

TOWN OF GRANBY PLANNING BOARD

Meeting Minutes

May 2, 2023

A regular meeting of the Granby Planning Board was held at the Granby Town Hall, 820 County Route 8 Fulton; and was called to order at 7:00 pm by Chairman Jane Crego.

Meeting Attendance as follows:

David Crockford

Jane Crego, Chairman

Rhonda Nipper

Lori Blackburn

Erin Palmitese

Carl Nysten, Vice Chairman

Tom Anthony

Lisa Somers, Clerk

Also Present: Robert Burgdorf of Nixon Peabody LLP, Joseph E. Bergman, Amanda Whitney, Cheryl Anthony, Tim Hogan of Hogan Engineers PC, Town Engineer Doug Miller, and Town Planning Attorney Jamie Lynn Sutphen.

BUSINESS

Joseph Bergman – Initial Meeting

Joseph Bergman submitted applications for SUP and ZBA Variance regarding his business proposal for residential property located at 190 Russell Road. He currently operates a towing business called ‘Joe’s Towing’, he also works on small engines and provides minor auto repairs. He is proposing to operate multiple small businesses on his property and was previously approached by the Town to obtain the necessary permits. He explained that many similar businesses exist in the surrounding neighborhood and that his business would have no greater impact to the area than those. He also stated that he would like to perform NYS Inspections and requires Town approval before receiving a NYS certification or licensing. His application included additional uses of U-Haul rentals and future location for propane tank exchanges. He provided copies of a sketched site plan for Board members to review. He remarked that he can provide a necessary service to the residents by providing inexpensive service with business hours that cater to people that work daytimes by offering weekend hours.

Attorney Jamie Sutphen asked if the property was also his residence, to which he replied it was. She explained that some of his proposed uses are in conflict with the Towns allowable use chart and home occupations regulations, specifically the auto repair business. She asked him to clarify what types of machines would be involved with the small engine repair business, he replied - lawn mowers, snowmobiles, motorcycles, ATVs, and dirt bikes to name a few.

Member Tom Anthony stated that he was familiar with the property and asked why Mr. Bergman was approaching the Board when the business he described has been up and running for some time. Joseph Bergman replied that he needed Town approval in order to expand the business with NYS DMV Certification in order to provide yearly required vehicle inspections and other auto repairs regulated by the State. Attorney Sutphen responded that auto repair is a prohibited activity for home occupations. Member Anthony remarked that there are several similar businesses in the neighborhood already, the Board members agreed, and Attorney Sutphen remarked that businesses considered as pre-existing are non-conforming and legal provided that they were in conformance with the Zoning Ordinance at the time they were formed. A Board Member commented on existing signage for inspections on the garage, to which Mr. Bergman explained that he was preparing for certification but that sign lacks serialization numbering of the license at this time. Chairman Jane Crego was asked how long the business has been in operation and how long he has lived at the property – business for three to four years, and he moved to the property five to six years ago. The Attorney stated that that timeframe does not establish a pre-existing status and is therefore operating illegally. Chairman Crego explained to the applicant that although some changes to the Zoning Ordinance have occurred in the past few years, the Ordinance’s Use Chart required a special use permit with site plan review for decades previously.

The site plan was discussed briefly to determine what features are existing or proposed – the parking does not exist as proposed. He explained that he uses the driveway and a portion of the neighboring property, 184 Russell Road, which he is in the process of purchasing. Both parcels are owned by Hyland Partners currently, 190 Russell Road has completed the terms of purchase agreement and is awaiting final transfer paperwork, 184 Russell Road is a new purchase that is currently undergoing negotiations.

Member Anthony asked about the particulars of the Towing business – frequency and storage. Mr. Bergman replied that tow calls for service repairs generally go to a garage or the customers property, and that occasionally he does a repossession which he brings to the property and stores in a gated yard behind the garage. He added that he basically retired from his previous job and invested his monies into purchasing the tow truck with plans to eventually run a repair

garage which is work that he has done all his life. He was fined by the DMV for performing regulated repair work without a license, and was told that the only work a property owner can perform is changing tires and oil. In order to operate a business that will support his family he needs to gain Town approval and then receive DMV certification. He added that his business plan can help a lot of people that don't have the ability to pay for expensive work provided by large garages and his flexible hours on weekends would save people from having to take time off from work to obtain required inspections or needed service. The attorney asked what specific activities are occurring on the property that are not under the purview of the DMV – auto welding, tune-ups, oil changes, tire change, tire repairs, and towing. He added that he has two to three cars at any given time in the gated yard behind the garage; and can have two or three cars in the driveway for repair work.

Upon advisement of the Attorney Sutphen, the discussion was tabled until the meeting on June 6th to allow a discussion with the Codes Office, whom is authorized to interpret the proposed uses against the Town's Use Chart and home occupations regulations. Once the allowable use determination is made, the Board will be able to advise the applicant on the applicable review and approval processes he will need to undergo, as well as the paperwork he will need to submit.

BUSINESS

Tim Hogan of Hogan Engineering PC -Preliminary Review

Tim Hogan approached the Board to present a proposal to construct a car wash facility on property located at 805 W. Broadway (State Rt 3) that is comprised of a lot within The Town of Granby and a lot within the City of Fulton. The initial meeting with the Planning Board was on 12/6/22, wherein it was decided that the City of Fulton would be the Lead Agency for SEQR and subsequently process the 239 Review to the County. The project consists of a six-bay car wash building 20-feet in height, 40-feet wide, and approximately 126-feet long on 1.15 acres of land. Mr. Hogan described the steps completed thus far in moving the project forward as follows:

- Granby ZBA granted requested relief of 76% for Lot Coverage.
- Granby ZBA granted a ruling for Interpretation of Yard Setbacks that supports the jurisdictional municipality's zoning requirement for the specific yard area with the total development viewed as a single parcel.
- Fulton Planning Commission granted a Negative Declaration Determination for SEQR dated 4/10/23.
- Oswego County Planning Dept recommended an approval of the project based on the submission for GML – 239 l&m Review dated 4/4/23.
- Fulton Planning Commission granted Site Plan Review Approval dated 4/10/23.
- NYS DEC letter dated 4/27/23 acknowledges no wetland encroachment or impacts; also, that threatened or endangered species of the bald eagle and the Indiana bat occupy local habitat but proposed activities determined to have no adverse impacts.
- NYS OPOHP letter dated 12/13/22 determined that no impacts by this project to archaeological or historic resources.
- NYS DOT email dated 4/18/23 confirms completed review and approval to proceed to permit PERM 33. Tim Hogan stated that the DOT accepted design to enter only at one driveway and to exit right only from a second driveway to eliminate interference with a center lane turning for Phillips Street.
- US Fish & Wildlife letter dated 3/16/23 concluded that the project would have no effect on the identified endangered species of the Indiana Bat.
- Traffic Analysis, sent to NYSDOT letter dated 2/20/23, concluded that the facility will not substantially increase traffic to the existing roadway.
- Tim Hogan stated that the Storm Water Management would be overseen by City of Fulton Engineer and involves two phases – 1) During construction where no water to flow to adjacent properties, and 2) after construction deals with surface run-off – a filter strip installed at grass edge that slows water flow and catches dirt and oil before contacting the grass area, and is cleaned every two years. He further commented that the DEC SPDES Permit will be required due to disturbance of more than one acre.

The Board members had received the updates and associated paperwork described via emails and as part of the opengov permit system utilized by the Town. Some discussion ensued regarding the stormwater information provided, the need for additional paperwork, and nonconformance with queuing allotment prescribed by the Granby Ordinance. The project was reviewed by the Granby Town Engineer, Doug Miller, who supplied a report to assist the Board's review which had targeted an issue with the drainage details supplied. A Stormwater Analysis was supplied but not the SWPP, which Mr. Hogan stated would be developed once approvals were received because of the cost to generate. Additional paperwork would be provided for Engineer Miller's review.

The queuing requirement of five spaces for each bay for a car washing station, in accordance with Ordinance section V(B)(1)(a), has not been met per plan set page C2.4 that shows only 4 spaces. Mr. Hogan responded that there are additional spaces along both sides of the building for vacuuming and emptying refuse into cans that would supply the additional spacing. He added that the traffic study and previous experience of flow rates for similarly sized areas that they have car wash facilities supports the need for a maximum of three spaces per bay, and they have designed for four as a buffer. The car wash business has seasonal use where maximum waiting times are applicable, and the remainder of the year can be constant with one to two cars waiting. Attorney Sutphen asked for the applicant to provide information of the waiting times for the other businesses.

Member Anthony asked about the contracts for businesses that provide the cleaning of the filter strips and bay areas and requested copies for the Town record. Mr. Hogan replied that the filter strips are cleaned every two years, the catch basins in each bay are cleaned every three months as is the oil/water separator. He added that site visits are made daily by personnel to check all mechanicals and empty the garbage cans. No dumpsters are allowed on the property; therefore, refuse is hauled away daily. Once the property is purchased and a closing is complete then contracts are generated for the cleaning work and will be supplied to the Town.

Signage is to be located on the building only per plans.

A Public Hearing was scheduled for the June 6th meeting.

BUSINESS

Attorney Robert Burgdorf of Nixon Peabody LLP representing Blue Sky III LLC d/b/a Verizon Wireless – Initial Meeting & Preliminary Review

Attorney Robert Burgdorf presented an application (copies distributed to all Board members) to construct a proposed wireless telecommunications tower and facility for Verizon Wireless. He explained that a significant coverage gap exists in the local network located in the southern portion of Granby and the proposed facility on Regal Drive would provide improved wireless service coverage and capacity for the area. The intention is to provide necessary and critical upgrade of the Verizon network in Oswego County, which upon completion will support new, advanced emergency and non-emergency 4G communication services. The Attorney explained that the strength of the signal is determined as a function of the tower height much like a flashlight radiates a larger ring as it moves vertically up from the ground, the radio signal naturally dissipates as you increase the distance from the tower. Exhibits E & F were provided to illustrate the radio frequency achieved versus the tower height with propagation maps, as well as the analysis of the site selection. Construction of new towers is never the first choice for a project and collocation on an existing tower or building is reviewed during the RF engineers siting study. Unfortunately, the search area for this tower does not easily lend itself to opportunities for collocation; therefore, the proposed location submitted for the application was determined to provide the seamless coverage at thresholds that Verizon is responsible to provide in the County. The Attorney explained the mechanics of the service, who owns it and how the towers work together. The suppliers of public utilities such as Verizon, AT&T, and others provide their own infrastructure to transmit a radio signal between various cells (tower and facility) that creates a network that provides continuous transmission as a user moves through an area. Slight overlapping of the cells or towers by various suppliers creates a honeycomb representing seamless coverage – and is what Verizon intends to create with the construction of this new tower. The project will achieve 4G service which should allow the various uses of current technology. The band width allowed is chewed up with each increase in G which occurs because people use more and more technology; this in turn requires more towers to fill in the spaces in service coverage.

The Site will be located within a 100'x100' leased and fenced area on property located at 40 Regal Drive and owned by Ernest Regal. The facility will consist of a 185' tall self-supported tower (plus 4' lightning rod) with concrete pad for equipment cabinets. No lights are required on the antenna since it is below the FAA requisite height of 200', but a single 25W work light will be operable when a technician is on site. A 12' wide gravel access road within a 30' wide utility easement will extend from the end of Regal Drive to the Site, and will remain outside of the identified wetlands area as is shown on Plan sheet CA100. The applicants have completed online applications for site plan review and special use permit via Opengov System, and have also supplied paper application package for all Board members. Exhibits A, B, C and D respectively supplies completed Town application worksheet, project description narrative, applicable legal standards for public utilities, and proof of compliance with standards within the Granby Zoning Ordinance Section VII(C). The remaining Exhibits G-N of the package supply, LEAF SEQR, Lease agreement, Verizon FCC licenses, structural design letter, project site plans, proof of federal regulations compliance, Ag Data statement and photo simulation report.

The Board members had the following questions:

~ Member Blackburn – Enquired about renting space on the tower to other carriers to accommodate future collocation, to which the attorney replied that the tower is designed for multiple users – at least three carriers with full arrays. She also asked if the lease detailed authority of access because she works for a group that inspects like facilities and often runs into property owners that refuse access. Attorney Burgdorf answered that the lease does cover permissive access arrangements.

~ Attorney Sutphen – Introduced herself as Town’s representative and stated that she represents several other Towns that have built towers. Asked why the tower is so tall at 185’ – seems much taller than others that she has dealt with. Attorney Burgdorf replied that the coverage in rural areas tends to require a larger footprint, and likened the range to that of a flashlight when pulled vertically up from the ground – it spreads with height. The range of the Targeted Improvement Area is directly proportional to the tower height to yield adequate coverage for the identified gap in the overall network.

~ Member Anthony – Stated that the industry used to utilize crane tests to determine placement, height... Attorney Burgdorf replied that the old way has been replaced by computer modeling that can account for many variables such as topography or ground coverage and usage, wetland and floodplain location, contour and elevation, and other natural disturbances to proposed radio frequency. In actuality, due to the technological constraints, there is limited flexibility to where a tower can be located and function properly.

~ Chairman Crego – Commented that the City of Fulton Fire Department listed within the paperwork is incorrect, it should be either the Granby Center Volunteer or the Cody Fire Department. The Chairman also stated that she is employed by a competitor of Verizon and therefore is recusing herself from the review and processing of this application. Vice Chairman Carl Nysten will handle the review going forward.

~ The zoning district was discussed, appears to be in the A-1 District.

~ Electric to be run underground from an existing power pole located on Regal Drive. The necessary power to operate the tower is similar to that of a residential home. A battery back-up unit will be on-site if ever needed.

~ The lease of property is for a term of five years with option for four renewals – total of 25 years.

A Public Hearing was scheduled for the June 6th meeting wherein the SEQR will be reviewed. The Clerk will prepare and send the referral for a 239Review to the County and mail SCAD notifications.

PRIVILEGE OF THE FLOOR

~ Member Anthony commented on the multiple illegal and preexisting businesses spotted randomly through the Town, and that the Planning Board is going to be under the gun as the bad guy telling one resident, they can’t have a business when similar activities are in the same neighborhood. Attorney Sutphen stated that the Town Board wants to clean up the Town and has adopted several amendments and new laws to assist in that process. This Board can not approve uses that do not comply, which is going to be difficult, it’ll be a long process with one property at a time.

MINUTES

A **motion** to approve meeting minutes for April 4, 2023 was **moved** by Tom Anthony and seconded by Carl Nysten, all were in favor, and the **motion carried**.

ADJOURN

With no other business before the Board a **motion** to adjourn at 8:33 pm was **moved** by Lori Blackburn and seconded by Erin Palmitese, all were in favor, and the **motion carried**

Respectfully submitted by:

Lisa Somers
Planning Board Clerk