



PLANNING BOARD

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DECISION GRAFTON PLANNING BOARD

**SPECIAL PERMIT (2019-05) & SITE PLAN APPROVAL
MODIFICATION #1
Conversion of Single-Family Dwelling to Two-Family Dwelling
12 Elm Street, Grafton, MA
Joseph H. Frey (Applicant / Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Joseph H. Frey, 12 Elm Street Grafton, MA 01536 (hereinafter the APPLICANT / OWNER), for a Modification of a Special Permit (SP 2019-05) and Site Plan Approval to convert a single-family dwelling to a two-family dwelling on property located at 12 Elm Street, Grafton, and shown as Grafton Assessor's Map 11, Lot 8.0; (hereinafter the SITE), and owned by Joseph H. Frey by deed recorded in the Worcester District Registry of Deeds: Book 20373, Page 342.

The Special Permit & Site Plan Approval decision, dated May 7, 2019, is recorded in the Worcester District Registry of Deeds (WDRD) in Book 60769, Page 65. Condition #C9 of said Approval decision requires the modification of the Board's Special Permit Approval for changes deemed substantial.

I. BACKGROUND

The application for modification of the Special Permit and Site Plan Approval (hereinafter Application) was filed with the Planning Board on November 8, 2019. A public hearing on the Application was opened on December 9, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 21 and 28, 2019, and posted with the Town Clerk's Office on November 18, 2019. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chair David Robbins, Vice Chair Robert Hassinger, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman. At the hearing, Joseph Frey (owner) presented the Application to the Board. There was no public input. The public hearing was closed on December 9, 2019.

II. SUBMITTALS

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

- Exh 1. Original Application Submission, received November 8, 2019, including the following:
 - a. Application for a Special Permit, signed by Joseph H. Frey (Applicant), dated November 8, 2019, date stamped by the Town Clerk on November 8, 2019 and date stamped received by the Planning Board on November 8, 2019, 1 page.
 - b. Application for a Site Plan Approval, signed by Joseph H. Frey (Applicant), dated November 8, 2019 and date stamped received by the Planning Board on November 8, 2019, 1 page.

- c. Certificate of Good Standing, signed by Christine Atchue, dated November 8, 2019 and date stamped received by the Planning Board on November 8, 2019, 1 page.
 - d. Abutters Listing for 12 Elm Street, Map 11, Lot 8, dated November 8, 2019, signed by Kenneth O'Brien, MAA, Grafton Data Collector and date stamped received by the Planning Board on November 8, 2019, 1 page.
 - e. Project Narrative entitled: "Project Narrative – 12 Elm Street Special Permit – November 2019," by Joe Fry and date stamped received by the Planning Board on November 8, 2019, 1 page.
- Exh 2. Plan: "Progress Print; Plan of Land in Grafton, Massachusetts, Owned by Joseph H. & Judith R. Frey," showing proposed addition, prepared by Realmaps, Marlborough, MA, and date stamped received by the Planning Board on November 8, 2019, 1 sheet (24" x 36").
- Exh 3. Public Hearing Notice, date stamped by the Town Clerk on November 18, 2019, 1 page.
- Exh 4. Email from Nancy Connors, Health Department, dated November 27, 2019 and date stamped received by the Planning Board on November 27, 2019, 1 page.
- Exh 5. Email from Katrina Koshivos, Zoning Board of Appeals, dated December 2, 2019 and date stamped received by the Planning Board on December 3, 2019, 1 page.
- Exh 6. Memorandum: "Staff Review of 12 Elm Street – Two Family," from Joseph Laydon, Town Planner, to the Planning Board, dated December 6, 2019, 2 pages
- Exh 7. "Public Hearing Sign-In Sheet", dated December 9, 2019, 1 page.

III. FINDINGS

At their meeting of December 23, 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 Mr. 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 Application.
- F2.) That during the public hearing the Applicant presented the application. They are requesting modifications to a previously approved Special Permit (SP 2019-05) and Site Plan Review as delineated in Condition #C9 of Special Permit SP 2019-05 which states:

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.

- F3.) That SP 2019-05 granted approval 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).
- F4.) That during the Public Hearing, the Applicant stated when reviewing construction plans with the Building Department, the improvements required in order to comply with the Building Code for separation between living units on the first and second floors were not cost effective and therefore an addition to the existing structure is proposed.
- F5.) That the increase in lot coverage and impervious surface coverage required increasing the lot area of 12 Elm Street.
- F6.) That the Applicant prepared an Approval Not Required plan for endorsement by the Planning Board to comply with zoning bylaw requirements for impervious surface requirements within the Water Supply Protection Overlay District (Exhibit 2).
- F7.) No public comment was received during the public hearing.
- F8.) 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.
- F9.) 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.
- F10.) 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.
- F11.) 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.
- F12.) 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.
- F13.) 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.
- F14.) 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.
- F15.) 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.
- F16.) 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.

- F17.) 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.
- F18.) 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.
- F19.) 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.
- F20.) That Findings and Conditions within the decision for SP 2019-05 remain in effect, except as those that may be amended by the decision.

IV. DECISION and CONDITIONS

At their meeting of December 23, 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 Mr. Hassinger, seconded by Mr. Wood) voted 5-0 to **GRANT** the Application for Modification of Special Permit and Site Plan Approval with the following conditions:

- C1.) That this Modification of a Special Permit and Site Plan Approval is granted specifically to modify the Board's previous decision to convert a single-family dwelling to a two-family dwelling as defined by the Grafton Zoning By-Law by adding on to the existing structure and as identified in EXHIBIT #1 and #2 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.) All Conditions and requirements of Special Permit SP 2019-05, unless modified by this Decision, shall remain in full force and effect.
- C9.) 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 Modification of Special Permit & Site Plan Approval Application with Conditions for converting and modifying a single-family dwelling to a two-family dwelling at 12 Elm Street based on the information received at the public hearing and the aforementioned findings.

<u>David Robbins, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</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 Layden, Town Planner

12-30-2019

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