

# **TOWN OF GRANBY ZONING BOARD OF APPEALS**

## **Meeting Minutes**

January 16, 2024

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 7:02 pm by Acting Chairman Cheryl Anthony.

**AGENDA:** Beck Public Hearing

Parkhurst Public Hearing

**MEMBERS:** Cheryl Anthony, Acting Chairman

Peter LeoGrande

Melanie Strong

Mallori Stoia

**ALSO PRESENT:** Lester Beck, David Crockford, Jacob Parkhurst, Sean Sheldon, Wyatt Parkhurst, Dan Parkhurst, Jonathan Kemp Steve Wood, Tom Anthony, Supervisor John Snow and ZBA Attorney Jamie Lynn Sutphen.

### **PUBLIC HEARING**

#### **Jacob Parkhurst**

*A request for relief of Granby Zoning Ordinance Section V-G(7)(f): Minimum square footage for a residence on property located at 358 Stoney Robby Rd, Oswego, NY 13126; Tax Map # 218.00-02-02.* Chairman Cheryl Anthony asked the applicant to explain his request. Jacob Parkhurst stated that he owns property on Stoney Robby Rd and Cty Rt 8 and he purchased a manufactured home for him and his family to reside in, not realizing that there was a minimum size requirement in the Town. He provided a full-size surveyed site plan to illustrate the proposed location of the home, and a copy of the certificate of compliance for construction of a HUD home. He supplied a photo of the home and stated that he planned to replace the current old siding with vinyl siding, as well as replacing the roof. Chairman Anthony asked if other structures existed in the property because the aerial photos show a large residence. Mr. Parkhurst replied that he had removed the original structure with a Town issued building permit earlier this year which was located at 1835 County Rt. 8, and had subsequently applied through the County for a new address designation for the Stoney Robby Rd side of the property. He originally purchased the parcel in 2019 at a tax auction and has used it as a wood lot until he was ready to develop it residentially. He further explained that he had applied for, and received, a building permit for a stick-built home but due to inflated costs of building materials and high mortgage interest rates he opted to purchase a used manufactured home instead, in order to provide a home for his young family – a 19-month-old son, girlfriend, and another baby on the way. If he receives the variance, then a monolithic slab will be poured for the foundation where the gravel has already been placed. Attorney Sutphen asked about plans for any outbuildings as it is a requirement for all manufactured homes to have a minimum of a 12'x12' shed, he replied that he plans to build a garage once they have the house settled and the weather allows for it. Chairman Anthony asked about the remaining items on the site plan, to which Mr. Parkhurst replied that the driveway is already installed with a local highway permit for the road cut, the electric pole and service is there, and city water connection has been installed to the proposed home site. The septic plan was designed by a PE and approved by the Health Dept, and will be installed after the home is placed because access for the heavy trucks is in the same area and he doesn't want to risk breaking the lines. Member Strong asked if the Town has an age requirement, an audience member offered that he remembers when the Town removed that requirement, there is no age requirement in the Zoning Ordinance. Mr. Parkhurst stated that the home was built in 1988 as the HUD Certificate certifies. The possibility of an addition was discussed but it would be a few years away before they would need extra room and expand the structure. Member Anthony asked whether the parcel had an abundance of trees as the aerial photo illustrates, to which he replied it mostly trees although he has cleared a large area over the years for the home development. Attorney Sutphen asked about comparable homes in the area, to which he replied that the only nearby home is the manufactured home across the street, and added that his home will be located 160'-190' off the edge of the road. Attorney Sutphen also asked what the parking area depicted on the site plan refers to which has held up the County's 239 Review determination until after tonight's meeting.

Jacob Parkhurst explained that he had placed a load of gravel in the area adjacent to his driveway to allow for a landing pad of sorts for his large equipment and vehicles, such as an excavator, equipment trailer, and work truck. He emphasized that it is not a parking lot and will not have pavement as apparently the County mistook the area for.

Without need for any more questions from the Board, a motion was moved by Member Strong to open the Public Hearing at 7:21. The motion was seconded by Member LeoGrande, all were in favor and the motion carried. Public comments as follows:

- 1) Jonathan Kemp – Neighbor that resides at 318 Stoney Robby Rd – same side of the road and two properties away. He stated that he has no issues with allowing the variance and stated that it is a rural neighborhood and whether he built a bunker or a mansion no one would care. It's a quiet road to raise a family with lots of room to grow and also is close to his other relatives that live nearby. The road has a close community of families that that helps and enjoys each other.
- 2) Dan Parkhurst – Father of the applicant and very proud of his son and his achievements. He purchased the property at eighteen years old right after completing high school from his own savings. The property was delinquent from unpaid taxes and the purchase placed it back on the Town's tax roll. He had big plans for a stick-built home but the economy as it is made that an extremely difficult path with accumulating debt, so he changed direction and was able to purchase the manufactured home for cash without needing a loan. Unfortunately, he didn't know that it was non-compliant with the code, but if given the variance, the Town will gain a well-kept property that adds value to the area. The Parkhurst family has lived on this road since the 1940's and his son wants to raise his family where he has support and without incurring debt to do it.

Without further public comment, a motion was moved to close the public hearing at 7:28 pm by Acting Chairman Cheryl Anthony and seconded by Member Stoia, all were in favor and the motion carried.

### 239 Review

Attorney Sutphen stated that the Oswego County Review Committee for 239Review referrals was unable to complete the review for tonight's meeting, and as such the ZBA can not vote until the Determination letter is received. The lacks jurisdictional authority until the County releases their determination which should be tomorrow, so the members can complete discussion of the five criteria but can't make a decision tonight. The Board members agreed to meet on Friday January 19, 2024 at 6:00 pm to vote on the application request.

### Review of Five Criteria:

- 1) *Whether an undesirable change produced to the character of neighborhood* – No, there are several manufactured homes in the neighborhood, and the setback from the road is more than 160-feet.
- 2) *Whether benefit sought can be achieved by some other method* – No, Member Stoia stated that the applicant already purchased the home and has invested money in the development of utilities and driveway.
- 3) *Whether request is substantial* – The request for relief of 20% was stated as substantial by Chairman Anthony in relation to the code requirements, but stated as not being substantial by Members Stoia and Strong in relation to the size of the property and overall living space of the resultant home as well as the property development for utilities and future expansion.
- 4) *Adverse impact to the physical environment* – No.
- 5) *Whether hardship is self-created* – Yes, home was purchased before consulting building department for code requirements.

The ZBA members concluded that the benefit to the applicant if the variance is granted outweighs the detriment to the community.

Some discussion ensued regarding Ordinance Section V-G (7) and the criteria (a through j) required for compliant installation of a manufactured home involving good overall condition with HUD certification, materials for roof and siding to be those commonly used for residences, continuous skirting, removal of towing devices, elements to be constructed and installed in accordance to NYS Building Code, and include a shed at least 144 sq.feet.

No decision was made on the application at this meeting, ZBA to meet again on January 19, 2024 at 6:00 pm.

## **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 Public Hearing had been opened for the Beck application on December 13, 2023 and tabled to allow the applicant to submit alternate sign sizing. Lester Beck had submitted via email a sign that was 1-foot smaller in height for the digital section of the sign for Board consideration in response to concerns of the size and brightness of sign technology not used in this neighborhood. A motion was moved by Chairman Anthony to close the Hearing at 7:45 pm which was seconded by Member LeoGrande, all were in favor and the motion carried.

Discussion ensued regarding the new sign, located within the A-1 zoning district, that has a smaller digital section but still scrolls messaging, and has the same height from the ground and same size header section as originally proposed. Lester Beck described the digital component make-up of the sign as being 12"x12" modules that align to make one surface and dictates the overall sizing to be incremental by feet. The length of the sign remained the same because 7-feet is needed to allow for a readable scrolled message which is the characteristic of the sign that makes it desirable to the Church. The smaller sign also dictates smaller font for the messaging. The sign height remained the same because the road is higher than the property and would likely be unseen if lowered.

Attorney Sutphen explained to the members that they are interpreting the language of Section V-E (9): Illuminated Signs which creates a precedent for future sign applications. The digital type of sign is new in this neighborhood and if approved with scrolling capabilities then a digital scrolling sign would be allowed anywhere with the only control being the overall size. Chairman Anthony stated that the ZBA gives variances all the time which do not create a precedent and asked for further explanation as to why this situation is different. The Attorney explained that Area variances are dimensional and wholly dependent upon the situation of the application like side setback for house, or front setback for garage, but this request is to allow a type of sign that is described in the Ordinance as an 'Illuminated Sign' which is also defined as to not allow intermittent or varying intensity. Therefore, if the Board decides to allow the scrolling feature of an illuminated sign, then it is no longer variable because the interpretation made replaces/expands the definition of the Zoning Ordinance to allow scrolling digital signs. The Board is essentially making a clarification that scrolling is not an illuminated sign of intermittent or varying intensity which is not allowed by the code. The lasting result is that anyone would be allowed to have a scrolling sign.

Chairman Anthony stated that this application is for the replacement of an existing non-conforming sign which will improve the previous aesthetic quality and be easier for church members to post events. Although there are other signs in the area, it is not likely that they will be replaced. Members Stoia and Strong suggested wording in the approval to be a soft gradual scrolling movement, and that it can not be strobing or flashing.

Member LeoGrande asked if they can stipulate that the sign is static with no scrolling, to which the Attorney replied that it can be worded as such if the Board agrees. Member Stoia stated that she's not okay with that stipulation, it's the reason the church wants the sign, it would be a waste of money if you don't use the digital feature of a digital sign. Members Strong and Anthony agreed that scrolling would be allowed.

#### **Review of Five Criteria:**

- 1) *Whether benefit sought can be achieved by some other method* – No, Member Stoia stated that the changeable message is the rationale for the upgrade and associated expense to modernize the original signage.
- 2) *Whether an undesirable change produced to the character of neighborhood* – Chairman Anthony questioned if this is what we want in the A-1 zone which is rural and quaint, does a digital sign fit in. Member Stoia countered that she doesn't see the neighborhood as quaint because of the commercial businesses -Waldron's Furniture, the old Bowens Corners General Store converted to apartments with large asphalt/gravel parking, construction company equipment yard, Sorbello's Farms and several structures in disrepair. However, an argument was also made for the sign not

being undesirable because of the surrounding commercial, new sign size is similar to the original but without the spotlights, and because intermittence and varying intensity is not allowed. A soft scrolling sign could fit into the area. Previous discussion regarding turning the sign off at night was reconsidered because the new sign can be preset to dim at night, which is recommended by the manufacturer over turning it on and off. The existing sign has spotlights that remained on all night so the dimming would produce less light overall.

- 3) *Whether request is substantial* – Yes, the variance for the increased size of the sign is substantial to the code but not a substantial when compared to the existing sign.
- 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. Since the sign is a replacement with little difference in the overall size, and since the digital features are controllable for brightness in comparison to the two previous spotlights, the members agreed that the benefit to the applicant does outweigh any detriment. A motion was moved by Member Stoia to approve the originally proposed sign (7'4" x 4'9") with stipulations allowing soft scrolling without strobing or flashing and lowest dim setting at 10:00 pm nightly. The ZBA also finds that scrolling is neither intermittent or varying intensity. The motion is seconded by Member Strong; all were in favor without further discussion, and the motion carried.

#### ***Resolution #2024-01***

***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 the sq. footage requirement and to allow the installation of a new 7'4" x 4'9" digital replacement sign wherein the digital section is 7'4" x 3'2" on property located at 758 State Rt 176, Fulton, NY 13069; Tax Map #269.00-07-06, is hereby

#### ***GRANTED with the following express conditions:***

- 1) *Scrolling aspect of digital sign is allowed.*  
*Scrolling is interpreted by the ZBA as not to be "intermittent or varying intensity" which is not allowed per Section V-E (9): Illuminated Signs, therefore scrolling aspect can not be strobing or flashing, and instead be described as a soft and gradual scroll.*
- 2) *Lowest dim setting for brightness of sign to be utilized at 10:00 pm every night.*

A vote was taken:

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

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

#### **MINUTES**

A **motion** was **moved** by Chairman Anthony to approve the meeting minutes for December 13, 2023 with clarification that the Beck matter was not decided upon and only had discussion. The **motion** was seconded by Member Stoia; all were in favor without further discussion and the **motion carried**.

#### **ADJOURN**

A **motion** was **moved** by Member LeoGrande to adjourn the meeting at 8:37 pm, and seconded by Member Stoia, all were in favor and the **motion carried**.

Respectfully submitted by:

Lisa Somers  
ZBA Clerk