

TOWN OF GRANBY ZONING BOARD OF APPEALS

Meeting Minutes

July 19, 2023

A regular meeting of the Granby Zoning Board of Appeals was held at the Granby Town Hall, 820 County Route 8, Fulton; and was called to order at 7:12 pm by Acting Chairman Peter LeoGrande.

AGENDA: Milks Public Hearing

Regular Meeting

MEMBERS: Tyler Palmitese, Chairman - absent

Peter LeoGrande

Melanie Strong

Mallori Stoia

Cheryl Anthony

ALSO PRESENT: Wayne Milks, Wendy Bristol-Milks, Tom Anthony, and Planning Board Attorney Jamie Lynn Sutphen.

PUBLIC HEARING

Wayne Milks

A motion was moved by Acting Chairman LeoGrande to open the Public Hearing at 7:12 pm, which was seconded by Member Stoia, all were in favor and the motion carried.

A request for relief of Granby Zoning Ordinance Section XI: Definition of Lot, in regards to the construction of a new residential structure on property located at 1045 State Rt 48, Fulton, NY 13069; Tax Map #253.00-03-06.

The applicants explained that they purchased a 16-acre property with an existing manufactured home that is old and poorly situated on the property. The home is located very close to the road and is in fact within a stretch of road that has experienced several traffic accidents. The Milks would like to build a new residential structure behind the existing home which would locate it at 62-feet from the edge of the paved roadway. They are requesting a variance to allow them continued residency in the manufactured home while they are building the new structure. The proposed stick-built structure is 30'x48' (1,440 sq.ft.) and is compliant with the yard setback requirements of the Zoning Ordinance.

Member Mallori Stoia asked how long the construction would take. The applicants responded that they planned to do most of the work themselves and have been stockpiling materials as market prices have fluctuated considerably over the past couple years. Their intention is to build the shell first and then begin hiring specialty contractors for the specialty areas that they can not complete. They also plan to pay out of pocket for as long as they can before obtaining a bank loan in order to decrease their total mortgage balance. They estimated that the work would take approximately three years to complete. Member Stoia responded that the Board has had similar requests in the past but they have involved much shorter timeframes. Discussion arose amongst the members of how to handle an extended time frame. Acting Chairman Peter LeoGrande commented that it's difficult for an applicant to set a timeframe of construction especially with current market prices and varied contractor availability. Member Melanie Strong asked if legally, is three years too long of a period for a variance. Attorney Jamie Lynn Sutphen responded that the variance can be temporary, can also be subject to extensions, and can be conditioned for scheduled progress updates should the Board feel it is necessary. Member Cheryl Anthony asked if there is a time limit when building a structure without a variance, which there is not. She added that since the construction will be occurring somewhat out of view by being located behind the current structure it won't create an unsightly distraction in the neighborhood. Likewise, by being located in such close proximity, it will be in the applicant's best interest to remove it in a timely fashion.

Attorney Sutphen prompted discussion of the statutory requirements of a balancing test utilizing five criteria to determine whether the benefit to the applicant outweighs any detriment to the neighborhood or community.

- 1) *Whether an undesirable change produced to the character of neighborhood* – The acting Chairman stated that the surrounding neighborhood is rural with an abundance of trees and that the second house would not change the character. It was noted that a large onion farm and a

nature preserve is located on adjacent parcels. Member Strong didn't feel that the construction would be out of place on the road, nor be undesirable since it would be a temporary situation. Member Anthony agreed, and commented that with construction occurring behind the current residence it's likely not to be seen the roadway.

- 2) *Whether benefit sought can be achieved by some other method* – The members did not think other means were feasible – recent purchase so the applicants weren't likely to leave, and it appears that finances dictate the construction.
- 3) *Whether request is substantial* – Acting Chairman LeoGrande stated it is substantial because its two houses instead of one. Member Stoia stated it is substantial also because of the timeframe of 3 years, but added that it's also temporary.
- 4) *Adverse impact to the physical environment* – The members stated no impact to the environment by this action.
- 5) *Whether hardship is self-created* – Yes, but dictated by financial resources available.

Without further public comment, a motion was moved by Member Strong to close the Hearing at 7:30 pm. The motion was seconded by Member Stoia, all were in favor and the motion carried.

GML 239 Review

It was noted that the project was subject of Oswego County Planning Department review because of the location on State Rt. 48. A Determination letter was received dated 7/9/23, in which the County stated that “no significant countywide or intercommunity impact is involved” for this project.

SEQR

Action is classified as a Type II and therefore not requiring review.

The members deliberated the merits of the request as follows:

~ Member Cheryl Anthony – Concerned with setting a precedent to allow extended timeframes for construction and possibly not carrying through with removal of original structure. She asked what is unique about this situation to allow granting of a variance. She also stated that for this property the layout allows for the activity to be out of clear view.

~ Member Mallori Stoia – Stated that she is not opposed to the situation, and that a new home is an improvement that benefits the neighborhood and the Town.

~ Member Melanie Strong – Stated that trailers are “temporary” in nature because they don't last very long before they need replacement. Member Anthony disagreed that all manufactured homes don't last, building codes and materials have vastly improved in recent years and they provide viable means of affordable housing.

~ Member Melanie Strong – Questioned how to formulate a long timeframe for a variance – schedule updates yearly of construction progress? How much time for removal – four months, six months? Can a variance be extended if needed? The Attorney replied that the Board can structure the variance how they see fit and include progress updates, and that the applicants can apply for an extension of the variance should situations arise that they would require more time.

~ Member Melanie Strong – What happens if the owners were to sell the property? The attorney replied that the variance would remain with the property and that the new owners would bear the responsibility of completing the construction and abiding by the conditions of the variance.

~ Acting Chairman Peter LeoGrande – Stated that the applicants stated a three-year time frame would be sufficient, and a condition to remove existing structure before receipt of a C of O as the Board has stipulated in the past would be acceptable to him.

~ Member Mallori Strong – Agrees with three-year time frame because it would provide three full working seasons to build and remove the existing structure before the winter season begins, which could be problematic for removal.

A motion was moved by Member Stoia to approve the request to allow continued residency while constructing a new home, and that the variance is temporary and good for three years, with condition that the mobile structure must be removed the earlier of 4 months from issuance of temporary C of O or

expiration of the variance. The motion was seconded by Member Strong; all were in favor and the motion carried.

Resolution #2023-05

*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 Definition of Lot, and to Allow for the continued residency in current residential structure while the construction of a second residential (30'x48' stick-built) structure ensues, wherein the Town allows only one principal structure per Lot; on property located at 1045 State Rt 48, Fulton, NY 13069; Tax Map #253.00-03-06, is hereby **GRANTED with the following express conditions:***

- 1) The area variance is temporary and is good for (3) three years.*
- 2) The existing mobile structure must be removed; the earlier of (4) four months from the issuance of a Temporary Certificate of Occupancy, or (4) four months after the expiration of the temporary variance.*

A vote was taken:

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

4 AYES 0 NAYES 0 ABSTENTIONS – Application APPROVED.

MINUTES

A **motion** was **moved** by Member Stoia to approve the meeting minutes for March 6, 2023. The **motion** was seconded by Member Strong; all were in favor without further discussion and the **motion carried**.

A **motion** was **moved** by Member Stoia to approve the meeting minutes for June 13, 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 Member Strong to adjourn the meeting at 7:48 pm, and seconded by Member Stoia, all were in favor and the **motion carried**.

Respectfully submitted by:

Lisa Somers
ZBA Clerk