

# TOWN OF GRANBY ZONING BOARD OF APPEALS

## Meeting Minutes

December 13, 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 7:30 pm by Acting Chairman Cheryl Anthony.

*AGENDA:* Gray Public Hearing

Beck Public Hearing

Regular Meeting

*MEMBERS:* Cheryl Anthony, Acting Chairman

Peter LeoGrande

Melanie Strong

Mallori Stoia

*ALSO PRESENT:* Steve Wall, Lester Beck, Mary Johnson, David Crockford, James Gray, John Matzke, Michael Curtis, Pete Ford, Tom Anthony, and ZBA Attorney Jamie Lynn Sutphen.

### PUBLIC HEARING

#### **James Gray**

*A request for relief of Granby Zoning Ordinance Section IV, Subsection B - Table: Side setback requirement in regards to the proposed construction of a residential structure on property located at 245 Pinnacle Hill Rd, Fulton, NY 13069; Tax Map #302.00-01-57.02.*

Acting Chairman Cheryl Anthony opened the Public Hearing at 7:32 pm. The applicant stated that he had received abuilding permit to build a new residence on a 4-acre parcel but had encroached on the side yard property line by 1'3" when constructing the pad. The property has difficulties concerning drainage and proper landscaping to facilitate sufficient flow of run-off forced the proposed location to move closer to the property line. A survey map had been provided demarcating the exact location of the concrete pad. The Acting Chairman asked how close neighboring structures were to the property line; the closest home is more than 1,000-feet away, the property is surrounded by trees with agricultural fields on one side. The Hearing was opened to public comments as follows:

- 1) John Matzke – adjacent property owner stated he has no issue with the request, in favor of granting the variance.

A motion to close the public hearing at 7:36 pm was moved by Acting Chairman Cheryl Anthony and seconded by Member Stoia, all were in favor and the motion carried.

Review of Five Criteria:

- 1) *Whether an undesirable change produced to the character of neighborhood* – No.
- 2) *Whether benefit sought can be achieved by some other method* – The members stated that the slab was already installed and to remove it would be costly. The slab was positioned because of the drainage manipulation of the lot in order to locate the home. Additional expense would have been incurred to relocate because of the need for fill at another location.
- 3) *Whether request is substantial* – No.
- 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.

The ZBA members concluded that the benefit to the applicant if the variance is granted outweighs the detriment to the community. A **motion** was moved by Member Stoia to approve the Variance request of 15 inches for side setback to construct a new residence. The **motion** was seconded by Member Strong; all were in favor and the **motion carried**.

#### **Resolution #2023-08**

*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 1-foot and 3-inches from the side setback requirement of 20-feet, to construct a new residence as submitted on site plan dated 11/24/23, on*

property located at 245 Pinnacle Hill Rd, Fulton, NY 13069; Tax Map #302.00-01-57.02, is hereby **GRANTED**.

A vote was taken:

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

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

## **PUBLIC HEARING**

### **Lester Beck – Bowens Corners UMC**

*A request for relief of Granby Zoning Ordinance Section V – E (1): Sign Regulations within a residential zoning District to allow replacement of existing signage that is larger and digital, on property located at 758 State Rt. 176, Fulton, NY 13069; Tax Map #269.00-07-06.*

A **motion** was **moved** by Member Stoia to open the Public Hearing at 7:42 pm; it was seconded by Member LeoGrande, all were in favor and the **motion carried**. Lester Beck stated that the existing wooden sign is old and in bad shape so they would like to replace it with updated digital features and make it slightly larger. Attorney Sutphen played a video of the proposed sign features that had been supplied by the applicant. Mr. Beck explained that the new sign would be easier to change the messaging because of the digital features which allows utilization of a computer rather than standing out in the weather replacing single plastic letters.

Acting Chairman Anthony opened the Hearing for public comments as follows:

- 1) Michael Curtis – Adjacent property owner that is kitty corner and across the road from the church. He has enjoyed having the church for a neighbor and is in favor of updating the sign, but has reservations concerning the illumination options for nighttime hours. If the sign can be dimmed during the evening, and/or programmed to turn off completely late in the evening and turn on again early in the morning, then he thinks it wouldn't be obtrusive to the neighborhood. The sign currently has two spot lights that are on 24/7 which hasn't been a nuisance, but because the proposal has movable messaging with varying degrees of light it may be distracting in the evening. He added that the church has always been a good neighbor and would work with the neighbors if its too bright, therefore he is in favor of the request.

Lester Beck replied to Mr. Curtis that although the messaging scrolls, they do not intend to have anything flashing and there is a timer system for dimming and turning the sign off and on. Messaging would not be changed daily but rather when the church events change.

Acting Chairman Anthony stated that it would be the first illuminated LED sign in the neighborhood which is rural and quaint. The Town strives to keep the rural agricultural character that identifies it through the Zoning regulations and the current revision of the Comprehensive Plan, so the variance needs to reflect that initiative because it would set a precedent for future requests. Attorney Sutphen reviewed the Code Regulations for signage in the residential districts, wherein illuminated signs are strictly regulated and clearly states *“Illumination of signs shall not be of intermittent or varying intensity...”* (page 23). She explained that the messaging could then not occur irregularly, or be flashing, or have changing text, but rather be continuous and steady in order to conform to the regulation. Member Mallori Stoia objected to that interpretation of the code and stated that she is familiar with the technology and that it can be made to be simpler and less dramatic rather than as was shown in the supplied video of the design company. The applicants added that they don't plan on changing the messaging on the sign daily, maybe weekly, and that its main purpose is to advertise the events of the church. Attorney Sutphen added that the review of the five criteria will help the members define the appropriateness of the LED digital features and overall sizing. Discussion began of the increased overall size which is only slightly larger than the existing sign but considerably larger than what the regulations allow for. Acting Chairman Anthony stated that the existing property is classified as pre-existing and non-conforming to the Town's Zoning Ordinance, and is legally allowed as it is, but if changes are made then the specific elements to change need to come into conformance with current regulations. Permitted non-residential uses, which the church is one, are allowed to have a sign not to exceed 15 sqft and be placed parallel to the road, or be 8 sqft per side if placed at right

angles to the road (page 22, Section E-1-a). The proposal consists of an overall sign size of 35 sqft on each side wherein 21 sqft is digital in nature. Member Stoya asked the applicant if they had other size options available, to which they replied that the developer would create any size they wanted but they only had the one option to present at this time.

A motion was moved by Acting Chairman Anthony to close the Hearing at 8:30 pm which was seconded by Member Strong, all were in favor and the motion carried.

#### County 239 Review

Acting Chairman Anthony read aloud the Oswego County 239 Review Determination letter dated 12/7/23, which had been received after a referral submission having been triggered by the property's location on State Rt 176.

Although the County's determination stated that the project presented no significant countywide or intermunicipal impact, they did provide additional comments as follows:

- Existing signage needs replacing because of poor condition.
- Proposed sign is larger – one foot shorter and one foot wider than existing.
- LED sign uncharacteristic of the neighborhood.
- Concern that LED illumination may be a nuisance to adjacent properties.

Review of Five Criteria:

- 1) *Whether benefit sought can be achieved by some other method* – Yes, a different sign could be installed that is smaller and not as technologically advanced. The applicants expressed that their intention in replacing the sign to something so different is to modernize the church and possibly attract more people. As is the case with all churches, they are losing membership and this is one way to appeal to a new crowd. The sign will also enable them to reach out to the community with services that are available such as the food truck.

Member Stoya discussed the role of the ZBA and its responsibility to uphold the intentions of the law while being compassionate to the needs of property owners. Although she would personally grant the variance, she can't as a ZBA member because the criteria review thus far doesn't weigh in their favor. However, if a smaller sign could be presented which would 'achieve the benefit by some other method' then she could in good conscience weigh the criteria in their favor. She also stated that what the ZBA decides would remain with the property past the current ownership and usage, therefore they need to be cognizant of future implications to their decision.

Member LeoGrande expressed a different opinion, stating that he could grant the variance requested and add stipulations that would control any perceived negative impacts.

Member Stoya summarized the situation of the applicant with what they possibly lose in overall size from the current wooden structure, they would gain both digital utility and a new modern appearance with a smaller sign.

- 2) *Whether an undesirable change produced to the character of neighborhood* – Yes. Member Strong stated that the style of signage is uncharacteristic of the neighborhood but not necessarily a bad change. It seems that the illumination characteristics at night are the only concern which could be alleviated as discussed – dimming and turning off /on with set timer. Member Stoya stated that the LED lights could be an undesirable change for the neighbors, but a new sign replacing the old wooden sign in poor condition is an improvement.
- 3) *Whether request is substantial* – Yes, the signage size is more than 4 times the requirement.
- 4) *Adverse impact to the physical environment* – Yes, the amount of light emitted is a form of pollution, but there are already two spotlights in existence.
- 5) *Whether hardship is self-created* – Yes.

Attorney Sutphen prompted discussion of whether the benefit to the applicant outweighs the detriment to the community if the variance request is granted.

~ Member Stoya stated that the church gains more benefit than detriment to the community with a new sign but that the proposal needs revisions to reduce the perceived negative impacts to the adjacent parcels.

~ Member Strong agreed that the benefit to the church outweighs any detriment primarily because the digital sign can be changed and made less bright for nighttime usage.

~ Member LeoGrande stated that the sign benefits the church and any people driving by. The modernization uplifts the appearance of the church and stipulations of an approval can control the intrusive nature of the digital LED features.

~ Acting Chairman Anthony commented that the church is quaint and part of the history of the neighborhood, a perfect example of what the Town sees as value in preserving. She agrees that the benefit of the digital sign for the church outweighs the detriment only if the intensity can be diminished and controlled. The ZBA wants to ensure that the first sign of this kind sets the right tone for future requests.

Attorney Sutphen prompted the next step being to discuss – if the ZBA grants the variance what conditions would be necessary, or if the request in the current form is not grantable should the applicants come back with a new request. Member Leo Grande suggested that a condition be that no flashing lights are allowed, and that changing the sign messaging be allowed only once a day. It was also mentioned that automatic settings to dim board lighting in the evening with timers for off/on during late night hours. Member Stoia was not ready to vote and was uncomfortable with the stipulations discussion because it could be forcing the applicants to agree to conditions not in their best interest just in order to get an approval. The proposed sign is going to cost the church a lot of money and in hindsight it could be a waste of money if utilization isn't allowed. She would like to see a revised sign presented which the applicants agreed that they could discuss. They added that they won't be replacing the sign until early spring so there is time to rethink what they need. A **motion** was **moved** by Member Stoia to table the meeting at 8:34 pm to allow attorney/client privileged discussion concerning interpretation of scrolling and intermittent language of the Regulations. The motion was seconded by Member Strong, the **motion carried** with a vote of 3-1, Member LeoGrande was against tabling the discussion.

Previous discussion did not result in a decision. A final decision and vote will occur at a meeting date yet to be determined.

Member Stoia stated that the sign needs to be illuminated at night, that's what the church has had in the past and she doesn't want to arbitrarily make them turn it off because of a perceived issue. The size of the sign is more of an issue, perhaps if they were to shrink the digital section then the LED lighting would be effective for drivers without reaching the adjacent parcels. The messaging could be stipulated as short and simple information. Member LeoGrande disagreed, he doesn't see the need to wait for a vote, the Board can approve their request and stipulate the size, and conditions of usage. Attorney Sutphen relayed a situation in Baldwinsville involving a LED sign for St. Mary's Church that the Town regrets because the random messaging and flashing lights are extremely intrusive to adjacent parcels as well as drivers – it is why Towns have such strict regulations against LED digital signs in residential areas. She advised the members to contact her directly with discussion points – and that it had to be one at a time to remain compliant with the Open Meetings Law. Discussion of the allowable parameters could involve the amount of sign that is changeable versus the amount of sign that is static, the background movement which is a direct issue of the intermittence of the regulations, and the frequency at which the messaging scrolls and is changed.

### MINUTES

A **motion** was **moved** by Member Stoia to approve the meeting minutes for November 14, 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 Stoia to adjourn the meeting at 8:57 pm, and seconded by Acting Chairman Cheryl Anthony, all were in favor and the **motion carried**.

Respectfully submitted by:

Lisa Somers  
ZBA Clerk