

**DECISION  
GRAFTON PLANNING BOARD**

**SITE PLAN APPROVAL (SPA 2022-01)  
Family Daycare Operating Out of Home**

**25 Snow Road, Grafton, MA**

**Jagath Senasinghe (Applicant/Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Jagath Senasinghe (hereinafter the Applicant), for a Site Plan Approval Section 1.3.3 (Site Plan Review) of the Grafton Zoning Bylaw (ZBL) to allow a family daycare on property located at 25 Snow Road, Grafton, MA 01519 (hereinafter the Site), and shown on Grafton Assessor's Map 37, Lot 107 and owned by Jagath Senasinghe by deed recorded in the Worcester District Registry of Deeds in Book 00059, Page 158.

**I. BACKGROUND**

The application for the above referenced Site Plan Approval (hereinafter Application) was submitted on November 4, 2022. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 24 and December 1, 2022, posted with the Town Clerk's Office on November 21, 2022 and abutters were notified by First Class Mail. The public hearing on the Application was held on December 12, 2022, January 9, 2023, and February 13, 2022, at which time all those wishing to speak to the petition were heard and following public input the hearing was closed on February 13, 2023.

The following Board members were present throughout the public hearing: Chairman Justin Wood, Vice Chairman Robert Hassinger, Clerk David Robbins, Members Linda Hassinger, Prabhu Venkataraman, and Associate Member Maura McCormack. At the hearing, Jagath Senasinghe presented the application to the Board.

**II. EXHIBITS**

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

1. Unbound application packet prepared by the Applicant, received November 4, 2022; including the following:
  - Application for Site Plan Approval dated November 4, 2023, 1 page.
  - Certificate of Good Standing, signed by Treasurer/Collector's Office on October 31, 2022, 1 page.
  - Certified Abutters List, dated November 1, 2022, 2 pages.
  - A Building Floor Plan, no date, 1 page.
  - Waiver Request Form, 2 pages.
2. Public Hearing Notice, stamped by the Town Clerk's office on November 21, 2022, 1 page.
3. Email Correspondence from Nancy Connors, Health Department, Re: SPA 2022-01, 25 Snow Road, Daycare, dated November 28, 2022, 1 page.
4. Email Correspondence from Michael Killeen, Fire Department, Re: 25 Snow Road, dated November 29, 2022, 1 page.

5. Cease and Desist Letter from the Inspector of Buildings, dated October 25, 2022, 4 pages.
6. Email Correspondence and Project Narrative from Jagath Senasinghe, Applicant to Natalia Alward, Planning Assistant, dated November 8, 2022, Re: Application: SP 2022-10/SPA, 25 Snow Road, Daycare, 1 page.
7. Public Hearing Continuance request form, signed by Jagath Senasinghe, dated December 13, 2022, 1 page.
8. Parking Capacity Photos: 25 Snow Rd – Daycare permit, Parking capacity on the Driveway, dated December 20, 2022, 2 pages.
9. Deed and Subdivision Plot Plan, dated December 29, 2022, 12 pages.
10. Certificate of Occupancy, dated December 29, 2022, 2 pages.
11. Additional Submitted Materials, dated December 30, 2022, 1 page.
12. Updated Narrative and Floor Plan, dated January 4, 2023, 2 pages.
13. Public Hearing Continuance request form, signed by Jagath Senasinghe, dated January 4, 2023, 1 page.
14. Site Plan and Driveway Details, dated January 30, 2023, 1 page.

### **III. FINDINGS**

At their meeting of February 13, 2023, 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. Robbins) voted 5-0 in **FAVOR** of making the following Findings:

1. 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.
2. That determinations regarding the following FINDINGS are 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.
3. That the subject Site, as identified by the Applicant and shown in the Exhibits of this Decision, is approximately 7.39 acres in size and is located in a Medium Density Residential (R20) zone. The site is located within the Water Supply Protection Overlay District. The Board further determined that Family Day Care Home as defined in Section 3.2.3.1 requires a Site Plan Approval.
4. That during the public hearing Jagath Senasinghe discussed that the he and his wife (the owners) have been operating a Family Daycare on the property. The owners were informed, by the Building Department, that due to the operations on the Site and the lack of necessary permits, they would need to apply for a Site Plan Approval through the Planning Board if they wished to continue operating a Family Daycare on the site.
5. That during the public hearing on December 12, 2022, Jagath Senasinghe briefly discussed the location and design of the building floor plan where the Family Daycare would operate as shown in the Exhibits.

6. That ZBL Section 1.3.3.3 defines the procedure for Site Plan Review, including a description of the plans and materials required 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.
7. 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) (2), (8) through (15), (17), (20) through (26), and (28) through (30) – Site Plan,
  - Section 1.3.3.3 (e) – Stormwater Management Hydrological Study,
  - Section 1.3.3.3 (f) – Earthwork Calculations,
  - Section 1.3.3.3 (g) – Written statements from an architect/engineer regarding performance standard set forth in Section 4.1 of the Zoning By-law
  - Section 8.2.1 – Traffic Study
8. That the Applicant is seeking a Site Plan Approval for the purpose of operating a Family Day Care Home in their home as defined in Section 2.1 of the Grafton Zoning By-law which defines Family Day Care Home as such: *"A facility engaged in the regular daily care for remuneration of six (6) or fewer children who do not reside at the facility, and who are less than seven (7) years of age, or less than sixteen years of age with special educational needs."*
9. That during the public meeting the Board and the Applicant discussed the Application. Mr. Senasinghe stated that he wishes to continue a Family Daycare in his home utilizing the basement area to accommodate the use. He noted that his wife had received a license through the State to operate a day care. It was noted that the number of children allowed by her state license is a maximum of six (6). The hours of operation will be from 7:00 a.m. to 5:00 p.m. No changes to the exterior structure are proposed (see EXHIBIT #2). The Applicant also noted that he received a Certificate of Occupancy permit through the Building Department.
10. That during the public meeting, the Board and the Applicant discussed parking. The Board expressed concern about pick-up and drop-off times as it relates to off-street parking. During the December 12, 2022 meeting, Board stated they wished to see a site plan that shows the parking in relation to the property and Snow Road. Mr. Senasinghe stated in EXHIBIT #12 that there would be two (2) cars at most at one time and noted that the wide driveway could accommodate two (2) cars at one time.
11. The Board notes it received departmental review correspondence from the Board of Health (see EXHIBIT #3).
12. The Board notes it received departmental review correspondence from the Fire Department (see EXHIBIT #4).
13. The Board notes it received departmental review correspondence from the Building Department (see EXHIBIT #5).

At their meeting of December 12, 2022, after due consideration of the EXHIBITS submitted and the entire record of the proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 4-0 to continue the hearing at the Applicant's request until January 9, 2023. That presentation of the requested WAIVERS as submitted in EXHIBIT #1 and outlined in the FINDINGS were deemed to be inconsistent with the intent and purposes set forth in Sections 1.2 and 1.3.3.1 of the Grafton Zoning By-law. The Applicant then requested a continuance of the hearing until February 13, 2023.

That the reasons stated within the FINDINGS of this Decision, the Site Plan Approval application is in harmony with the general purpose and intent of the Town of Grafton Zoning By-Law.

**Commented [GK1]:** Is this a finding?

**Commented [FC2R1]:** No just a statement that their application eventually satisfied the findings; this was in another decision for a home daycare so I kept it.

#### **IV. WAIVERS**

At their meeting of February 13, 2022, 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. Robbins) voted 5-0 to **GRANT** the Applicant's requested waivers from the following requirements of ZBL *Section 1.3.3.3* (set forth below):

##### **Section 1.3.3.3 (d):**

- (8.) Locus Map (scale of 1"=1,000') and north arrow;
- (10.) Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones;
- (12.) Existing and proposed topography at two-foot (2') elevation intervals;
- (17) Calculations of the volume of earth material to be removed or filled on the property, and delineation of the location(s) of such activity;
- (20.) through (25.) Service areas and all facilities for screening; Landscaping; Lighting; Proposed signs (business, traffic, etc.); Sewage, refuse and other waste disposal; and Stormwater management facilities (drainage);
- (28.) through (30.) Utilities and their exterior appurtenances (e.g., fire connections); Provisions for dust and erosion control; and any existing vegetation

**Section 1.3.3.3(e):** Stormwater management hydrological study.

**Section 1.3.3.3(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.

##### **Section 8.2 – Traffic Study**

**Discussion:** The Board considered the materials provided in relation to the scope and intensity of the proposed use. The Board determined that the materials provided were an adequate substitution for the materials required

by the relevant sections and adequately enabled the Board to make an informed decision in the context of this specific proposal.

The Board notes that the granting of these waivers was based on the nature of the application and the lack of opposition from Town Departments, abutters or general public.

**V. DECISION and CONDITIONS**

At their meeting of February 13, 2023, 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. Robbins) voted 5-0 to **APPROVE** this Site Plan Approval (SPA 2022-01) with **CONDITIONS** as follows:

1. This Site Plan Approval is specifically for the operation of a "Family Daycare " on the Site as defined under Section 2.1 of the Grafton Zoning By-law, described within the EXHIBITS (see FINDING #8) of this Decision, and as modified by these Conditions. This approval shall not be construed as authorizing use of the Site other than as described in this Decision.
2. This Site Plan Approval is granted to the Applicant / Owner, as identified within in this Decision and Exhibits (See EXHIBIT #1) and does not run with the land. In the event that the Applicant sells or leases the property, this Site Plan Approval will be considered null and void.
3. Unless modified by this Decision, the Site shall be developed, constructed, and maintained in accordance with all applicable Federal, State and Local regulations, and as shown on the Plans approved as part of this Decision or as modified by the Conditions within this Decision. All required permits and approvals shall be secured by the Applicant/ Owner.
4. 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.
5. The granting of this Site Plan Approval by the Planning Board does not supersede the necessity for the Applicant / Owner to obtain all other applicable Federal, State and Local permits and/or approvals for conducting the use. All other applicable permits and / or approvals shall be secured by the Applicant. Failure by the Applicant / Owner to maintain all other permits and / or approvals required for said use shall cause this Approval to become null and void.
6. Any modification to the use or Site as described within this Decision and as presented to the Board during the public hearing 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.

7. The Applicant shall adhere to the submitted parking pick-up and drop-off times presented in EXHBIT #12. There will be staggered start and end times so no more than two cars/families will be dropping off/picking up their children at the same time within a ten (10) minute period. This arrangement is to be maintained whenever a new child/family enrolls in daycare services.

**VI. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to APPROVE the Applicant's application for a Site Plan Approval for a Family Daycare at 25 Snow Road based on the information received at the public hearing and the aforementioned findings, and subject to the aforementioned conditions.

|  |            |                                    |            |
|--|------------|------------------------------------|------------|
| <u>Justin Wood, 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>David Robbins, Clerk</u>            | <u>AYE</u> |                                    |            |

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

\_\_\_\_\_  
Planning Board Chair

\_\_\_\_\_  
Date

cc:    Applicant/Owner  
      Building Inspector / Zoning Enforcement Officer

**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

DRAFT

