

**DECISION  
GRAFTON PLANNING BOARD**

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GRAFTON, MA

**SPECIAL PERMIT (SP 2017-1) & SITE PLAN APPROVAL**

**Accessory Apartment  
5 Cold Spring Drive, Grafton, MA**

MARCH 27 AM 9 48

**Kelly & Adrian Lima (Applicant/ Owner)**

Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Kelly & Adrian Lima, 5 Cold Spring Drive, Grafton (herein after the OWNER) for a Special Permit and Site Plan Approval for an Accessory Apartment, on property located at 5 Cold Spring Drive, Grafton, shown as Grafton Assessor's Map 82, Lot 10, (hereinafter the SITE) by deed recorded in the Worcester Registry of Deeds Book 52388, Page 126.

## **I. BACKGROUND**

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on March 8, 2017. Notice of the public hearing and the subject matter thereof was published in the Grafton News on March 23, and March 30, 2017, and posted with the Town Clerk's Office. The public hearing on the Application was held on April 10, 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 David Robbins, Members Linda Hassinger and Tracy Lovvorn, and Associate Member Sharon Carroll-Tidman. At the hearing, Jerry Wynne was present to discuss the Application with the Board. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on April 10, 2017.

## **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 / Owner, received March 8, 2017; includes the following:

- a. Forms / Narrative
  - Application for Special Permit; dated March 8, 2017, 1 page.
  - Application for Site Plan Approval; dated March 8, 2017, 1 page.
  - Correspondence; Re: In Law Apartment / Accessory Apartment dated March 6 2017; 1 page.
  - Certified Abutters list; signed by the Assessor's Office Manager on March 2, 2017; 1 page.
  - Certificate of Good Standing; 1 page.
  - List of Requested Waivers; no date; 1 page.
  - Town of Grafton, Property Record Card, 5 Cold Spring Drive, FY17, 1 page.
  - Town of Grafton GIS Map of Property; 8 1/2" X 11"; black & white; dated March 7, 2017; 1 page.

– Plan Showing Proposed Addition Prepared for Adrian & Kelly A. Lima, 5 Cold Spring Drive, Grafton, Massachusetts; prepared by Jarvis Land Survey, Inc.; dated November 11, 2016; 8 ½ x 11”, black & white; 1 page.

b. Floor Plan, Prepared by J.R. Associates, dated February 27, 2017, received March 8, 2017; 1 sheet.

**EXHIBIT 2.** Public Haring Legal Notice, Stamped by the Town Clerk’s Office on March 16, 2017; 3 pages.

**EXHIBIT 3.** Email, Subject: Accessory Apartment – Special Permit & Site Plan Approval – 5 Cold Spring Drive, From Maria Mast, Conservation Agent, dated and received March 23, 2017; 1 page.

**EXHIBIT 4.** Email, Subject: SP-2017-1 / 5 Cold Spring Drive, From Nancy Connors, Board of Health, dated and received March 29, 2017; 1 page.

**EXHIBIT 5.** Public Hearing Sign In Sheet for the April 10, 2017 hearing, 1 page.

### **III. FINDINGS**

At their meeting of April 24, 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 Mrs. Hassinger, 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 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 #1 of this Decision.
- F3.)** That the Site is located in the Low Density Residential (R40) zoning district. The Board further finds that accessory apartments are permitted in an R40 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 Applicant / Owner presented the application to the Board. Mr. Jerry Wynne presented the Application to the Board on behalf of his daughter, the Applicant. He reviewed the scope of the project noting that the proposed 1,200 square foot addition would be for family members only. The Board asked about the number and types of entrance / egress to the unit. Mr. Wynne noted that there would be access to the unit through the main house dining room and from a covered porch area on the first floor facing the street. It was further noted that no expansion of the existing driveway would be required. (See EXHIBIT #1)

- F6.)** That during the public hearing, the Planning Board informed the Applicant's representative that previously issued special permits for accessory apartments typically included a condition that limited occupancy of such apartments only to family members. The purpose of this requirement it to ensure that the unit is accessory for family use and not intended to be developed to be used in the future as a duplex, The Board finds that the Applicant's representative acknowledged this condition.
- F7.)** The Board notes that it received a project review memorandum from the Conservation Commission (EXHIBIT #3) which read "Conservation has no comments regarding this application."
- F8.)** The Board notes that it received a project review memorandum from the Board of Health (EXHIBIT #4) which stated: "Applicant is tying into town water and town sewer. Applicant must abandon septic and well per State and Local regulations."
- F9.)** The Board notes that there was no public input at the Public Hearing for this Application.

At their meeting of April 24, 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 Mrs. Hassinger, voted 5-0 to make the following Findings:

- F10.)** 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.
- F11.)** 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.
- F12.)** 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 application no changes to the existing refuse collection are required.
- F13.)** 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 issues or concerns were raised during the public hearing pertaining to this criteria.
- F14.)** 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 addition is for residential purposes only and the proposed use is compatible with surrounding residential uses.
- F15.)** 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 addition meets the setback and other dimensional requirements.
- F16.)** 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. The proposed addition is located within an existing residential neighborhood.

- F17.) 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. The Board of Health notes that this site will be served by both Town sewer and water (see FINDING #F8).
- F18.) 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. The Board of Health notes that this site will be served by both Town sewer and water (see FINDING #F8).
- F19.) 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 issues or concerns were raised during the public hearing pertaining to this criteria.

At their meeting of April 24, 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 Mr. Robbins, seconded by Mrs. Hassinger voted 5-0 to make the following Findings:

- F20.) 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.
- F21.) 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.
- F22.) 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 #1a).
- F23.) 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 April 24, 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 Mrs. 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:
  - (12.) Existing and proposed topography at two-foot elevation intervals
  - (14.) Extent and type of all existing and proposed surfaces

- (15.) Lot coverage
- (16.) Parking calculations
- (17.) Volume of Earth Material
- (19.) Parking and loading spaces
- (20.) Service areas and all facilities for screening
- (21.) Landscaping
- (22.) Lighting
- (23.) Proposed signs
- (27.) Exterior storage and fences
- (28.) Utilities and their exterior appurtenances
- (29.) Dust and erosion control
- (30.) Existing vegetation

- W2.** At their meeting of April 24, 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 Mrs. Hassinger, voted 5-0 to **GRANT** the Applicant's request for waivers 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 April 24, 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 Mrs. Hassinger, voted 5-0 to **GRANT** the Applicant's request for waivers 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 April 24, 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 Mrs. Hassinger, voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (h) 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 April 24, 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 Mrs. Hassinger, voted 5-0 to **GRANT** the Applicant's request for waivers 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.

The Planning Board specifically notes that voting to grant Waivers 1 – 5 was based on the size and scope of the project as well as the absence of specific concerns raised during the public hearing.

#### **IV. DECISION and CONDITIONS**

At their meeting of April 24, 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 Mrs. Hassinger, voted 5-0 to **APPROVE** the application for a Special Permit and Site Plan Approval with the following conditions:

- C1.) This Special Permit / Site Plan Approval is granted specifically to the Applicant for property located at 5 Cold Spring Drive, Grafton (as identified within this Decision). Based on FINDING #F6 this Special Permit is granted to the Owner, as identified within this Decision, and does not run with the land. Once the Owner sells the property, the new owner will be required to make application to the Board to use the space as an accessory apartment.
- C2.) Based on FINDING #F5 and #F6 the accessory apartment is to be occupied by family members of the property owners (OWNER/APPLICANT) only.
- C3.) The unit may not be occupied by non-family members if, in the future, the unit is vacated. If 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.
- C4.) 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.
- C5.) 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.
- C6.) 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.
- C7.) 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 for an accessory apartment at 5 Cold Spring Drive, Grafton 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>Sharon Carroll-Tidman, Assoc. Member</u>	<u>AYE</u>
<u>David Robbins, Clerk</u>	<u>AYE</u>		

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

  
\_\_\_\_\_  
Joseph Laydon, Town Planner

4-26-2017  
\_\_\_\_\_  
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.

\_\_\_\_\_  
Donna Girouard, Town Clerk

\_\_\_\_\_  
Date

17.05.2017

17.05.2017