

TOWN OF GRANBY ZONING BOARD OF APPEALS

Meeting Minutes

March 6, 2023

Chairman Palmitese called the regular meeting of the Granby Zoning Board of Appeals, held on Monday March 6, 2023, to order at 7:02 pm.

AGENDA: Duso Public Hearing
Hogan Engineering Public Hearing
Regular Meeting

MEMBERS: Tyler Palmitese, Chairman
Peter LeoGrande
Melanie Strong
Mallori Stoia
Cheryl Anthony

ALSO PRESENT: Robert Duso, Tim Hogan, Tom Anthony and Supervisor John Snow Jr.

Chairman Palmitese introduced the ZBA members and welcomed two newly appointed members Cheryl Anthony and Mallori Stoia.

PUBLIC HEARING

Robert Duso

Chairman Palmitese reopened the tabled Hearing at 7:08 pm.

A request for relief of Granby Zoning Ordinance Section IV, Subsection B – Table: Rear yard setback requirement, in regards to the proposed construction of a 24' x 16' storage building pole barn on property located at 988 County Rt 8, Fulton, NY 13069; Tax Map #252.00-03-09.

Chairman Palmitese explained that the ZBA did not have the requisite number of members present at the two previous meetings scheduled for the Duso matter, but tonight a full board of five members was present. The applicant, Robert Duso, was asked to explain his request for rear yard setback relief. Mr. Duso stated that he had constructed a 28'x16' shed/storage building near his driveway and then received a stop work order from the Codes Office because he had not obtained a building permit. He completed the requisite building permit which was denied because the structure is located 23-feet from the rear property line. The application was sent to County Planning for a 239 Review referral with a determination received on 1/13/23 stating there would be no significant inter-community or county-wide impacts and should be decided as a local issue. The board members questioned the location in regards to existing structures and trees, the applicant supplied photos at a previous meeting which were reviewed. Member Anthony asked why he had not applied for a building permit; Mr. Duso replied that he didn't realize he needed one for a structure that is placed on skids and not permanently attached to the ground. Member Anthony asked if he would be moving it, he answered no because it is a large building and would be difficult to move. He added that the present location is the best place because it provides ease of use with close proximity to the attached garage and driveway. Member Anthony also asked what the structure is since it has been referred to as a shed, garage and pole barn during tonight's discussion – Robert Duso replied that it's a storage shed. Supervisor Snow stated that the NYS Building Code defines the structures and which require regulated permits by size. With no further questions or comments from the Board or the public, Chairman Palmitese closed the Hearing at 7:09 pm.

The members deliberated the five criteria that area variances are determined upon by weighing the benefit to the applicant with the detriment to the community as follows:

- 1) *Whether an undesirable change produced to the character of neighborhood* – The chosen location for the structure is between two large trees and somewhat visually blocked by more trees located in the front yard, therefore it's not readily visible and looks natural next to the existing house and attached garage. It was also mentioned that several other properties in the neighborhood have sheds as well.
- 2) *Whether benefit sought can be achieved by some other method* – Members commented that possibly, but the size is large at 28'x16' and looks more uniform than one or two smaller sheds

would have. Moving the structure is an option since it sets on skids, but any other location on the small lot would require variances, and the structure wouldn't have the same uniformly planned appearance .

- 3) *Whether request is substantial* – Definitely, the request is 27-feet out of the required 50-foot rear setback, or 54%. Member Stoia disagreed because the property size is only slightly larger than the required 1 acre, if it were an undersized parcel then it would be allowed a 25-foot setback. It was noted that the existing residential structure is encroaching as well at 35.2-feet.
- 4) *Adverse impact to the physical environment* – Structure adds impervious coverage, but is located in grass area which will absorb the storm water run-off, adjoining parcel to the rear is farmland therefore no expected impacts.
- 5) *Whether hardship is self-created* – Yes, because the applicant did not apply for a building permit wherein, he would have been denied for setback and have had the opportunity to move the planned location or pursue a variance. Member Anthony stated that she believed that the ZBA and the Town should be encouraging residents to obtain permits.

Chairman Palmitese made a motion to grant the variance request for 27-feet of relief, the motion was seconded by Member Stoia, all were in favor and the motion carried.

Resolution #2023-01

BE IT RESOLVED, by the Zoning board of Appeals for the Town of Granby, upon the facts presented and the determination made, that the Area Variance request for relief of 27-feet from the rear yard setback requirement of 50-feet, for the placement of a 28'x16' storage shed, as submitted on site plan/boundary survey dated 5/26/21, on property located at 988 county Rt 8, Fulton, NY 13069; Tax Map #252.00-03-09, is hereby GRANTED.

A vote was taken:

<i>Tyler Palmitese, Chairman</i>	<i>Aye</i>
<i>Peter LeoGrande, Member</i>	<i>Aye</i>
<i>Melanie Strong, Member</i>	<i>Aye</i>
<i>Mallori Stoia,, Member</i>	<i>Aye</i>
<i>Cheryl Anthony, Member</i>	<i>Aye</i>

5AYES 0 NAYES 0 ABSTENTIONS – Request APPROVED.

PUBLIC HEARING

Hogan Engineering PC

Chairman Palmitese opened the Public Hearing at 7:24 pm.

An Area Variance request and a request for Interpretation by Hogan Engineering, PC, in regards to the proposed construction of a car wash facility on property located at 805 West Broadway (State Rt 3) Fulton, NY 13069; Tax Map #235.00-05-29.12.

- *A request for relief of Granby Zoning Ordinance Section IV, Area and Bulk Regulation- Density Control Schedule for Maximum Lot Coverage in the CIT Zoning District;*
- *A request for Interpretation of Granby Zoning Ordinance Section IV, Area and Bulk Regulation- Density Control Schedule for Yard Set-back requirements.*

Tim Hogan of Hogan Engineering PC is representing the applicant as the Development Engineers for prospective owner Davidson Management Group. A contract for purchase has been negotiated and a closing will commence pending receipt of municipal approvals. He described the proposed development that will be on property in both the Town of Granby and the City of Fulton which will undergo double review processes before the Planning Boards and ZBA's for both municipalities. The paperwork and decisions will be shared amongst all involved parties. At a previous meeting a determination was made, with no objection from the Granby Planning Board, to make the City of Fulton Lead Agency for purposes of the SEQR review, and as such also responsible for submitting a 239 GML Referral to Oswego County Planning. He explained that he would attend two meetings this month in Fulton to conclude the application details for scheduling requisite public hearing, then he would attend Granby Planning Board on April 4th.

Mr. Hogan then described the proposed development project as a six-bay car washing facility located at 805 W. Broadway (State Rt. 3). Five bays would be automatic drive-thru with a single bay for manual spray washing. He had applied through the Town's permitting website allowing the ZBA members to

access all project documents on chrome books during the meeting, but he also supplied several paper copies of the project plans for additional reference. The building would be situated on the property parallel with the roadway, with parcel ingress and egress access from the Fulton parcel in regards to State Route 3. The vehicles would enter the car wash bays on the Fulton parcel and exit the bays from the rear of the building via the Granby parcel. His Area Variance and Interpretation request was supplemented with a narrative letter dated 1/26/23, including two site plan Exhibits (A and B) for further clarification. The Town's requirement for lot coverage is a maximum of 35%, and the applicant is asking to increase the coverage of impervious surfaces to 76% to create adequate parking and vehicle circulation for vehicles utilizing the facility. He pointed out that 14,690 sf of the property located along the roadway is not included within the calculations because it is NYSDOT Green Space and technically not part of the development space, but does somewhat skew the values upward by not being included. He explained that during the preliminary design phase of the project, several alternate orientations and locations for the building was considered, and that the submitted plan best optimizes the safety and circulation of the customers as well as provides the least impact to the coverage requirements. Moving the building further back on the lot squeezes the maneuverability for vehicles by diminishing the turning radius to a point that could become problematic for users. Moving the building forward on the lot eliminates cue space for users which then congests access which is contrary to the desired design of the owners. The Davidson Management Group (prospective owners) have several car wash facilities in western NY and maintain a uniform facility size to allow short wait time for users which dictates the overall development to stay at six-bays with a maximum cue space of 5 cars per bay, all determined by peak usage hours being late afternoon (4:30ish) according to area traffic analysis. Mr. Hogan added that it is rare to have traffic backed-up into the roadway because people will simply come back later if the bays are full instead of having a longer wait time in line. Mr. Hogan stated that the increase of impervious surface will not have any undesirable environmental or character impacts to the adjoining properties that are also commercially developed – NBT Bank to the north, Fort Frisbee Dog Care to the south, and Johnson's Propane Service to the rear of the parcel. The surface run-off for this parcel will remain within the property lines in accordance with a SWPPP design, and the water utilized by the facility is contained within individual catch basins that will connect to public sewer system within City of Fulton. He also made note that the previous development of this property, Oswego Housing Development Council, exceeded the maximum limits and had impervious surface totals near the same as this project. He concluded that the difficulty to adhere to the coverage requirements is driven by providing a facility size that meets the needs of the area while providing safe circulation of vehicles entering, exiting and utilizing the car wash.

An Interpretation of the yard setback requirements of the Granby Zoning Ordinance was also requested by the applicant. Tim Hogan stated that during discussions of the Fulton Planning Board at a meeting held on January 23rd, a consensus of thought was that the "lot" should be viewed as a single entity with perimeter property lines residing within two municipalities for the purposes of design and development, and that the municipal line dividing the parcel not be a consideration for setback requirements.

Prior to the commencement of Board deliberations, Chairman Palmitese opened the Hearing to public comments as follows:

- 1) John Snow Jr. – Stated that this property is unusual in that it lies within two municipalities and warrants consideration because of its unique circumstance. He stated that an increase in impervious surfaces, which aid and facilitate the channeling of run-off, is advantageous because of the property's location within the Watershed. The less contaminates from commercial development that are allowed to penetrate green space and soak into the soil is a better situation for the quality of the Town's watershed. He added that the project dictates the creation of a SWPPP which the Town's Engineer would need to review.

Tim Hogan replied that there are wetlands present to the SE of the property and the DEC has lead oversight in their protection with review and acceptance of the project SWPPP (Storm Water Pollution Prevention Plan).

John Snow Jr. stated that his understanding is that soap is the largest pollutant of water systems. Tim Hogan responded that the City of Fulton is cognizant of the issue in regards to their public septic and have team specialists reviewing the individual products to be used by the car wash as well as the internal design of the facility to collect and separate contaminants.

Without any further comments from the public or ZBA, a motion was moved by Chairman Palmitese to close the Hearing at 7:50 pm. The motion was seconded by Member Strong; all were in favor and the motion carried.

ZBA deliberations of the five criteria to determine the merits of the Area Variance request for relief of the Lot Coverage requirements within the CIT Zoning District:

- 1) *Whether an undesirable change produced to the character of neighborhood* – Member Stoia stated that she had walked the property and observed that there was pavement everywhere – adjacent parcels and the project parcel, which made sense because it's an established commercial district. She asked if anyone knew what the lot's current % of coverage is; Mr. Hogan replied that it is approximately 55% and has a much smaller structure with unkept woodland/shrub area in the corner. The Board commented on the improvements of lawn space and planter and shrub areas. They all agreed that the proposed areas will be a large improvement to the existing state of the property, and that it would appear consistent to the surrounding commercial character of the area.
- 2) *Whether benefit sought can be achieved by some other method* – The property is small and the applicant considered adjustments to the plan that yielded little decrease to the coverage amount but yielded increased detriment to the customer and had no benefit to the business. The Board was favorable to the design of a small lot for commercial development.
- 3) *Whether request is substantial* – Member Strong stated that it is substantial at 76% where 35% is the allowed maximum, but also stated that 35% seems to be small allowance for commercial development. Member Stoia commented that it's not so substantial when compared to the existing coverage of the lot. Chairman Palmitese agreed and added that the value of 35% is more akin to a building coverage allotment than a value for total site development. It was also noted that an existing 1.15-acre parcel within a commercial district would be difficult for a majority of business uses to develop.
- 4) *Adverse impact to the physical environment* – The Board didn't view the project as having physical or environmental impacts since it would be vetted through planning board site plan review of two jurisdictions and include SEQR and SWPPP design. Chairman Palmitese added that he felt it prudent to add a contingency to a motion for variance approval that the storm water calculations be reviewed and acceptable by the Granby Town Engineer to assure adherence of SWPPP regulations since the lot coverage will be substantially increased over the Town's maximum requirements.
- 5) *Whether hardship is self-created* – The members were conflicted as to whether the hardship was self-created because of the strict parameters dictated by such a small lot existing in a commercial district.

Chairman Palmitese stated for the record that in regards to the matters before the Board, they are considered to be unlisted actions for SEQR and no further findings are needed to decide the requests. A motion was moved by Chairman Palmitese to approve the requested increase in lot coverage to 76% with condition that drainage designs be reviewed by the Town Engineer. The motion was seconded by Member Stoia, all were in favor without further discussion and the motion carried.

Resolution #2023-02

BE IT RESOLVED, by the Zoning board of Appeals for the Town of Granby, upon the facts presented and the determination made, that the Area Variance request for relief of the Maximum Lot Coverage requirement of 35%, and to allow 76% Lot Coverage for the proposed construction of a car wash facility as submitted on Site Plan - Exhibit A dated 12/20/22, on property located at 805 West Broadway (State Rt. 3) Fulton, NY 13069; Tax Map #235.00-05-29.12., is hereby GRANTED with the following express condition:

- 1) *The storm water calculations must be reviewed by the Town Engineer to assure that any SWPPP regulations or requirements for storm water runoff be acceptable to the Town Engineer by reason of the extra lot coverage allowed by this variance.*

A vote was taken:

<i>Tyler Palmitese, Chairman</i>	<i>Aye</i>
<i>Peter LeoGrande, Member</i>	<i>Aye</i>
<i>Melanie Strong, Member</i>	<i>Aye</i>

Mallori Stoia,, Member

Aye

Cheryl Anthony, Member

Aye

5AYES 0 NAYES 0 ABSTENTIONS – Request APPROVED.

ZBA deliberations for requested Interpretation of the Yard Setback requirements:

Member Stoia commented that the request letter dated 1/26/23 presents a supporting argument by City of Fulton planning board to view lot as one lot rather than two for the sheer reason that it resides in two municipalities. Member Strong agreed that it makes sense to develop as one because as two separate lots it would be impossible to meet the requirements. Chairman Palmitese agreed and added that it does not make sense that the municipal line define the front yard because it would dictate that there could never be an instance where a building could cross municipal lines, which is not a situation detailed or supported within the Zoning Ordinance. The membership was in agreement that the parcels should be considered as one lot for purposes of development with the front yard meeting Fulton standards and the rear and side yard meeting Granby standards

Resolution #2023-03

BE IT RESOLVED, by the Zoning Board of Appeals for the Town of Granby, that the determination made upon a motion moved by Chairman Palmitese, is that the Interpretation of Yard Setbacks for property development of a lot residing within two municipalities is that the street is the Front yard and if this building development meets the front yard requirement of the City of Fulton Code, then it is appropriate per the Town of Granby Zoning Ordinance. Accordingly, then the parts of the development for the rear yard and side yard setbacks located in Granby are met by the Town of Granby Code, and no further action is required by the ZBA. The motion was seconded by Member Stoia, all were in favor without further discussion and the motion carried.

PRIVILEGE OF THE FLOOR

~ Supervisor John Snow Jr. provided sexual harassment training to the Board members as is required by NYS yearly. He stated that the Town of Granby has a Zero Tolerance Policy in regards to sexual harassment which applies to employee and resident interactions within the building or on the exterior premises and includes the Community Center. The full policy is contained within the Employee Handbook of the Town. He explained the reporting process and where to obtain complaint forms.


MINUTES

A motion was moved by Chairman Palmitese to approve the meeting minutes for October 11, 2022, October 17, 2022, and January 24, 2023. The motion was seconded by Member Strong, all were in favor without further discussion and the motion carried.

ADJOURN

A motion was moved by Chairman Palmitese to adjourn the meeting at 8:14 pm, and seconded by Member LeoGrande, all were in favor and the motion carried.

Respectfully submitted by:


Lisa Somers
ZBA Clerk

ZONING BOARD OF APPEALS
TOWN OF GRANBY

IN THE MATTER OF THE APPLICATION OF
Robert Duso
FOR AN AREA VARIANCE

RESOLUTION 2023-01

WHEREAS, the Applicant, Robert Duso, has appealed to the Zoning Board of Appeals for an Area Variance for relief of Granby Zoning Ordinance: Section IV, Subsection B - Table: Rear yard setback requirement, in regards to the placement of a 28'x16' storage shed on property located at 988 County Rt 8, Fulton, NY 13069; Tax Map #252.00-03-09, and,

WHEREAS, notice of public hearing was duly published in the official newspaper of the Town of Granby at least (5) days prior to the date of such public hearing, and all additional notices thereof having been made as required by law, and,

WHEREAS, a public hearing was held on Monday March 6, 2023 upon the above referenced matter, and,

WHEREAS, at said hearing all those interested in said variance were heard either in favor of or in opposition there to, and,

The Board has relied on verbal representations made by the applicant during the course of these proceedings as noted in the applicable Board Minutes. The validity of these statements are expressly made a condition of this approval.

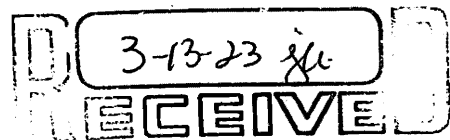
NOW THEREFORE, upon a motion duly made by Chairman Palmitese and seconded by Member Stoia,

BE IT RESOLVED, by the Zoning board of Appeals for the Town of Granby, upon the facts presented and the determination made, that the Area Variance request for relief of 27-feet from the rear yard setback requirement of 50-feet, for the placement of a 28'x16' storage shed, as submitted on site plan/boundary survey dated 5/26/21, on property located at 988 County Rt 8, Fulton, NY 13069; Tax Map #252.00-03-09, is hereby GRANTED.

A vote was taken:

Tyler Palmitese, Chairman	Aye
Peter LeoGrande, Member	Aye
Melanie Strong, Member	Aye
Mallori Stoia,, Member	Aye
Cheryl Anthony, Member	Aye

5AYES 0 NAYES 0 ABSTENTIONS - Request APPROVED.



ZONING BOARD OF APPEALS
TOWN OF GRANBY

IN THE MATTER OF THE APPLICATION OF
Hogan Engineering PC
FOR AN AREA VARIANCE

RESOLUTION 2023-02

WHEREAS, the Applicant, **Hogan Engineering PC for prospective property owner Davidson Management Group**, has appealed to the Zoning Board of Appeals for an Area Variance for relief of Granby Zoning Ordinance: Section IV, Area and Bulk Regulation – Density Control Schedule for Maximum Lot Coverage in the CIT Zoning District, in regards to the proposed construction of a car wash facility on property located at 805 West Broadway (State Rt. 3), Fulton, NY 13069; Tax Map #235.00-05-29.12, and,

WHEREAS, notice of public hearing was duly published in the official newspaper of the Town of Granby at least (5) days prior to the date of such public hearing, and all additional notices thereof having been made as required by law, and,

WHEREAS, a public hearing was held on Monday March 6, 2023 upon the above referenced matter, and,

WHEREAS, at said hearing all those interested in said variance were heard either in favor of or in opposition there to, and,

The Board has relied on verbal representations made by the applicant during the course of these proceedings as noted in the applicable Board Minutes. The validity of these statements are expressly made a condition of this approval.

NOW THEREFORE, upon a motion duly made by Chairman Palmitese and seconded by Member Stoia,

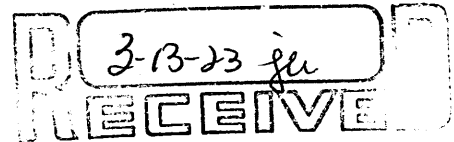
BE IT RESOLVED, by the Zoning board of Appeals for the Town of Granby, upon the facts presented and the determination made, that the Area Variance request for relief of the Maximum Lot Coverage requirement of 35%, and to allow 76% Lot Coverage for the proposed construction of a car wash facility as submitted on Site Plan - Exhibit A dated 12/20/22, on property located at 805 West Broadway (State Rt. 3) Fulton, NY 13069; Tax Map #235.00-05-29.12., is hereby **GRANTED with the following express condition:**

- 1) The storm water calculations must be reviewed by the Town Engineer to assure that any SWPPP regulations or requirements for storm water runoff be acceptable to the Town Engineer by reason of the extra lot coverage allowed by this variance.

A vote was taken:

Tyler Palmitese, Chairman	Aye
Peter LeoGrande, Member	Aye
Melanie Strong, Member	Aye
Mallori Stoia,, Member	Aye
Cheryl Anthony, Member	Aye

5AYES 0 NAYES 0 ABSTENTIONS - **Request APPROVED.**



ZONING BOARD OF APPEALS
TOWN OF GRANBY

IN THE MATTER OF THE REQUEST
Hogan Engineering PC
FOR AN INTERPRETATION

RESOLUTION 2023-03

WHEREAS, the Applicant, **Hogan Engineering PC** for prospective property owner **Davidson Management Group**, has appealed to the Zoning Board of Appeals for an Interpretation of Granby Zoning Ordinance: Section IV, Area and Bulk Regulation - Density Control Schedule for Yard Setback requirements, in regards to the proposed construction of a car wash facility on property located at 805 West Broadway (State Rt. 3), Fulton, NY 13069; Tax Map #235.00-05-29.12, and,

WHEREAS, notice of public hearing was duly published in the official newspaper of the Town of Granby at least (5) days prior to the date of such public hearing, and all additional notices thereof having been made as required by law, and,

WHEREAS, a public hearing was held on Monday March 6, 2023 upon the above referenced matter, and,

NOW THEREFORE, upon a motion duly made by Chairman Palmitese and seconded by Member Stoia,

WHEREAS, the ZBA made the following points of discussion:

- 1) Should the two parcels be viewed as two for the sheer reason that it resides in two municipalities.
- 2) Does it make sense to develop as one lot because as two separate parcels it would be impossible to meet the requirements.
- 3) Should a municipal line determine a front yard, because if so, then it would dictate that there could never be an instance where a building could cross municipal lines, which is not detailed or supported within the Zoning Ordinance.

Resolution #2023-03

BE IT RESOLVED, by the Zoning Board of Appeals for the Town of Granby, that the determination made upon a motion moved by Chairman Palmitese, is that the **Interpretation of Yard Setbacks** for property development of a lot residing within two municipalities is that the street is the Front yard and if this building development meets the front yard requirement of the City of Fulton Code, then it is appropriate per the Town of Granby Zoning Ordinance. Accordingly, then the parts of the development for the rear yard and side yard setbacks located in Granby are met by the Town of Granby Code, and no further action is required by the ZBA. The motion was seconded by Member Stoia, all were in favor without further discussion and the motion carried.

