 by the Treasurer / Collector's office; 1 page.
- Certified Abutters List; dated November 18, 2015; 1 page.
- Waiver Request List; no date; 5 pages.
- Floor Plan; hand drawn; black and white; 8" X 11"; no date; 1 page.
- GIS map with property information; color; 8" X 11"; dated November 18, 2015; 1 page.
- GIS map with abutter information; color; 8" X 11"; dated November 18, 2015; 1 page.

- EXHIBIT 2.** Departmental Comment Form, Zoning Board of Appeals, received February 10, 2016; 1 page.
- EXHIBIT 3.** Departmental Comment Form, Health Department, received February 2, 2016, 2016; 1 page.
- EXHIBIT 4.** Public Hearing Sign In Sheet for the February 22, 2016 hearing, 1 page.

III. FINDINGS

At their meeting of [REDACTED] 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 [REDACTED], seconded by [REDACTED]) voted [REDACTED] 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 Low Density Residential (R-40) zoning district. The site is not located within the Water Supply Protection Overlay District (WSPOD). The Board further finds that accessory apartments are permitted in an R40 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. He is seeking the Special Permit and Site Plan Approval for the purpose of creating an accessory apartment for his brother who suffers from rheumatoid arthritis to be located entirely within the primary residence. No changes to the exterior of the building or additional square footage is proposed. Mr. Cornell noted that he is the present Owner of the house. The accessory apartment will be in the first floor in an area that was added on to the main structure prior to his purchased of the house.
- F6.)** That during the public hearing the Board and the Applicant discussed access to the unit. The Applicant noted that there are two existing means of egress (one in front and one in back) for both the proposed accessory apartment and the main living quarters of the residence. 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 input from the Zoning Board of Appeals (ZBA) (see EXHIBIT #2). The Departmental Review Form noted that the ZBA had no comment.

- F9.)** 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.
- F10.)** No public input was received during the public hearing.

At their meeting of [REDACTED] 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 [REDACTED], seconded by [REDACTED]) voted [REDACTED] 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 / are not** 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 / are not** 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 / are not** 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 / are not** 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 / is not** compatible and in harmony with properties in the district. No signs or exterior lighting are proposed (see EXHIBIT #1).
- 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 / are not** 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 / is not** 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 / 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 / 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 / is not** satisfactory. No such resources were identified by Town staff or other parties with regards to this particular application.

At their meeting of [REDACTED] 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 [REDACTED], seconded by [REDACTED]) voted **_-** 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 / 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 [REDACTED] 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 [REDACTED], seconded by [REDACTED]) voted **_-** to **GRANT DENY** 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
 - (14.) Proposed surfaces – pervious and impervious
 - (15.) Lot coverage calculations
 - (16.) Parking calculations
 - (19.) Parking and loading spaces
 - (20.) Service areas and all facilities for screening
 - (21.) Landscaping
 - (22.) Lighting
 - (23.) Proposed Signs
 - (25.) Stormwater management facilities – drainage
 - (27.) Exterior storage areas and fences
 - (29.) Dust and erosion control
 - (30.) Existing vegetation
- **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**

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

V. DECISION and CONDITIONS

At their meeting of [REDACTED] 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 [REDACTED], seconded by [REDACTED]) voted [REDACTED] - [REDACTED] voted to **APPROVE / DENY** 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 Bruce Street as identified within this Decision.
- C2.)** Based on FINDING #F5, the accessory apartment is to be occupied by one family member of the Owner / Applicant.
- C3.)** Based on FINDING #F5 and #F7, 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 - to **APPROVE DENY** the Special Permit & Site Plan Approval Application with Conditions for an accessory apartment at 7 Bruce Street based on the information received at the public hearing and the aforementioned findings.

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

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

Joseph Laydon, Town Planner

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

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