

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2018-14) & SITE PLAN APPROVAL  
Keeping of Livestock (2 Horses) on Less than Five Acres of Land**

**249 Providence Road, Grafton MA**

**Alexandra Tucker (Applicant)  
Thomas Gwozdowski, Karen Gwozdowski-Gauvin, Susan Gwozdowski (Owner)**

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GRAFTON PLANNING BOARD

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Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Alexandra Tucker, 51 Warren Street, Boylston, MA 01500 (hereinafter the Applicant), for a Special Permit and Site Plan Approval under Section 3.2.3.1 (Use Regulation Schedule) of the Grafton Zoning Bylaw (ZBL) to allow the raising and keeping of livestock (horses) on less than five acres of land for property location at 249 Providence Road, Grafton, MA 01560 (hereinafter the Site) , and shown on Grafton Assessor's Map 107, Lot 24 and owned by Thomas Gwozdowski, Karen Gwozdowski-Gauvin, Susan Gwozdowski (hereinafter the Owner) by deed recorded in the Worcester District Registry of Deeds in Book 30397, Page 14.

## **I. BACKGROUND**

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on August 29, 2018. Notice of the public hearing and the subject matter thereof was published in the Grafton News on September 7 and 20, 2018, posted with the Town Clerk's Office on September 6, 2018 and abutters were notified by First Class Mail. The public hearing on the Application was held on September 24, 2018 and continued to October 15, 2018. At the hearing, Alexandra Tucker (Applicant) presented the application to the Board. All those wishing to speak to the petition were heard. The public hearing was continued to October 15, 2018 to allow for Staff to incorporate input from the Building Department into the draft decision. The hearing was closed on October 15, 2018.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, Members David Robbins, and Associate Member Paul Monroe. Member Michael Scully was present at the September 24, 2018 public hearing and absent during the October 15, 2018 public hearing. During the Board's deliberation on the decision on October 15, 2018, Chairman Hassinger appointed P. Monroe to vote on the decision due to the absence of M. Scully.

## **II. EXHIBITS**

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

1. Original unbound application materials submitted by Applicant, received August 29, 2018, includes the following:
  - Application for Special Permit; received August 29, 2018; 1 page
  - Application for Site Plan Approval; received August 29, 2018; 1 page.

- Certificate of Good Standing; signed by Treasurer/Collector's office August 23, 2018; 1 page.
  - Certified Abutters List; signed by Assessor's Office; dated August 23, 2018; 1 page.
  - Project Narrative prepared by Applicant; dated August 29, 2018; 1 page.
  - Waiver Request prepared by Applicant; no date; 1 page.
  - GIS Map showing location of fencing, shelter and manure pile; 8 1/5" x 11", color, 1 page.
  - Photos proposed fencing; 8 1/5" x 11", black & white; 3 pages.
  - Letter to Board of Health prepared by Applicant; dated August 29, 2018; 1 page.
2. Email Correspondence: Re: 249 Providence Road – Tucker – Horses on Less Than Five Acres; ZBA dated August 30, 2018, received September 4, 2018; 1 page.
  3. Email Correspondence: Re: 249 Providence Road – Tucker – Horses on Less Than Five Acres; Conservation Agent; dated August 31, 2018; received September 4, 2018; 1 page.
  4. Email Correspondence: Re: 249 Providence Rd., Horses on less than 5 acres; Board of Health; dated & received September 4, 2018; 1 page.
  5. Public Hearing Notice, date stamped by Town Clerk's Office on September 6, 2018; 1 page.

### **III. FINDINGS**

At their meeting of October 15, 2018, 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 D. Robbins, seconded by L. Hassinger) voted 5-0 in **FAVOR** to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
3. That per ZBL Section 3.2.3.1, the allowance for raising and keeping of livestock, including but not limited to: horses, on a parcel under five acres of land is authorized with the issuance of a Special Permit within the Low Density (R40) and Medium Density (R20) Residential zoning district by the Planning Board.
4. That the Site, as identified by the Applicant and shown in the Exhibits of this Decision, is approximately three (3) acres in size with approximately 0.36 acres within the Medium Density (R20) Residential zoning district and the remainder located in the Low Density (R40) Residential zoning districts. Approximately 1.3 acres of the site is located within the Water Supply Protection Overlay District.

5. That during the public hearing the Applicant discussed their intention was to keep two (2) horses on the Site for non-commercial purposes (eg. not for boarding).
6. That the Applicant submitted correspondence (Exhibit #1), briefly describing the proposed manure management plan.
7. That during the public hearing the Board and Applicant discussed the proposed location of the fencing, shelter and manure storage area. The Applicant stated that they would be using the back portion of the lot for the horses, which is predominantly outside of the Water Protection Overlay District. The Applicant also discussed that as part of this Application they are not intending on removing any trees and instead proposing to use an area approximately 1.2 acres that is readily useable as a pasture.
8. That during the public hearing the Applicant also stated that they intended on staying outside of the required buffer areas as required by the ZBL. The Applicant also restated that they were not removing any trees which would ensure an adequate buffer to the northern most property line, the abutter being the “Saddle Shed” at 237 Providence Road.
9. That during the public hearing Susan Tomkiewicz of 253 Providence Road, an abutter gave testimony that they also have horses and that they had no issue with the Applicant keeping their two horses on the lot.
10. That ZBL Section 1.3.3.2, requires that the procedure for Site Plan Review be incorporated into the procedure for reviewing Special Permits.
11. That ZBL Section 1.3.3.3 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.
12. 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 (Exhibit #1):
  - Section 1.3.3.3 (d)(9) – (15), (17) – (23), (28), (29) & (31)
  - Section 1.3.3.3 (e) – Stormwater Management Hydrological Study,
  - Section 1.3.3.3 (f) – Earthwork Calculations,
  - Section 8.2.1 – Traffic Study
13. That with respect to the nature of this particular Application (Exhibit #1), the waivers requested, and the resulting site plan are not contradictory or inconsistent with the intent and purposes set forth in Section 1.2 and 1.3.3.1 of the ZBL. The Board further found that if the Applicant requires a Building Permit for any of the site improvements; fence, horse shelter, manure storage, that a copy of the required documents, should they be more detailed be submitted to the Planning Board to be reviewed by staff to ensure compliance with this Decision.

14. 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, is adequate.
15. 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. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
16. 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 do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal. The Board further notes that the Applicant has stated that they will hire a waste management company to haul the manure off site as needed.
17. 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 not applicable to this Application based on the nature of the proposal.
18. 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 not applicable to this Application based on the nature of the proposal.
19. 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 do not change. The Board finds that the Applicant has stated they will not be clearing any additional areas as the open field is more than adequate for their horses' needs.
20. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the Exhibits stated within this Decision and by the Applicant during the public hearing) is not applicable to this Application based on the nature of the proposal,
21. With regard to Section 1.5.5(h) and (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 adverse impact on any public or private water supply or municipal water supplies. The Applicant has stated they will be hauling the manure off site as needed and will be stored outside of the Water Protection Overlay District boundaries.
22. 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 does not change.

#### **IV. WAIVERS**

At their meeting of October 15, 2018 after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based on Findings stated within this Decision, the Grafton Planning Board (motion by D. Robbins, seconded by L. Hassinger) voted 5-0 to **GRANT** the Applicant's request for waivers from the following Sections of the ZBL noting the granting of these waivers would not negatively impact the neighborhood or the intent of the bylaw:

**1. Section 1.3.3.3 (d) Site Plan Requirements:**

- (9) Title Block;
- (10) Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones
- (11) Abutting ownership and approximate location of buildings within 200' of the property;
- (12) Existing and proposed topography;
- (13) Building setbacks and parking areas;
- (14) Extent and type of all existing and proposed surfaces;
- (15) Lot coverage calculations;
- (17) Earth removal;
- (18) Driveways and driveway openings/entrances;
- (19) Parking and loading spaces;
- (20) Service areas;
- (21) Landscaping;
- (22) Lighting;
- (23) Proposed signs;
- (28) Utilities;
- (29) Dust and erosion control
- (31) Additional materials unique to the application;

**2. Section 1.3.3.3 (e) – Stormwater Management Hydrological Study**

**3. Section 8.2.1 – Traffic Study**

#### **V. DECISION and CONDITIONS**

At their meeting of October 15, 2018, 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 D. Robbins, seconded by L. Hassinger) voted 5-0 to **APPROVE** this Special Permit (2018-14) and Site Plan Approval with **CONDITIONS** as follows:

- 1. This Special Permit and Site Plan Approval specifically authorizes the raising and keeping of two (2) horses on less than five (5) acres of land as described in the Exhibits and Findings of this Decision.
- 2. This Special Permit and Site Plan Approval only authorize the Applicant to raise and keep horses on the Site, cannot be transferred and does not run with the land.

3. The Applicant is required to adhere to best management practices for the care and keeping of horses so as not to cause a nuisance to the abutting properties with regard to odor or noise.
4. The Applicant shall not clear any additional trees to ensure an adequate buffer from abutting properties and shall maintain the fencing surrounding the open field/pasture area in a manner sufficient to serve its intended purpose.
5. If the Applicant requires a Building Permit for any of the site improvements; fence, horse shelter, manure storage, that a copy of the required documents, should they be more detailed be submitted to the Planning Department to be reviewed by staff to ensure compliance with this Decision prior to the submittal of the Building Permit Application.
6. Manure shall be contained in a non-porous manner in accordance with all applicable regulation and located outside of the Water Supply Protection Overlay District. Manure shall be removed from the premises as needed or as frequently if other applicable regulations deem such action necessary, or in the event that either quantity or odor creates a nuisance or threat to public health.
7. Any changes to the 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(s) 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. Any proposed change deemed substantial in nature shall require a modification of the original Special Permit and Site Plan Approval application and decision. Any modification shall be made pursuant to Section 1.3.3 of this Bylaw.
8. Failure to comply with the requirements of Section 1.5 of the ZBL (or as modified by this Decision), as well as all applicable Federal State and local regulations, shall cause this Special Permit to be invalid.
9. In accordance with ZBL Section 1.5.8, 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 ZBL Section 1.5.
10. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number within thirty (30) days of recording.
11. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special

Permit 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.

12. The Applicant shall comply with all requirements of Section 1.3.3 – Site Plan Review – of the Grafton Zoning Bylaw. Pursuant to Section 1.3.3.9, all work shown on the approved site plan shall be completed and all related conditions of approval shall be satisfied prior to the issuance of an occupancy permit.

#### VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Special Permit (SP 2018-14) and Site Plan Approval application to allow the raising and keeping of two (2) horses as described in this Decision with Conditions on property located at 249 Providence Road, Grafton, based on the information received at the public hearing, exhibits, and the aforementioned Findings:

Robert Hassinger, Chairman  
Linda Hassinger, Vice Chairman  
Sharon Carroll-Tidman, Clerk

David Robbins, Member  
Paul Monroe, Associate Member

**DATE OF FILING OF DECISION:                      BY ORDER OF THE BOARD**

  
Joseph Laydon, Town Planner

10-16-2018  
Date

cc:    Applicant/Owner                      Board of Health  
      Building Inspector                  Inspector of Animals

**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 Lavallee, Town Clerk

Date