

TOWN OF GRANBY ZONING BOARD OF APPEALS

Meeting Minutes

September 2, 2020

AGENDA: Duane Tull Public Hearing
Clarence Nylen Public Hearing
Regular Meeting

Chairman Palmitese called the regular meeting of the Granby Zoning Board of Appeals, held on Wednesday, September 2, 2020 to order at 7:01 pm.

MEMBERS: Tyler Palmitese, Chairman
Peter LeoGrande
Tom Thompson
Tina Sawyer

ALSO PRESENT: Duane Tull, Clarence Nylen, Alan & Sandra Moore, Fran & Debbie Munger, and Jeff Holbrook.

*** Due to the Covid-19 pandemic, the Zoning Board of Appeals will be holding their meetings at the Granby Community Center, located at 812 County Route 8 Fulton, in order to sufficiently maintain the mandated 6-foot social distancing requirements. Face masks are also required to be worn within the building and during the meeting.

PUBLIC HEARING

Duane Tull

Chairman Palmitese announced the request and opened the Public Hearing at 7:02 pm.

An Area Variance request by Duane Tull will be heard for the relief of Granby Zoning Ordinance Section IV, Subsection B - Table: Side yard setback requirement for construction of a 40'x32' garage on property located at 18 Island Shadow Drive, Fulton, NY 13069; Tax Map #270.02-01-15.

The Chairman invited the applicant, Duane Tull, to explain his variance request to the Board. Mr. Tull stated that he purchased the property over a year ago and would like to build a 42'x30' three car garage at the asphalt turnaround on the north side of the driveway. The Zoning Ordinance requires a 20-foot side yard setback for properties larger than one acre, and the applicant would like to place the garage at a 10-foot setback in order to keep the existing driveway macadam intact and save several longstanding trees on the property. Mr. Tull added that the slope of the property is considerable towards the river and influences the proposed location as well. A letter was received with the Tull's application detailing their reasons for the chosen location. Chairman Palmitese asked if it would be possible for a smaller request at a 15-foot setback that would require only 5-feet of relief, which is a much smaller variance at 25%. Mr. Tull replied that the proposed location accounts for the grade change and allows for a small apron to transition the concrete to the asphalt naturally. Moving the garage closer to the driveway would require additional work to adjust the elevation and compensate for the grade change with cut/fill of material, and involve removal of a section of the existing asphalt turnaround. The contractor is also cognoscente of the natural drainage designed by Developer Rowlee and building the pad at grade would resolve any potential issues of water at the west end of the garage. Member Thompson asked about the trees on the property which the application refers to as long standing and healthy, and would be removed if the garage is located elsewhere on the property. Mr. Tull replied that the garage is not centered upon the turnaround, and is instead approximately 35-feet kitty corner from the existing northwest corner of the attached garage. This location was chosen because it positions the garage between the mature trees and therefore allows them to remain without disruption to them or their root systems. Member Thompson asked about the positioning of those trees relative to the neighboring property. Mr. Tull answered that trees exist along the adjoining property line, on both properties, that will somewhat screen the garage from view. He added that adjoining property owner, Jeff Holbrook, was in favor of the variance and agreed to sign anything in support of the alteration. Chairman Palmitese asked about the electrical available at the property, Mr. Tull replied that the panel box is located on the north side of the house and is convenient for hook-up at the proposed location. Member LeoGrande asked the applicant to explain why he couldn't move closer to the driveway and require less of a variance. Mr. Tull explained that it would mean losing the trees, destroying root systems, destruction of the existing pavement, and the pad elevation would need manipulation of the area to adjust for the change in grade along the 42-foot length of the structure. He added that it could also substantially impact the natural drainage in an area with several changes in topography occur, starting west at Wilbur Road (top of hill)

and extending east to the Oswego River. Without any further questions from the Board members, Chairman Palmitese opened the Hearing to public comments at 7:07 pm. He explained that the ZBA is not required to answer questions from the public but encouraged their comments so that their voices and opinions are heard. Comments were as follows:

- 1.) *Fran & Debbie Munger* - Mr. Munger is a nearby neighbor and has lived within the neighborhood for more than 50 years and was surprised to hear of the project second hand from a neighbor that received a letter regarding the Hearing. He explained that Mr. Tull's property has had six owners over that time and that it has always been the practice that whenever changes would be made, the neighbors would discuss it together and decide the appropriateness of the project. The neighborhood had covenants or rules that developer Mr. Rowlee established, which dictated the development of the site plans so the structures were uniform or similar in location, size and color to create a uniform and cohesive appearance. He voiced concerns on the financial impact an oversized, large garage structure could have on his property and others in the neighborhood with value well in excess of \$400,000 and yearly tax payments of more than \$14,000. The neighborhood pays more than most in Granby because of the River location which builds in value, but also because they chose to live in a community with the aesthetic standards are maintained at a high level. The Munger's also commented that the applicant's property extends across the road from the home and has always been vacant, which was the intention of the developer. They stated their unhappiness with the shed that exists there now and questioned whether a building permit was issued because it is located close to the roadway. The appearance of the shed, the windows and materials strewn around the exterior, as well as the unkempt grass troubles the Mungers because it is dissimilar to the rest of the area. For this reason, they are wary of the applicant's proposed garage as they know none of the particulars of the design, and are concerned that it won't fit in with the neighborhood.
- 2.) *Allen & Sandra Moyer* – Property owners to the south questioned what Mr. Tull was proposing – what does it look like, and where is it to be placed.? The clerk provided pages of the site plan for review by the Moyers and the Mungers. Mr. Tull stated that the garage would match the house in materials and be located kitty corner facing the driveway at about 35-feet from the house. The Moyers asked about the height which Mr. Tull stated would be the same as the house – height and double rooflines.
- 3.) *Jeff Holbrook* – Adjoining property owner to the north that has spoken with Mr. Tull and likes the garage proposed and doesn't mind the placement 10-foot from the property line. He is concerned about how it will fit in with the existing character of the neighborhood as far as scale and appearance. He also stated that Covid-19 has changed his personal financial situation a great deal and he may very well need to sell his property in the near future, so his concern is for the impact on the value of his property. He stated that he was unaware of the covenants that existed but understands their value in protecting the character of the waterfront community. Mr. Tull also stated that he had not received any covenants when he purchased the property, nor are they contained within his deed.
- 4.) *Debbie Munger* - Mrs. Munger stated that it's the 'not knowing' that is the problem. The shed that was illegally placed and the unkempt condition of the property in general tends to make them question the proposal made by the applicant without any discussion with the neighbors. She added that what has already transpired has had a tremendous impact on the aesthetic value of the area and probably decreased the surrounding property values. Mr. Tull stated that his intent is to build a quality garage and increase the value and usage of his property.

Discussion ensued amongst the neighbors about the appearance of the garage and whether it would fit in with the character of the neighborhood. Chairman Palmitese acknowledged the statements of the neighbors and stated that their concerns would be considered by the Board in their discussion. Member LeoGrande stated that the request is a lot – half of the required amount - and asked Mr. Tull to explain to him again why the garage can't be closer to the driveway. Mr. Tull approached the Board's table with full page photos of the property (supplied with the application) to point out the proposed location and the gradual slope towards the river. What appears to be a gentle slope in the overall view accumulates to a substantial difference over the 42-foot length of the garage. Chairman Palmitese made a final statement regarding private covenants commonly found within subdivision developments, which are not recognized or enforceable by the Town of Granby. A **motion** was **moved** by Member Thompson to close the Public Hearing at 7:31 pm, it was seconded by Member LeoGrande, all were in favor and the **motion carried**.

Chairman Palmitese began a discussion of the five factors of criteria considered when deliberating the merits of area variance requests, as follows:

- *Undesirable change to neighborhood character* – The members were in agreement that whether the requested variance would have a negative impact to the neighborhood was an unknown at this point because they didn't have enough information regarding the design of the proposed garage to make that determination. They also stated that much of the neighbor's concerns focused on the appearance of the structure as well.
- *Substantial request* – The members were in agreement that the request was indeed substantial at 50%.
- *Benefit achieved by some other method* – Member Thompson stated that the topography of the land has dictated the development of the property and surrounding parcels in the past, and is instrumental in positioning the structure for this parcel. The existing asphalt and turnaround placement make the location convenient, as does the location of the electrical panel box which is on the north side of the residence as well.
- *Adverse impact to the environment* - Members discussed the potential for creating drainage issues if a smaller request is considered, which could precipitate erosion and impact to the Oswego River. The change in location could also damage root systems of existing trees as well as the loss of old and healthy trees which add to the character of the neighborhood.
- *Self-created* - The Board members were undecided and in need of additional information from the applicant.

Discussion ensued regarding the building design plans for the proposed garage supplied by contractor Langdon Builders. Mr. Tull replied that he had submitted his set to the Codes Office as is required for the building permit. He added that it will be a three car garage with garage doors that match the existing garage, matching double rooflines as the house has, shingle roofing to match the house, siding that they plan to use on the house when replacing the cedar that has deteriorated – all in an effort to blend with the existing structure and look cohesively planned. The ZBA members were in agreement that the applicant should provide building plans for the neighbors and the ZBA to understand visually and spatially what is being proposed. A **motion was moved** by Member Thompson to Table the meeting regarding this application until Tuesday September 8, 2020 at 7:00 pm in order to allow Mr. Tull the ability to present the building design. The motion was seconded by Member Sawyer, all were in favor without further discussion and the **motion carried**. ZBA Clerk, Lisa Somers, will obtain the builder's set of plans from the Codes Office on Thursday and contact Mr. Tull.

PUBLIC HEARING

Clarence Nylen

Chairman Palmitese announced the request and opened the Public Hearing at 7:44 pm.

A Use Variance request by Clarence Nylen will be heard for relief of Granby Zoning Ordinance Section VI, Subsection C(2): Non-conforming Buildings, to allow for the construction of a replacement residential garage with increased square footage in the CIT zoning district on property located at 858 Hannibal Street, Fulton, NY 13069; Tax Map #235.00-04-22.

Chairman Palmitese invited the applicant to explain his request. Clarence Nylen began by stating he purchased the property in 1976 which previously was a muck farm and zoned as Agricultural/residential. He has lived there for 44 years, raised his family and would like to continue using the property as such but the re-zoning to CIT has complicated that. The existing garage was part of the muck farm making it approximately 65 years old and has developed structural issues. Mr. Nylen has been a Granby Planning Board member for more than 25 years and is familiar with the regulations of the Town, he stated that if he wasn't enlarging the original footprint then he would have already replaced the structure through the issuance of a building permit. Instead he would like to add an additional 14-feet to the west side of the structure that would take up a section of the large pull-in area along the front of the property yet still leave plenty of room for maneuverability and ingress/egress. The structure would be 42-feet wide instead of the current width of 28-feet. Since the garage has always been there, he stated that the extra width won't be very noticeable once constructed because of the property design of a large parking area and entranceway. He also explained that the structural deficiency is within the roof trusses and decking which after many years of snow loading has succumbed to the weight and needs replacement. Economically it is more feasible to replace the structure than it is to renovate, and since it will be replaced in its entirety, he decided that it would be the best time to add extra square footage. He added that he is getting older and the need for simplifying chores by storing cars, snowblower, and other items out of the snow is necessary. The building is still existing, he stated that

he has not yet removed the structure, and is waiting until after the ZBA decision because he didn't want to lose the ability to replace an existing structure which is allowed on properties that are considered non-conforming. He plans to utilize the existing foundation and will be adding new footers for the additional 14-foot area. Chairman Palmitese asked him why he needed to make it bigger? Mr. Nylen replied that it is for his own personal use – cars and stuff. Mr. Nylen continued his argument in support of granting his variance request because without it he is deprived the use of his property, even safe use of his property. The surrounding neighborhood has several properties that have principal uses as residential, so the non-conformity is not unique to his property but rather is a neighborhood that was rezoned to CIT. The zoning across the street is agricultural – it could support a request to the Town board for a zoning district change in case the ZBA denies his variance. Member Sawyer pointed out in the aerial photo that the current use of the property where the garage extension will be is already used for parking cars, therefore it won't change the existing dynamics or flow of activity. Carl Nylen brought engineer stamped building plan drawings to the meeting and presented them for the Board's review and information. With nothing further from the applicant, Chairman Palmitese proceeded to discuss additional reviews mandated by NYS Law – County Planning and DEC SEQR.

Use Variances are subject to **GML 239-1,m&n Review** by the Oswego County Planning Department if the project parcel is located within 500-feet of certain criteria; Mr. Nylen's property triggers the review because of the proximity to the City of Fulton municipal boundary line. The County was supplied with a request package for their review and they provided a response letter dated 8/27/20 which determined that this action has *no significant intercommunity or countywide impacts and should be decided as a local issue*. Chairman Palmitese added that they also commented that the project site is within a DEC check zone requiring consultation by the applicant with the Region 7 DEC office.

The ZBA Members began the EAF review required by **SEQR** for Use Variances. This project action is classified as an Unlisted Action and subject to completion of the Short Form EAF. Mr. Nylen had submitted a completed Part 1 which the ZBA Chairman read aloud during the meeting. The EAF Mapper DEC database pre-answered several of the questions with affirmative answers regarding wetlands, flood plains, threatened animals and archeologically sensitive areas. Board members reviewed the following support materials:

1. Aerial photo with NYS wetlands and check zones delineated with an overlay. The only part of Mr. Nylen's property that has wetlands is in the rear yard beyond the barn and is not affected by this action.
2. A FEMA map also shows the flood plain to be well behind the barn and not affected by this action.
3. Threatened and endangered animals identified on this property are the Indiana Bat and the Bald Eagle – no potential for impact by this action.
4. CRIS printout identifies area of project consultation (blue lines) and area of archaeology survey (green lines) – both are identified west and north of Hannibal Street. Areas most likely identified from water district formation.

The Board Members read aloud Part 2 of the EAF, and answered that the project would have no impact or a small impact for all questions. A Determination that the project action would have no adverse environmental impacts was made in Part 3 and signed by the Chairman.

Before closing the Public Hearing, Chairman Palmitese asked if there were any further comments from either the Board or the public, there was none. A **motion** to close the Hearing at 8:13 pm was **moved** by Member Thompson and seconded by Chairman Palmitese, all were in favor and the **motion carried**.

A **motion** was **moved** by Chairman Palmitese to accept a **Negative Declaration** for the Unlisted Action of the requested Use Variance for the replacement and enlargement of a residential garage, the motion was seconded by Member Thompson, all were in favor and the **motion carried**.

Chairman Palmitese began a discussion of the four factors of criteria considered when deliberating the merits of use variance requests, as follows:

- *Will not alter character of the neighborhood* – The members were in agreement that the new garage would not alter the character of the neighborhood, in fact the enlarged size will probably not even be noticed after a few weeks since the garage has stood there for more than fifty years. The surrounding neighborhood is primarily residential, but also has some businesses as the City of Fulton boundary line runs along the east side of the property.
- *Hardship has not been self-Created* – The members acknowledged that the Town amended the zoning map a number of years ago in which the zoning district of this residential and agricultural neighborhood was changed to CIT to promote a business district when Walmart moved into the area. Mr. Nylen had

purchased the property as a family home with existing barns from a previous agriculture farm use, and as such would have been permitted to rebuild and enlarge his existing garage, therefore the hardship created by location within the CIT was not self-created.

- *Hardship is unique, does not apply to substantial portion of neighborhood* – Although the neighborhood has business interspersed with residences, the majority of properties are, and have historically been residential. This property has a very old garage built in conjunction with the original farm needing renovation in its lifetime, unlike the typical residential development of other properties in the area. The hardship is unique in that it is a residential property without residential allowance for upgrades. Member Sawyer commented that the area to be built upon is already utilized for car storage – there isn't a change in use other than a structure covering the cars.
- *Reasonable return* – Mr. Nylen had explained that the property was purchased 44 years ago for purposes of raising a family, and has been used that way ever since. The home and barns are in good condition and utilized, as is the current garage. The cost to rebuild and provide a safe structure for the continued use as residential increases value and provides the most economical return on the proposed investment at the current time.

Without further discussion, a **motion** was **moved** by Chairman Palmitese to grant the requested Use Variance to allow the construction of a replacement residential garage with additional square footage on property zoned CIT. The **motion** was seconded by member Thompson, all were in favor and the **motion carried**.

Resolution # 2020-01

*BE IT RESOLVED, by the Zoning Board of Appeals for the Town of Granby, upon the facts presented and the determination made, that the Use Variance request to allow the construction of a 42'x24' replacement residential garage (utilizing existing foundation footprint) on property located at 858 Hannibal Street, Fulton, NY 13069 Tax Map # 235.00-04-22 is hereby **GRANTED**.*

A roll call vote was taken:

Tyler Palmitese, Chairman	Aye
Peter LeoGrande, Member	Aye
Tom Thompson, Member	Aye
Tina Sawyer, Member	Aye

4 AYES 0 NAYES 0 ABSTENTIONS – **Application APPROVED**.

MINUTES

A **motion** was **moved** by Member Sawyer to approve the meeting minutes for October 24, 2019. The motion was seconded by Member LeoGrande, all were in favor without further discussion and the **motion carried**.

ADJOURN

With no other business before the Board a **motion** to adjourn at 8:20 pm was **moved** by Member Palmitese and seconded by Member Thompson, all were in favor and the **motion carried**.

Respectfully submitted by:

Lisa Somers
ZBA secretary