

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2021-06) & SITE PLAN APPROVAL  
Accessory Apartment  
29 Kaye Circle, Grafton, MA**

**Karl & Erin Lundell (Applicant/Owner)**

Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Karl & Erin Lundell, 29 Kaye Circle, Grafton, MA 01536 (herein after the OWNER) for a Special Permit and Site Plan Approval for an Accessory Apartment, on property located at 29 Kaye Circle, Grafton, MA, shown as Grafton Assessor's Map 28, Lot 44, (hereinafter the SITE) by deed recorded in the Worcester Registry of Deeds Book 56297, Page 267.

**I. BACKGROUND**

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on September 2, 2021. Notice of the public hearing and the subject matter thereof was published in the Grafton News on September 9 and 16, 2021, and posted with the Town Clerk's Office on September 8, 2021. The public hearing on the Application was held on September 27, 2021. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman David Robbins, Vice-Chairman Justin Wood, Clerk Linda Hassinger, Prabhu Venkataraman and Robert Hassinger. At the public hearing, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on September 27, 2021.

**II. SUBMITTALS**

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

- Exhibit 1.** Original Application Submission, received September 2, 2021 to include the following:
- a. Application for Special Permit, signed by Karl & Erin Lundell, dated August 23, 2021, date stamped received by the Planning Board on September 2, 2021, 1 page.
  - b. Application for Site Plan Approval, signed by Karl & Erin Lundell, dated September 1, 2021, date stamped received by the Planning Board on September 2, 2021, 1 page.
  - c. Certificate of Good Standing, signed by Thomas Merolli, dated August 18, 2021, 1 page.
  - d. Abutters Listing for 29 Kaye Circle, Map 28, Lot 44, dated August 18, 2021, signed by Cody Herd, Data Collector, 1 page.
  - e. Project Description, prepared by Norman Hill, P.E, P.L.S., dated August 23, 2021, 1 page.
  - f. List of requested waivers, 2 pages.
  - g. Plans: "First Floor Plan", undated, unattributed, 1 sheet.

- h. Plans: “Proposed In-law Apartment Addition Certified Plot Plan”, dated August 17, 2021, prepared by Land Planning, Inc., 214 Worcester Street, North Grafton, MA 01536, 1 sheet.

**Exhibit 2.** Public Hearing Notice, date stamped by the Town Clerk on September 8, 2021, 1 page.

**Exhibit 3.** Application Narrative Letter, Revised September 14, 2021, 1 page.

**Exhibit 4.** Email from Michael Killeen, Fire Department, dated September 15, 2021, 1 page.

**Exhibit 5.** Email from Katrina Koshivos, Zoning Board of Appeals, dated September 16, 2021, 1 page.

**Exhibit 6.** Email from Nancy Connors, Health Department, dated September 21, 2021, 1 page.

### **III. FINDINGS**

At their meeting of October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed 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 #1h-I and Exhibit #2 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 Applicants presented the application to the Board. They are seeking the Special Permit and Site Plan Approval for the purpose of construction of an addition to an existing single-family structure with a new accessory apartment use. The accessory apartment is to be occupied by relatives of the applicant (via affinity or consanguinity).
- F6.** That during the public hearing, the Planning Board informed the Applicant that previously issued special permits for accessory apartments typically include a condition that limits occupancy of such apartments to relatives of the applicant (via affinity or consanguinity). 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 Applicant 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.** 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. Given the nature of the application no changes to the existing refuse collection are required.
- 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 **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.
- 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. The proposed use meets setback and other dimensional requirements.
- F14.** 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.
- 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, there **will not** be any significant adverse impact on any public or private water supply.
- F16.** 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.

- 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 use **is** satisfactory.
- F18.** 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.
- 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.
- F20.** 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 #1f).
- F21.** 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 October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for waivers from the 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.
- W2.** At their meeting of October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for waiver 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 October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for waiver 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 October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0)

opposed to **GRANT** the Applicant's request for waiver from the following requirements of **Section 1.3.3.3 (g) 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 October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for waiver 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 October 4, 2021 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 Justin Wood, seconded by Prabhu Venkataraman) voted five (5) in favor and zero (0) opposed 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 and their relatives (by affinity or consanguinity), for property located at 29 Kaye Circle, Grafton (as identified within this Decision) and does not run with the land.
2. The unit will be occupied by the Applicant and relatives of the applicant (via affinity or consanguinity) 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**

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

**DATE OF FILING OF DECISION:**

**BY ORDER OF THE BOARD**

  
\_\_\_\_\_  
Christopher J. McGoldrick, Town Planner

10/8/2021  
\_\_\_\_\_  
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 Lavallee, Town Clerk

\_\_\_\_\_  
Date