

**DECISION  
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2017-2) & SITE PLAN APPROVAL  
Accessory Professional Office – Individual and Family Counseling - in a Dwelling  
14 Bernard Road, Grafton, MA**

**Jane Dean (Applicant/ Owner)**

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Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Jane Dean, 14 Bernard Road, Grafton, MA (hereinafter the APPLICANT), for a Special Permit and Site Plan Approval for an Accessory Professional Office (individual and family counseling) in dwelling on property located at 14 Bernard Road, Grafton, MA, and shown as Grafton Assessor's Map 55, Lot 59 (hereinafter the SITE), and owned by Jane Dean, 14 Bernard Road, Grafton, MA by deed recorded in the Worcester District Registry of Deeds in Book 54603, Page 109.

**I. BACKGROUND**

The application for the above referenced Special Permit and Site Plan Approval (hereinafter the APPLICATION) was submitted on April 24, 2017. The public hearing on the Application was held on May 22, 2017. Notice of the public hearing and the subject matter thereof was published in the Grafton News on May 4<sup>th</sup> and May 11, 2017 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on May 22, 2017,

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk Daniel Graham, and Members Linda Hassinger and David Robbins. At the hearing, the Applicant presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

**II. SUBMITTALS**

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

- EXHIBIT 1.** Unbound application materials submitted by the Applicant, received on April 24, 2017; includes the following:
- Application for Site Plan Approval; received by the Planning Office on April 24, 2017; received by the Town Clerk on April 24, 2017; dated April 24, 2017; 1 page.
  - Application for Special Permit; received by the Planning Office on April 24, 2017; received by the Town Clerk on April 24, 2017; dated April 24, 2017; 1 page.
  - Project Narrative; submitted by Jane Dean (Applicant/Owner); no date; 1 page.
  - Certificate of Good Standing; signed by Treasurer /Collector on April 21, 2017; 1 page
  - Certified Abutters List; signed by Assessors Office Manager; dated April 18, 2017; 1 page.
  - GIS Abutters Map; 8 ½" X 11", black and white; 1 page.
  - GIS Property Information; 8 ½" X 11", color; 1 page.

- Property Record Card; 14 Bernard Road; dated received April 24, 2017; 8 ½” X 11”, color; 1 page.
- List of Requested Waivers for Special Permit & Site Plan Approval; no date; received on April 24, 2017; 1 page.
- Floor Plan dated May 26, 2016, prepared by S. W. Design Services, 102 Pleasant Street, Grafton MA 01519; received April 24, 2017; 8 ½” X 11”; 1 page

- EXHIBIT 2.** Legal Notice for Public Hearing; stamped by the Town Clerk’s Office on May 1, 2017; 3 pages.
- EXHIBIT 3.** Department Comment Form; Katrina Koshivos, Zoning Board of Appeals; dated July 21,
- EXHIBIT 4.** Department Comment Form; Maria Mast, Conservation Agent; dated and received August 6, 2015; 1 page.
- EXHIBIT 5.** Public Comment Form: Lydia Bogar dated and received May 15, 2017 opposing granting of approval due to concerns about the condition of Harris Road and non-resident traffic in neighborhood.
- EXHIBIT 6.** Public Hearing Sign In Sheet, August 10, 2015; 1 page.

### **III. 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 in favor to make the following Findings:

- F1.** 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.
- F2.** That determinations regarding the following findings are also predicated upon satisfactory 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 the subject Site is located in a Medium Density Residential (R-20) zoning district and the Water Supply Protection Overlay District. The lot size is .3 acres. The property is served by Town sewer and the Grafton Water District.
- F4.** That this Application is for an accessory professional office (family and individual counseling) in a dwelling conducted by the resident occupant, as defined in Section 3.2.3.1 (Accessory Uses) of the Grafton Zoning By-law (hereinafter ZBL).
- F5.** That an accessory professional office is permitted in an R-20 zoning district only upon the issuance of a Special Permit by Planning Board.

- F6.** 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.
- F7.** 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.
- F8.** That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as listed in Section 1.3.3.3:
- (d.) certain site plan requirements, including various details and information to be shown on plan, as further described in the ZBL and as presented in the Waivers section of this decision;
  - (e.) stormwater management hydrological study;
  - (f.) report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.
  - (g.) Written statements from engineer / architect preparing the plans indicating that the plans comply with the performance standards of Section 4/1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.
- F9.** That pursuant to Section 8.2.1 of the ZBL, the Applicant requested waivers from the requirement for a Traffic Study as listed in Section 8.2 – Traffic Study Required.
- F10.** That during the public hearing the Board noted that Application for Special Permit and Site Plan Approval (EXHIBIT #1) indicated that the Applicant was seeking a use permit for a professional office as defined in Section 3.2.3.1 –Accessory Use #3 of the ZBL.
- F11.** That during the public hearing the Board and the Applicant discussed the nature of the proposed accessory use. The Applicant stated that she is proposing the use of space above the garage for a professional office where she will provide family and individual counseling (see EXHIBIT #1). She would be the only employee and that there would only be accommodations for one client at a time.
- F12.** That during the public hearing the Applicant and Board discussed the hours of operations. The Applicant stated hours would be Friday from 9 AM to 8 PM and Saturdays 9 AM to 3 PM. She said she works full time and that clients will be seen by appointment only. (see EXHIBIT #1)
- F13.** That during the public hearing the Board and the Applicant discussed the location of the office within the residential structure. The office is to be located on the second floor above the attached garage with access from a separate door to the left of the garage doors, which will be separate from the living quarters (see EXHIBIT #1). Clients will have access to a bathroom located adjacent to the office area. No exterior or interior changes are proposed.
- F14.** That during the public hearing the Applicant and Board discussed parking. The Applicant stated there is room for parking in the driveway. The Applicant stated that since clients are seen by appointment, she did not anticipate any conflicts with parking.
- F15.** That during the public hearing the Board received testimony from Stacey Thornton, 18 Bernard Road. She stated that the application would open the possibility for other home occupations in the

neighborhood. The Board noted that the proposed use is allowed by Special Permit in the R20 zone in accordance with the Grafton Zoning By-law. It was also noted that home occupations are allowed by right, including the ability to have up to two non-resident employees. The Board also noted that any change to the requested use including hours of operation would require a new hearing and an amendment to the special permit.

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 in favor to make the following Findings:

- F16.** 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 (see Findings # F11, F12, F13, and F14)
- F17.** 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 (see Findings #F13, #F14).
- F18.** 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.
- F19.** 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 exterior changes to the existing property are proposed (see FINDING #F13)
- F20.** 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.
- F21.** 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. No exterior changes to the existing property are proposed (see FINDING #F13)
- F22.** 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.
- F23.** 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.
- F24.** With regard to Section 1.5.5(i) of the ZBL, and based upon the materials submitted in association with this Application, that Board notes that the subject Site is located within the Water Supply Protection Overlay District however since no exterior changes are occurring and all activity is within the house, there will be no significant or cumulative impact to water supply and no contamination by nitrate loading.

**F25.** 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.

#### **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 in favor to **GRANT** the Applicant's request for a waiver from the following requirements of **Section 1.3.3.3** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision:

- (d.) (10) wetlands, ponds, streams, or other water bodies including all applicable buffer zones.
  - (12) Existing and proposed topography
  - (13) All property lines of the subject property, and all setbacks of buildings and parking areas from said lines, and existing and proposed easements, if any;
  - (14) Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials;
  - (15) Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/ landscaped areas;
  - (16) Parking calculations for proposed use(s), including all existing use(s) that will continue to exist on the property, if applicable;
  - (17) Calculations of the volume of earth material to be removed or filled
  - (19) Parking and loading spaces
  - (20) Service Areas
  - (21) Landscaping
  - (22) Lighting
  - (23) Proposed signs
  - (27) Exterior storage areas and fences
  - (28) Utilities and their exterior appurtenances
  - (29) Provisions for dust and erosion control
  - (30) Existing vegetation
  - (31) Other information deemed necessary by the Planning Board due to the unique nature of the property
- (e.) stormwater management hydrological study;
  - (f.) report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.
  - (g.) Written statements from engineer / architect preparing the plans indicating that the plans comply with the performance standards of Section 4/1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.

- (h.) Any other information, materials, reports, etc. deemed necessary by the Planning Board, due to the special nature of the proposed use /activity.

**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 in favor to **GRANT** the Applicant's request for a waiver from the requirements of **Section 8.2 – Traffic Study**.

The Planning Board noted that granting the waivers was based on the size and scope of the project.

## **V. 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 in favor to **GRANT** this Special Permit and Site Plan Approval with the following conditions:

- C1.** This Special Permit and Site Plan Approval authorizes an accessory professional office, more specifically family and individual counseling, to be conducted in the dwelling on the subject Site as described by the Applicant within EXHIBIT #1 of this Decision. In accordance with Section 3.2.3.1 of the ZBL, no individuals other than the resident occupant (Applicant) shall be involved in conducting said business on the property.
- C2.** This Special Permit and Site Plan Approval is granted to the Applicant/Property Owner only, as identified within this Decision and in conformance with F#10 through #14, and does not run with the land. Upon the sale or transfer of the property from the owner identified within this Decision, this Special Permit and Site Plan Approval shall become null and void.
- C3.** Hours of operation for the use authorized by this Decision shall be limited to Friday from 9 AM to 8 PM and Saturdays 9 AM to 3 PM (see FINDING #12). No business activity shall be conducted on Sundays.
- C4.** The use authorized by this Decision, as well as maintenance of the Site, shall be conducted in accordance with the EXHIBITS and Conditions stated within this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- C5.** The granting of this Special Permit and Site Plan Approval by the Planning Board does not supersede the necessity for the Applicant to obtain all other applicable Federal, State and Local permits/approvals for conducting the use authorized by this Decision. Failure by the Applicant to maintain all other permits/approvals required for said use shall cause this Special Permit and Site Plan Approval to become null and void.
- C6.** 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 Site

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

- C7. Any modification to work authorized by this Decision 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 if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.
- C8. This Special Permit and Site Plan Approval shall not take effect until the Applicant has recorded this Special Permit and Site Plan Approval at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
- C9. By recording this Special Permit and Site Plan Approval Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.
- C10. Any inability or failure or refusal by the Applicant to comply with the requirements of this Special Permit and Site Plan 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.

**V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted 5-0 to GRANT this Special Permit and Site Plan Approval with Conditions for an accessory professional office at 14 Bernard Road 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>Robert Hassinger, 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

**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.

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Kandy Lavalley, Town Clerk

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Date

cc: Applicant / Owner  
Building Inspector  
Assessor