



PLANNING BOARD

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SPECIAL PERMIT (2017-3) & SITE PLAN APPROVAL DECISION Conversion of Single Family Dwelling to Two Family Dwelling 117 Main Street, Grafton, MA

V &J LLC (Van Nguyen, Manager) and Tran Diep (Applicant / Owner)

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Van Nguyen, 15 Vinny Way, Shrewsbury, MA 01545 (hereinafter the APPLICANT / OWNER), for a Special Permit (SP 2017-03) and Site Plan Approval to convert a single-family dwelling to a two-family dwelling on property located at 117 Main Street, Grafton, and shown as Grafton Assessor's Map 114, Lot 149; (hereinafter the SITE), and owned by V &J LLC (Van Nguyen, Manager) and Tran Diep by deed recorded in the Worcester District Registry of Deeds: Book 56837, Page 357.

I. BACKGROUND

The application for the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on April 25, 2017. A public hearing on the Application was opened on May 22, 2017. Notice of the public hearing and the subject matter thereof was published in the Grafton News on May 4 and May 11, 2017, and posted with the Town Clerk's Office on May 1, 2017. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk Daniel Graham, Members Linda Hassinger and David Robbins, and Associate Member Sharon Carroll-Tidman. At the hearing, Rose Kempton, representing Ms. Nguyen, presented the Application to the Board on behalf the Applicant / Owner. At the public hearing, all those wishing to speak to the petition were heard. The public hearing was continued to June 12, 2017 at which time the hearing was closed.

II. SUBMITTALS

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

- EXHIBIT 1.** Unbound Application packet submitted by the Rose Kempton, on behalf of the Applicant, V &J LLC (Van Nguyen, Manager) and Tran Diep, received April 25, 2017, including the following:
- a. Application for Site Plan Approval, stamped by the Town Clerk's Office on April 25, 2017; 1 page.
 - b. Application for Special Permit; stamped by the Town Clerk's Office on April 25, 2017; 1 page.

- c. Project Narrative, signed by Rose Kempton of B&V; 1 page.
 - d. Detailed Description of Proposed Work to be Performed / Waive Requests; 2 pages.
 - e. Certificate of Good Standing, signed by the Treasurer / Collector's Office on April 6, 2017; 1 page.
 - f. Certified Abutters List, signed by Assessor's Office on April 18, 2017; 1 page.
 - g. GIS Map of Property updated through December 22, 2016, 1 page.
 - h. Residential Property Record Card; 1 page.
 - i. Town of Grafton Building Department Permit, dated April 24, 2017; 1 page.
 - j. Assessment and Sale Report, Location & Ownership Information; 1 page.
 - k. Existing Conditions Plan; prepared by Acropolis Design Consultants; dated April 17, 2017; 4 pages.
 - l. Site photos, color, 8 ½" X 11"; 7 pages.
- EXHIBIT 2.** Legal Notice for Public Hearing; stamped by the Town Clerk's Office on May 1, 2017; 3 pages.
- EXHIBIT 3.** Email, Subject: Change In Use: Single Family to Two Family Dwelling – 117 Main Street, from Nancy Connors, Board of Health, dated and received May 2, 2017; 1 page.
- EXHIBIT 4.** Email, Subject: Change In Use: Single Family to Two Family Dwelling – 117 Main Street, from Katrina Koshivos, Zoning Board of Appeals, dated and received May 3, 2017; 1 page.
- EXHIBIT 5.** Email, Subject: Request for Department Comments – Special Permit (SP 2017-3) & Site Plan Approval - Single Family to Two Family Dwelling – 117 Main Street, from Maria Mast Conservation Commission, dated and received May 8, 2017; 1 page
- EXHIBIT 6.** Public Hearing Sign-In Sheet, May 22, 2017; 1 page.
- EXHIBIT 7.** Public Hearing Continuance Request, dated May 22, 2017; 1 page.
- EXHIBIT 8.** Plot Plan, Showing Parking Improvements; prepared by B&R Survey, Inc., signed by Robert J. Smith, R.P.L.S. on June 5, 2017, received June 6, 2017; 1 page.
- EXHIBIT 9.** Public Hearing Sign-In Sheet, dated June 12, 2017; 1 page.

II. FINDINGS

At their meeting of June 26, 2017, 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 plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Applications.
- F2.) 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.

- F3.) That this Application is to convert an existing single-family dwelling to a two-family dwelling on the Site as defined in Section 3.2.3.1 (Residential Uses) of the Grafton Zoning By-law (hereinafter ZBL), as shown on the plans and described by the applicant in EXHIBIT #1 of this Decision.
- F4.) That the subject Site is located in an R-20 zoning district, with approximately 15 feet located in the Neighborhood Business District along the western property line.
- F5.) That two-family structures are permitted in an R-20 zoning district only upon the issuance of a Special Permit by Planning Board.
- F6.) That the subject Site is partially located within the Water Supply Protection Overlay District.

At their meeting of June 26, 2017, 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:

- F7.) That during the public hearing, Ms. Kempton reviewed the Application. The existing property was used as a single-family dwelling, however there was evidence of an unpermitted second unit in the structure since there were two kitchens and two electrical services. While not documented, the garage appeared to have been used for commercial purposes including a floral shop. The structure is currently vacant. Ms. Kempton referenced photographs of the exterior and interior of the structure and noted that a demolition permit has been issued for the initial work on the structure. (see EXHIBIT #1).
- F8.) That the structure will be improved to contain two dwelling units; a three-bedroom unit will be located on the first floor and a two-bedroom unit will be located on the second floor (see EXHIBIT #1).
- F9.) That during the Public Hearing the Board and the Applicant discussed the changes to the property and how parking would be accommodated. Since the Zoning By-law required 4 parking spaces, the Board requested a parking plan be prepared demonstrating compliance with parking requirements. Ms. Kempton stated no major landscape changes were proposed. The only exterior lighting proposed will be residential light fixtures. No additional surface lighting is proposed. With regards to the requirement of a traffic study Ms. Kempton noted that the traffic impact was minimal.
- F10.) That during the continued public hearing on June 12, 2017, Ms. Kempton reviewed a parking plan (see Exhibit #9) which indicated the construction of a parking lot behind the house and adjacent to the existing detached garage. The garage will accommodate two parking spaces and four will be located on the expanded pavement surface to the west of the garage. The Town Planner noted that he had worked with the Applicant to finalize the plan since it was important to not impact the common drive serving the Applicant's property and the adjacent property to the east.
- F11.) The Board notes that it received correspondence from the Board of Health regarding review of the Application (see EXHIBIT #3). The Board of Health notes that the dwelling is served by municipal water and sewer.
- F12.) The Board notes that it received correspondence from the Zoning Board of Appeals regarding review of the Application (see EXHIBIT #4). They state that they have no comments or objections to the Application as long as there are no alterations to the footprint of the building.

- F13.) The Board notes that it received correspondence from the Conservation Administrator regarding review of the Application (see EXHIBIT #5). They state that they have no comments or objections to the Application at this time.
- F14.) No public comment was received during the public hearing.

At their meeting of June 26, 2017, 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:

- F15.) 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.
- F16.) 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.
- F17.) 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.
- F18.) 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.
- F19.) 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 are compatible and in harmony with properties in the district.
- F20.) 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.
- F21.) With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property (as presented in the EXHIBITS stated within this Decision) is generally compatible with adjacent properties and properties in the district.
- F22.) 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, they will not have a significant adverse impact on a public or private water supply. The structure will be served by Town water and sewer services.
- F23.) With regard to Section 1.5.5(i), that the Board finds that based on the Exhibits and Findings stated within this Decision that there will not be any significant or cumulative impact upon municipal water supplies and that the expansion of the parking lot will occur outside of the Water Supply Protection Overlay District. The structure will be served by Town water and sewer services.
- F24.) 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 information was received or discussed regarding this matter.

At their meeting of June 26, 2017, 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 specific issues listed in Section 1.3.3 and Section 3.2.2 of the ZBL:

- F25.) That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F26.) 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. 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.
- F27.) That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as follows (see EXHIBIT #1):
- Section 1.3.3.3 (d) – Site Plan preparation requirements listed in EXHIBIT 1.
 - Section 1.3.3.3 (e) - Stormwater Management Report
 - Section 1.3.3.3 (f) – Earth Movement Calculations
 - Section 8.21 – Traffic study
- F28.) That with respect to the nature of this particular Application (see EXHIBIT #1 of this Decision), the waivers requested, and the resulting site plan, are not contradictory or inconsistent with the intent and purposes set forth in Sections 1.2 and 1.3.3.1 of the ZBL.

IV. WAIVERS

- W1.** At their meeting of June 26, 2017, 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 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, Streams, Buffer Areas
 - (12.) Existing and proposed topography at two-foot elevation intervals
 - (14.) Extent and type of all existing and proposed surfaces
 - (15.) Lot coverage
 - (17.) Volume of Earth Material
 - (20.) Service areas and all facilities for screening
 - (21.) Landscaping
 - (22.) Lighting
 - (23.) Proposed signs
 - (24.) Sewage, refuse disposal
 - (25.) Stormwater Management
 - (27.) Exterior storage and fences
 - (28.) Utilities and their exterior appurtenances

- (29.) Dust and erosion control
- (30.) Existing vegetation

The Planning Board noted that the vote to grant these waivers was based on the size and scope of the project as well as the absence of specific concerns during the public hearing. See FINDING #F7 through #F10.

- W2.** At their meeting of June 26, 2017, 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 Applicant's request for a waiver from **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.

The Planning Board noted that the vote to grant this waiver was based on the size and scope of the project as well as the absence of specific concerns during the public hearing. The proposed use and its impacts to the surrounding neighborhood were found to be minimal and did not warrant the need for a traffic study.

III. DECISION and CONDITIONS

At their meeting of June 26, 2017, 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 Application for Special Permit and Site Plan Approval with the following conditions:

- C1.)** That this Special Permit and Site Plan Approval is granted specifically to convert a single-family dwelling to a two-family dwelling as defined by the Grafton Zoning By-Law and as identified in EXHIBIT #1 and as presented by the Applicant during the public hearing.
- C2.)** The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
- C3.)** Hours of construction and earthwork shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or State and Federal holidays.
- C4.)** All maintenance of the Site hereafter shall be in accordance with all applicable Federal, State and Local regulations.
- C5.)** 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

such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.

- C6.) 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.
- C7.) 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.
- C8.) 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.

V. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to **APPROVE** the Special Permit & Site Plan Approval Application with Conditions convert a single-family dwelling to a two-family dwelling at 117 Main Street based on the information received at the public hearing and the aforementioned findings.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Daniel Graham, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

6-28-2017

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.

Kandy Lavellee, Town Clerk

Date