

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2019-15) & SITE PLAN APPROVAL
Accessory Apartment
11 Spanish River Road, Grafton, MA**

Sean L. Larkin (Applicant/ Owner)

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Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Sean L. Larkin, 11 Spanish River, Grafton (herein after the OWNER) for a Special Permit and Site Plan Approval for an Accessory Apartment, on property located at 11 Spanish River, Grafton, shown as Grafton Assessor's Map 98, Lot 89, (hereinafter the SITE) by deed recorded in the Worcester Registry of Deeds Book 60606, Page 271.

I. BACKGROUND

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on October 3, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 10 and 17, 2019, and posted with the Town Clerk's Office. The public hearing on the Application was held on October 28, 2019. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Vice Chair Robert Hassinger, Clerk Justin Wood, Members Linda Hassinger and Prabhu Venkataraman, and Associate Member Vikram Dave. At the hearing, Sean and Eppy Larkin (Owners) were present to discuss the Application with the Board. At the public hearing, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on October 28, 2019. It is noted that Chair David Robbins was absent for the October 28, 2019 hearing but remained eligible to vote on the DECISION upon submission of a Mullin Certification prior to deliberation on the decision (Exhibit 6).

II. SUBMITTALS

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

- Exhibit 1.** Original Application Submission, received September 27, 2019 to include the following;
- a. Application for Special Permit, signed by Sean L. Larkin, dated September 10, 2019, date stamped by the Town Clerk on October 3, 2019 and date stamped received by the Planning Board on September 27, 2019, 1 page.
 - b. Application for Site Plan Approval, signed by Sean L. Larkin, dated September 10, 2019 and date stamped received by the Planning Board on September 27, 2019, 1 page.
 - c. Certificate of Good Standing, signed by Christine Atchue, dated September 20, 2019, date stamped received by the Planning Board on September 17, 2019, 1 page.
 - d. Abutters Listing for 11 Spanish River Road, Map 98, Lot 89, dated September 20, 2019, signed by Ken O'Brien, MAA, Grafton Data Collector, and date stamped received by the Planning Board on September 27, 2019, 1 page.

- e. Letter to the Grafton Planning Board, regarding “Accessory Apartment,” from Sean and Effy Larkin, dated October, 2019 and date stamped received by the Planning Board on September 27, 2019, 1 page.
- f. List of requested waivers, date stamped received by the Planning Board on September 27, 2019, 2 pages.
- g. Floor plans, entitled “Larking Family Basement, Grafton, MA,” and date stamped received by the Planning Board on September 27, 2019, 3 pages (color).

Exhibit 2. Public Hearing Notice, date stamped by the Town Clerk on October 4, 2019, 1 page.

Exhibit 3. Email from Katrina Koshivos, Zoning Board of Appeals, dated October 16, 2019 and date stamped received by the Planning Board on October 16, 2019, 1 page.

Exhibit 4. Email from Nancy Connors, Board of Health, dated October 15, 2019 and date stamped received by the Planning Board on October 16, 2019, 1 page.

Exhibit 5. Public Hearing Sign-In Sheet, dated October 28, 2019, 1 page.

Exhibit 6. Mullin Certification for the October 28, 2019 Planning Board hearing, signed by David Robbins on November 25, 2019; 1 page

III. FINDINGS

At their meeting of November 28, 2019 after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (Mrs. Hassinger, seconded by Mr. Wood) 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 Applications.
- F2.** 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 #1a-m of this Decision.
- F3.** That the Site is located in the Medium Density Residential (R20) zoning district. 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.
- 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 adding an accessory apartment the

existing structure through the interior renovation of basement space. The accessory apartment is to be occupied by Eppy Larkin's parents (See Exhibit 1.e).

- F6.** 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. The Board finds that the Applicant acknowledged this condition.
- F7.** That during the public hearing process, the Planning Board informed the Applicant that the decision of the Board 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 becomes null and void in the event that the Applicant sells the house. The Board finds that the Applicant acknowledged this condition. (See also FINDING #F6).
- F8.** The Board notes that there was no public input at the Public Hearing for this Application.
- F9.** 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.**
- F10.** 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.**
- F11.** 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.** Given the nature of the application no changes to the existing refuse collection are required.
- F12.** 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 issues or concerns were raised during the public hearing pertaining to this criteria.
- F13.** 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 exterior lighting or signs are proposed. The proposed use is residential and is compatible with surrounding residential uses.
- F14.** 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.** The proposed use, being internal to the structure, meets setback and other dimensional requirements.
- F15.** 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.** The proposed

accessory apartment, being internal to the structure, will therefore have no impact on the footprint of the structure and represent no change that will be noticeable by adjacent properties.

- F16.** 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 noted the property is served by municipal water and sewer (see Exhibit #4).
- F17.** 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.
- F18.** 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 not applicable** as there was no exterior change to the structure. No issues or concerns were raised during the public hearing pertaining to this criterion.
- F19.** 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.
- F20.** 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.
- F21.** 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 #1e).
- F22.** 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 November 25, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (Mrs. Hassinger, seconded by Mr. Wood) voted 5 to 0 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 Findings of this Decision:
- (10.) Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones
 - (11.) Ownership of all abutting land and approximate location of buildings
 - (12.) Existing and proposed topography at two-foot elevation intervals
 - (15.) Lot coverage
 - (16.) Parking calculations

- (17.) Volume of Earth Material
- (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)
- (28.) Utilities and their exterior appurtenances
- (29.) Dust and erosion control
- (30.) Existing vegetation
- (31.) Any other details or information deemed necessary by the Planning Board due to the unique nature of the proposed use or the subject property.

- W2.** At their meeting of November 25, 2019, 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 Mrs. Hassinger, seconded by Mr. Wood) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (e) Stormwater Management and Hydrological Study** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
- W3.** At their meeting of November 25, 2019, 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 Mrs. Hassinger, seconded by Mr. Wood) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (f) Report on Volume of Earth Material to be Removed** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
- W4.** At their meeting of November 25, 2019, 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 Mrs. Hassinger, seconded by Mr. Wood) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (h) Written Statements** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
- W5.** At their meeting of November 25, 2019, 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 Mrs. Hassinger, seconded by Mr. Wood) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 8.2.1 – Traffic Study** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.

V. DECISION and CONDITIONS

At their meeting of November 25, 2019, 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 Mrs.

Hassinger, seconded by Mr. Wood) voted 5-0 to **APPROVE** the application for a Special Permit and Site Plan Approval with the following conditions:

1. This Special Permit / Site Plan Approval is granted specifically to the Applicant for property located at 11 Spanish River Road Grafton (as identified within this Decision) and does not run with the land.
2. The unit will be occupied by the Owner's family members and may not be occupied by non-family members. If in the future, the unit is vacated, then the use of the property reverts back to single family house and the accessory unit ceases to qualify as a separate living unit.
3. This Special Permit decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period. A copy of such recorded Special Permit decision, including Deed Book and Page Number shall be submitted to the Planning Board office within thirty (30) days of recording.
4. By recording this Special Permit Decision in the Worcester Registry of Deeds, the applicant agrees to and accepts the conditions set forth in this Special Permit decision.
5. 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 has not 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.
6. Any modification to the use or Site as described within this Decision and as presented to the Board during the public meeting and in the above referenced EXHIBITS 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 (or other approvals if deemed necessary) if it finds that the proposed change(s) are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 1.3.3 of the Zoning By-law, and any other applicable regulations.

VI. RECORD OF VOTE

At their meeting of November 25, 2019, 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 Mrs. Hassinger, seconded by Mr. Wood) voted 5-0 to **APPROVE** the Special Permit & Site Plan Approval Application with Conditions for an accessory apartment at 11 Putnam Lane, North Grafton based on the information received at the public hearing and the aforementioned findings.

<u>David Robbins, Chair</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chair</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</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 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 Lavalley, Town Clerk

Date