

TOWN OF GRANBY PLANNING BOARD

Meeting Minutes

June 6, 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	Erin Palmitese
Jane Crego, Chairman	Carl Nysten, Vice Chairman
Rhonda Nipper	Tom Anthony
Lori Blackburn	Lisa Somers, Clerk

Also Present: Robert Burgdorf of Nixon Peabody LLP, Kris Boyce, Joseph E. Bergman, Cheryl Anthony, Tim Hogan of Hogan Engineers PC, Josh Arnold, Dave Arnold, and Town Planning Attorney Jamie Lynn Sutphen.

PUBLIC HEARING

Site Plan Review

Hogan Engineering PC for Davidson Management Group

Proposal to construct and operate a six-bay Precision Car Wash facility CIT zoned property.

Property address – 805 West Broadway (State RT 3) Fulton, NY

Tax Map #235.00-05-29.12

Chairman Crego called the Public Hearing to order at 7:01 pm asked the applicant to explain the project for the public present at tonight’s meeting. Engineer Tim Hogan stated that the prospective property owner, Davidson Management Group planned to build a *Precision Car Wash* that would contain six washing bays within a 126’x40’ building with a 25’ tower in the center. The property is comprised of a lot within The Town of Granby and a lot within the City of Fulton. The City of Fulton was Lead Agency for SEQR and the County 239 Review, and already provided approval for Site Plan Review. The Town of Granby required ZBA approval for exceeding lot coverage requirements, which was granted in March. The queuing space requirement of five cars per bay is met with four cars in line and additional six spaces around the property such as at trash receptacles and vacuuming stations. He added that the prospective owners have several other car washes of similar size located in similarly sized Towns, and that they normally experience a maximum of four cars waiting at peak business and traffic times. The wastewater will be treated through the City of Fulton and was already reviewed and approved by the Fulton Planning Commission and Public Works department; services for regular quarterly cleanout of sediment basins and purge of oil/water separator is contracted with Eggan Environmental Services located in Rome, NY. A SWPPP application preparation plan was submitted for review at the request of the Granby Planning Board, which will require review by the Town Engineer before final project approval. Mr. Hogan addressed concerns that the Town had regarding surface water reaching wetlands located off the back corner of the property. Filter strips will be installed around the perimeter of the paved area to catch any large particles as well as divert runoff to a catch basin to eliminate run-off amounts from exceeding present levels, as is required for storm water management. He also stated that the design was reviewed and approved by the NYSDEC, US Fish & Wildlife Department, and SHPO (State Historic Preservation Office) who determined that no environmental impacts would be created by this project. Mr. Hogan stated that the project will be filing a Notice of Intent to ensure transparency, although less than an acre will be disturbed and the filing is not required.

SEQR:

Chairman Crego read aloud the short EAF for SEQR that was performed by the Fulton Planning Commission. The Commission adopted a Negative Declaration on 4/10/23, siting no to small impacts anticipated by this project.

239 GML Review:

A referral package was prepared and submitted to the Oswego County Planning Department by the Fulton Planning Commission on 3/31/23. The County recommended *Approval* of the project in a determination letter dated 4/4/23.

Chairman Crego opened the Hearing to public comments: there were none. A motion was moved by Chairman Crego to close the Hearing at 7:25 pm, and seconded by Member Carl Nysten, all were in favor and the motion carried.

Discussion ensued amongst the Board members regarding stipulations of an approval including contingency for Doug Miller to review and accept the final SWPPP. A motion was moved by Member Carl Nysten to approve the Site Plan Review application for construction and operation of a six-bay car wash, conditional to SWPPP review by the Town

Engineer. The motion was seconded by Member David Crockford, all were in favor without further discussion and the motion carried.

Resolution #2023 -04

*BE IT RESOLVED, by the Planning Board for the Town of Granby, upon the facts presented and the determination made, upon adequate and substantial evidence presented by the applicant, the Planning Board does find that the application to construct and operate a Precision Car Wash facility on property within the CIT Zoning District, and 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 conditions:***

- 1. **Conditional approval upon the review and approval of the SWPPP by Miller Engineers Inc.***
- 2. **The Applicant shall maintain the property so as to be within compliance of all Town of Granby Codes, and NYS Building and Fire Codes.***
- 3. **The Town of Granby Codes Officer is to be granted access to the Property, without prior notice, during business hours to ensure compliance with the conditions of this Site Plan Approval.***
- 4. **NO further changes to the property are allowed without Site Plan Modification Approval from the Granby Planning Board.***

Vote was taken:

<i>Jane Crego, Chairman,</i>	<i>Aye</i>
<i>Carl Nysten, Member</i>	<i>Aye</i>
<i>David Crockford, Member</i>	<i>Aye</i>
<i>Rhonda Nipper, Member</i>	<i>Aye</i>
<i>Erin Palmitese, Member</i>	<i>Aye</i>
<i>Tom Anthony, Member</i>	<i>Aye</i>
<i>Lori Blackburn, Member</i>	<i>Aye</i>

7 AYES 0 NAYES 0 ABSTENTIONS – APPROVED.

PUBLIC HEARING

Special Use Permit & Site Plan Review

Blue Sky Towers LLC d/b/a Verizon Wireless

Proposal to construct and operate a 185’ tall Wireless Telecommunications tower and facility on A/R zoned property; a 100’x100’ parcel to be leased from property owner Ernest Regal. Site name is Bowens Corners.

Property address –40 Regal Drive, Fulton, NY

Tax Map #269.00-06-25.13

Chairman Crego called the Public Hearing to order at 7:01 pm asked the applicant to explain the project for the public present at tonight’s meeting. The Chairman then recused herself from further discussion and vote on the project because of an existing conflict, and the Vice Chairman, Carl Nysten, took over. Attorney Robert Burgdorf explained that the applicant would like to construct and operate a 185’ tall wireless communications tower and facility on a leased parcel owned by Ernest Regal which would be fenced and locked for public safety. The site analysis performed determined that the Bowens Corners location would provide the necessary upgrade to the Verizon system that would ultimately improve overall service to the network and support new advanced emergency and non-emergency 4G communication services.

SEQR:

A completed Part 1 of a long form EAF was provided with the initial application (Exhibit G) for Board member review. Attorney Jamie Sutphen read aloud the questions of Part 2 for Board member consideration whether the project will have no or a little impact, or a moderate to large impact on the surrounding environment. All questions were answered by the Board as no or little impacts expected, and Part 3 determination that this project would result in no significant adverse impacts to the environment.

A motion was moved by Member Lori Blackburn to adopt a **Negative Declaration** for the project Classified as a Type 1, the motion was seconded by member Rhonda Nipper, six were in favor with one abstention and the motion carried.

239 GML Review:

A referral package was prepared and submitted to the Oswego County Planning Department on 5/16/23. The County recommended *Approval* of the project in a determination letter dated 5/23/23.

Discussion ensued amongst the Board members as follows:

~ The Site Plan appears to have all relevant information, layout is standard in the industry, and deemed to be compliant with the Town’s regulations.

~ Vice Chairman Carl Nysten stated that the site selection process was prepared and reviewed by an engineer with no negative impacts to surrounding people or property. The SEQR review supports that finding as well.

~ Member Erin Palmitese stated that the neighbors were informed initially by the researcher, and then again by the Town through notification letter of this meeting, and there have been no comments or issues reported to date.

~Members Lori Blackburn and Erin Palmitese commented on potential issue regarding independent contractors having access to the tower if needed, because of occasions where property owners have impeded access. Mr. Burgdorf commented that lease agreement contains verbiage that allows for access of that type, as well as a driveway serving as an access easement shown on the site plan, further regulation by the Town is not required.

~ Many members were in favor of a decommissioning condition to SUP approval. Attorney Burgdorf argued that the lease stipulates that the tower would be removed by the facility owner if no longer used or contracted. He added that the structures are reused in other locations and rarely scrapped because they are a valuable asset in the industry. The members agreed to placing a condition that states - if the tower is not used for a period of more than 12 months, then it is to be removed at the expense of the applicant/owner.

~ Member Tom Anthony asked if a bond should be stipulated; Attorney Sutphen stated that there are standards the Town can use to passing the expense to the property owner. Member Rhonda Nipper commented that it should probably be stated in the lease.

Vice Chairman opened the Hearing to public comments-

- 1) A resident asked if the tower would impact the snowmobile trail, which the members replied that it wouldn't because its not located near the trail.

A motion was moved by Vice Chairman Carl Nysten to close the Public Hearing at 7:50 pm, and seconded by Member Lori Blackburn, six members were in favor with one abstention and the motion carried. A motion was moved by Member Tom Anthony to approve the Site Plan and SUP for construction and operation of cell tower as submitted. The motion was seconded by Member David Crockford, six were in favor with one abstention and the motion carried.

Resolution # 2023-05

*BE IT RESOLVED, by the Planning Board for the Town of Granby, upon the facts presented and the determination made, upon adequate and substantial evidence presented by the applicant, the Planning Board does find that the application to construct and operate a 185' tall Wireless Telecommunications Tower and facility on property within the A/R Zoning District, and on property owned and leased by Ernest Regal and located at 40 Regal Drive, Fulton, NY 13069; Tax Map #269.00-06-25.13, is hereby **GRANTED with the following express conditions:***

1. *The Applicant shall maintain the property so as to be within compliance of all Town of Granby Codes, and NYS Building and Fire Codes.*
2. *The Town of Granby Codes Officer is to be granted access to the Property, without prior notice, during business hours to ensure compliance with the conditions of this Site Plan Approval.*
3. *NO further changes to the property are allowed without Site Plan Modification Approval from the Granby Planning Board.*
4. *In the event that the tower is no longer used for a period of 12 months, then it shall be removed at the expense of the applicant/owner.*

Roll call vote was taken:

Jane Crego, Chairman,	Abstained
Carl Nysten, Co-Chairman	Aye
David Crockford, Member	Aye
Rhonda Nipper, Member	Aye
Erin Palmitese, Member	Aye
Tom Anthony, Member	Aye
Lori Blackburn, Member	Aye

6 AYES 0 NAYES 1 ABSTENTIONS – APPROVED.

BUSINESS

Josh Arnold – Sketch Plan Conference

Josh Arnold approached the Board to discuss the property he is purchasing know as MJ's Bar and Restaurant on State Rt. 48. The owner passed away at the end of 2022 and the business stopped operating at that time. The Board responded that he could continue to operate the existing business as is since a year has not yet lapsed without operation. The property is considered non-conforming and pre-existing to the new zoning district of R-1, so no modifications or changes may occur unless a Use Variance from the ZBA is requested and approved. Mr. Arnold stated that he planned to operate it as a bar

and restaurant with the existing clam shed and buildings in the rear of the property for large events, as well as continue the rentable trailer. He asked if he could subdivide it in the future since there is 12 acres of land, and have the business on one parcel and develop the other with homes. Attorney Jamie Sutphen replied that no changes are allowed to a property that is non-conforming because it will then lose the status and become illegal and subject to Code Violations. If he wanted to remove the bar and related businesses, he could develop residential areas and/or subdivide without ZBA action because those new uses are allowable in the R-1 District. A determination of the existing uses should be made by the Codes Officer to document going forward with a new owner.

Joseph Bergman—*Preliminary Meeting*

Chairman Jane Crego asked Mr. Bergman if he had spoken with the CEO, he replied he had. The Chairman stated that the Board had received correspondence and photos from the Codes Office that details the business uses existing, allowed, and not allowed on the property. The Auto Repair business is definitively not allowed on a residential property. The existing DMV signs need to be removed from the face of the building. Home occupations are considered an accessory use for a residence; small engine repair is allowed, the towing business is allowed, and the U-Haul rental could be allowed, all as major home occupations requiring site plan review and approval of a special use permit. Attorney Sutphen elaborated that the regulations allow for usage of an accessory structure (garage) and 10,000 sq.ft. of external storage of materials and equipment, the intention is for the activity to be in a building so as to protect the residential character of the area. Joe Bergman explained the details of each proposed use as follows:

- 1) Small Engine Repair – The letter from the CEO stated that any road-worthy vehicle would be considered auto repair and therefore not allowed, such as cars, trucks, motorcycles, and trailers – all things that require action at the DMV. A listing of allowable motorized machines was developed – snowmobile, jet ski, ATV, lawnmower/tractor, chain saws, boats, dirt bikes. A containment system for catching fluids was discussed as a requirement of service repairs. Joe Bergman commented that he would perform all work within the existing 40’x40’ garage with no outdoor activity. He also stated he would keep any machines waiting for work to be done in a fenced area by the Office.
- 2) U-Haul Rental Vehicles – Mr. Bergman stated that this business is not very active with only a small flow of use, and involves only four rentals available at any one time. A lockbox is available for dropping keys outside the Office. The site plan locates the lockbox and diagonal parking spaces meant for the U-Haul vehicles in the front yard and in front of the fenced and gated area. Mr. Bergman’s reasoning for this location is that the vehicles advertise themselves and provide self-service and convenient access for customers
- 3) Joe’s Towing – An original business started several years ago when Mr. Bergman retired. This is his most productive business that supports his family presently, and is where the auxiliary businesses of auto repair and inspections stem from. He has four trucks of various sizes for different tow jobs that are kept on the property. Vehicles towed are generally taken to either the owner’s residence or to a repair garage. Once in awhile he’ll perform a repossession and keep it in the back of the property in a secured location. Mr. Bergman commented that he has permission from the neighboring property owner, to the west, for occasional storage of the tow trucks. He added that he is the only employee.
- 4) Propane Sales – Decided not to pursue because the paperwork and regulatory procedures are not worth the small income he would make.

Attorney Sutphen asked if Mr. Bergman had a survey of the property, to which he replied he did not. His wife commented that Surveyor Russell Getman had performed a survey that they paid for but they received any copies. The Board advised them to contact the surveyor and request copies, because they would need to provide a scaled drawing of the property for the site plan review. Items discussed amongst the board that need to be included on the site plan:

- ~ Location of each business use.
- ~ Add vinyl strips to the existing fencing to provide a visual shield or barrier of the business.
- ~ U-Haul trucks can’t be located in the front yard – move them behind the fence, or move the fencing forward to absorb the rental trucks.
- ~ A single tow truck in the front yard is acceptable for a home occupation business, but not four – location of where the remaining three will be located.
- ~ Repossessed vehicles need to be in a secured location for public safety.
- ~ Elements of the businesses need to be contained to a single property and not adjoining parcels.
- ~ The CEO letter discusses the non-compliant parking areas which need to be all weather surfaced or paved per Town regulations. Member Tom Anthony mentioned the possibility of crushed limestone gravel similar to what the bus garage project was going to use.

~ Details of the proposed sign – regulations allow for a maximum size of 16 sq.ft, and can be wall mounted or free-standing.

~ Include exterior lighting – existing and proposed.

~ Hours of Operation.

A neighboring property owner, Peter LeoGrande asked to speak on behalf of Mr. Bergman’s project. He stated that he is a Granby ZBA member, a Russell Road resident since 1984, and is familiar with the Town’s Zoning Ordinance. The history of this property has involved auto repair for decades and should be considered as a grandfathered use. Attorney Sutphen and Chairman Crego responded that the pre-existing use lost its status when the business or activity ceased to be operational, and the property usage became solely residential which can have an accessory use of allowable home occupation per the Zoning Ordinance Section V-A (1). Subdivision of the property also eliminated the non-conformity.

Attorney Sutphen asked about his plans for the second property to the east. Mr. Bergman replied that he is purchasing the property and is undecided on whether to fix the existing manufactured home that has fire damage for rentable property or to remove it. The final issue discussed was the illegal 10’x16’ shed structure being used as an office. A permit needs to be obtained and proper setbacks adhered to. The Board instructed Mr. Bergman to complete a scaled drawing with details of the various business endeavors he is proposing, and return to the July 11th meeting.

PRIVILEGE OF THE FLOOR

~ Board member David Crockford questioned whether Mr. Bergman would be allowed to operate the auto repair business on the property next door that he intends to purchase. The issue with his present application is the home occupation regulation does not allow him to because of the residential use, but if he were to remove the existing manufactured home from the second property, he would be allowed to operate the business according to the Use Chart. The Board members agreed, the clerk will notify Joe Bergman of the situation before he creates new site plan for his current property.

MINUTES

A **motion** to approve meeting minutes for May 2, 2023 was **moved** by Carl Nylén and seconded by Tom Anthony, all were in favor, and the **motion carried**.

ADJOURN

With no other business before the Board a **motion** to adjourn at 9:00 pm was **moved** by Rhonda Nipper and seconded by David Crockford, all were in favor, and the **motion carried**

Respectfully submitted by:

Lisa Somers
Planning Board Clerk