

GLASTONBURY ZONING BOARD OF APPEALS
Regular Meeting Minutes of Monday, May 3, 2021

The Glastonbury Zoning Board of Appeals with Peter Carey, Building Official, in attendance held a Regular Meeting on Monday, May, 3, 2021 via ZOOM video conferencing.

ROLL CALL

Board Members- Present

Brian Smith, Chairperson
Sandra O’Leary, Vice Chairperson
Nicolas Korn, Secretary
Jaye Winkler
Susan Dzialo
David Hoopes, Alternate
Doug Bowman, Alternate

Board Members- Excused

None

Chairman Smith called the meeting to order at 7:07 pm and explained the public hearing process to the audience. Chairman Smith also noted that 4/5 votes are needed for an application to pass and there is a 15-day appeal period.

Secretary Korn read the 2 agenda items.

Public Hearing

- 1. By Gregory J. Gregonis for a variance from Section 7.1a.2b to allow a shed to be located less than 75 feet from the front property line at 436 Buttonball Lane in Residence AA zone.**

Mr. Carey read the 1st application.

Mr. Gregory Gregonis began the slide presentation. He informed the Board that the ZBA sign was posted on the property on April 22, 2021, and will remain there until after the appeal. Mr. Gregonis stated that he is looking to place a 12-foot by 18-foot shed 50 feet from the property line, instead of the required 75 feet. Mr. Gregonis explained that the new shed will have vinyl siding with red shutters, matching the house. He also noted that the shingles will match the house and the structure will look nice. Mr. Gregonis stated that he and his wife purchased the property on November 20, 2020. He put up a slide that highlighted some points of section 7 of the building code regarding accessory uses and structures. He stated that the proposed shed will be 50 feet off of the front property line and 15 feet from the side yard. Mr. Gregonis informed the Board that Smith Brook cuts through the rear portion of the property. He noted that most of

his property is located in the wetlands buffer area. Mr. Gregonis informed the Board that he applied for a wetlands permit and should receive one on May 6, 2021 on the condition that a notice is posted in the *Citizen*. Mr. Gregonis stated there is a steep contour and hill on his property. He also informed the Board that much of his property is in the flood zone. Mr. Gregonis explained that he intends on keeping mowing equipment inside the proposed shed. He added that damage to the electrical equipment will not be covered by flood insurance. He stated that he does not want to place his shed in the flood zone and does not want to risk a flooded basement. Mr. Gregonis put up a photo of the proposed shed. He stated that he would like to tuck in the new shed in the side near the trees at the 50-foot mark. Mr. Gregonis put up a slide showcasing the location in between the 2 large trees and reiterated that this placement makes the most sense. The presentation was concluded.

Ms. O'Leary remarked that it was a great presentation. Mr. Hoopes agreed.

Secretary Korns inquired when the old shed was installed. Mr. Gregonis stated that he does not know and estimated that it could be 20 to 25 years old. He explained that he inherited that situation and reiterated that he bought the house in 2020.

Ms. Winkler inquired if any trees will come down to make room for the shed. Mr. Gregonis stated a few small sugar maples and some smaller trees will need to be cleared. He stated that he is still trying to decide if the larger trees will need to be taken down. Mr. Gregonis stated that the trees are leaning toward the house and if there are signs of damage or disease they will have to come down.

Chairman Smith inquired how far the shed will be from the upland review area.

Mr. Gregonis stated that it will be 15 to 20 feet from the brook.

Chairman Smith inquired if Mr. Gregonis will receive a staff administered wetland permit.

Mr. Gregonis stated that it is correct and added that all that was asked was to post a notice in the *Citizen*.

Chairman Smith inquired if Mr. Gregonis spoke to Mr. Mocko. Mr. Gregonis stated that he spoke with Mr. Mocko and someone else.

Mr. Bowman noted that the existing shed is rotting and was put there without a permit and a variance. He stated that it would be a great improvement to replace the shed and move it further from the street.

The hearing was opened for public comment, either for or against the application, and seeing as no one came forward to speak, Chairman Smith closed public comment on the application.

Mr. Gregonis asked what the next steps are. Chairman Smith explained that the Board will vote and asked him to contact Mr. Carey to undertake the next steps.

Chairman Smith thanked Mr. Gregonis for the very thorough presentation.

2. By Jason Elg for a Special Exception as provided for in section 7.1b.2b to allow a 4th car garage bay at 97 Dogwood Lane in RR zone.

Mr. Carey read the 2nd application.

Mr. Elg put up a slide rendering of the proposed garage and lean to. He stated that he is looking for a special exception to allow a carport in a dwelling less than 4500 square feet. The proposed garage will measure 24 feet by 20 feet with an additional 10 feet for the lean to structure. Mr. Elg put up a slide showcasing the location of the proposed garage. The presentation was concluded.

Chairman Smith inquired if the garage placement would require a variance. Mr. Carey stated that the application does not need a variance and it is just a special exception.

Secretary Korns inquired if the proposed garage has room for 2 bays. Mr. Elg stated that the intent is for one space and a work area.

Secretary Korns asked Mr. Carey for clarification on the garage bays.

Mr. Carey explained that they look at the volume and total area of the garage. With the 10-foot-wide lean to, it made the most sense to go with the special exception for the 4th car space.

Secretary Korns remarked that if the structure was smaller, this application would not need to go through the Board.

Mr. Carey stated that the lean to makes the garage structure too big for the regulations. He reiterated that they go by volume and size.

Chairman Smith explained that someone can change a garage into a workshop and vice versa.

Mr. Carey explained that, with the addition of the lean to, the proposed garage is much larger than a normal garage space. He noted that the rule of thumb is 12 feet by 24 feet. The size the applicant is proposing is much bigger than the standard. Mr. Carey explained that, in this case, the safest option was to get the special exemption.

Ms. Winkler asked the applicant to restate the measurements.

Mr. Elg stated that it is 24 feet by 20 feet with a 10-foot-wide lean to structure.

Ms. O’Leary inquired if the lean to would be enclosed.

Mr. Elg stated that it will be covered and used as a patio.

Ms. O’Leary remarked that many people enclose the structure with screening.

Mr. Elg stated that it would help keep out bugs.

The hearing was opened for public comment. A hand was raised against the application.

Mrs. Loan Nguyen of 54 Dogwood lane stated that she would like to voice her concerns. She explained that Mr. Elg cut down many dense trees that served as a privacy screen between their properties. She stated that Mr. Elg informed her that he was going to cut just one tree but ended up cutting many trees. Mrs. Nguyen stated that Mr. Elg only planted a few saplings one foot high, not enough for privacy.

Mrs. Nguyen stated that her property has lost greenery, privacy and a buffer of trees. She explained that she bought a house in Glastonbury because of the lush habitats and green spaces. Mrs. Nguyen stated that Mr. Elg’s carelessness has resulted in her property being devalued. She is asking Mr. Elg to treat his neighbors with respect. Mrs. Nguyen stated that she is opposed to the proposed garage structure because it is permanent, unsightly, and their backyard will be irreversibly changed. She explained that her family feels a sense of hopelessness and dismay and wants her voice to be heard. Mrs. Nguyen stated that if the Board approves the proposed garage, Mr. Elg must plant 8-foot-tall evergreens. She asked the Board to put the condition that 15 mature evergreens will be planted on the applicant’s property. Mrs. Nguyen explained that the evergreens should be planted on top of a berm to provide nutrients and extra height. She also expressed concerns with the applicant infringing onto her property. Mrs. Nguyen asked the Board to put the condition that the applicant hire a land surveyor to properly stake the boundary. She explained that, in one instance, Mr. Elg hired a contractor to remove a tree and the process was a disaster. She explained that, instead of removing the tree into sections, the whole tree was downed and fell into her property. Mrs. Nguyen explained that Mr. Elg was not monitoring the contractor and she had to call him and inform him that the tree fell into her yard. Mrs. Nguyen stated that she does not want any heavy equipment or CAT vehicles encroaching on her property. She explained that she is concerned that the renovations would damage her sewer and yard. Mrs. Nguyen read out section 13.9 of the regulations. She asked the Board to listen to her family’s concerns and thanked them for giving her the opportunity to speak out.

Chairman Smith asked the Board if there were any questions.

Mr. Bowman stated that he agrees with the points made by Mrs. Nguyen. He explained that the rendering is not accurate and the depiction of the yard is bare. Mr. Bowman remarked that the proposed garage will be right next to the neighbor’s property line.

Mrs. Winkler asked Mrs. Nguyen how many trees does she propose the applicant plant.

Mrs. Nguyen stated that she proposes 15 mature trees. She explained that the total width of 24 feet by 20 feet with a 10-foot lean would require many trees to shield the view. Mrs. Nguyen stated that she is not sure how many trees it would take to cover the area. She stated that she does not want to sit in her backyard and see the huge structure.

Chairman Smith asked Mrs. Nguyen where the trees should be planted.

Mrs. Nguyen stated that she wants the Town to monitor the construction and added that a licensed surveyor should stake the property boundary. She stated that she does not want construction material to fall onto her property. Mrs. Nguyen stated that a tree line should be planted on Mr. Elg's property and added that the trees need to be planted on a raised berm. She explained that planting the trees on the berm would provide nutrients and would elevate the trees. Mrs. Nguyen reiterated that the trees should be on the applicant's property parallel to the garage and property line.

Chairman Smith stated that, as an agency, the Board can impose reasonable conditions on an applicant. He stated that the Board tries not to get involved with neighborhood issues. Chairman Smith asked Mr. Elg how he plans on addressing the concerns.

Mr. Elg stated that the proposal is to scale and added that it will not be an eye sore. He stated that if the proposal did not have the lean to, it would meet the regulations. Mr. Elg stated that he is open to cost sharing.

Chairman Smith clarified that the Board does not have the power to enforce who pays for what. He explained that the Board can add a condition of approval requiring the applicant to provide screening, such as the planting of arbor vitae. Chairman Smith asked Mr. Elg if he is willing to screen the proposed garage.

Mr. Elg stated that a tree guy came out and unfortunately did not cut down the tree in a graceful manner and upset his neighbor. Mr. Elg stated that he already planted 7 white pines and added that he is not one to upset his neighbors.

Mr. Hoopes asked the applicant to put up a rendering of the structure. Mr. Elg put up the slide.

Mr. Hoopes asked the applicant if 2 cars can fit into the 24 feet by 20 feet garage.

Mr. Elg stated that it depends on the size of the vehicles and added it would fit if they were small cars.

Mr. Hoopes noted that if the applicant removed the lean to portion, the proposal would be for a 1 bay garage.

Mr. Carey explained that the application is right on the border line. He stated that 12 by 24 is a one bay garage and added that if there was no lean to, it would meet the regulations. Mr. Carey noted that if the lean to was just a patio, it would meet the regulations.

Mr. Hoopes noted that a 1 bay garage will be permitted as a right. He also stated that he understands Mrs. Nguyen's concerns.

Ms. Dzialo asked for a point of clarification. She stated that the main body of the garage measuring 24 feet by 20 feet is quite a bit larger than a standard 1 car garage. Ms. Dzialo asked Mr. Carey if this is a true statement.

Mr. Carey explained that when the lean to is added, the structure becomes a 2-car garage with accessory space. He noted that a 3-car garage space measures 36 feet wide and 24 feet deep.

Ms. Dzialo noted that it is a substantial size.

Mr. Carey stated that it is a substantial size, but not a full 2-car garage.

Mr. Hoopes suggested that the patio would be permitted as a right if it were moved a few feet away from the garage and not connected to the structure.

Mr. Elg stated it would be like a gazebo. He stated that he is looking for the most efficient use of space.

Chairman Smith stated that the Board has the power to put in reasonable conditions.

Mrs. Nguyen stated that it is not fair for her to share the costs. She stated that she is against any cost sharing. Mrs. Nguyen explained that she worked very hard at enhancing the aesthetics of her yard. She stated that she has 4 neighbors and it is not fair for her to share the costs with a neighbor who defaces nature and destroys trees. Mrs. Nguyen stated that she does not want the financial hardship and added that her family has emotional distress. She added that they did nothing wrong and will not agree to cost sharing.

Chairman Smith explained that the Board does not put in conditions for neighboring properties. He also stated that the Board cannot require her to share costs. Chairman Smith stated that the cost sharing was Mr. Elg's suggestion. He explained that the Board can only impose conditions on the applicant.

Secretary Korns asked Mr. Elg if he would consider withdrawing the application.

Chairman Smith explained that if the hearing is closed, the applicant would not be able to withdraw the application.

Mr. Elg stated that he is open to changing the design of the proposed garage and added that he has already paid the money for this application and he has nothing to lose. He stated that he would like the Board to vote.

Chairman Smith asked Mr. Elg if he is willing to put in plantings.

Mr. Elg stated that he has already spent money and there are saplings already planted. He noted that they will grow and fill in.

Chairman Smith wanted to confirm that the applicant planted 7 white pine.

Mr. Elg stated yes and explained that one died. He stated that the rest of the plantings are sufficient and he does not want to incur additional costs.

Ms. O'Leary explained that saplings take a long time to grow. She noted that trees do cost money but are needed for privacy. Ms. O'Leary explained that the privacy is not just for the neighbor, but for Mr. Elg and his family.

Mr. Elg stated that he does not want to put in mature trees, and added that each one is expensive and the cost of the project goes up. He explained that he did not expect his neighbor's objections and noted that he had no idea that poor relations exist with his neighbors. Mr. Elg stated that he will respect the Board's decision.

Chairman Smith informed the Board that Mrs. Nguyen has another question. He explained that the hearing has already taken a lot of time and they cannot keep going back and forth.

Mr. Hoopes suggested closing the hearing.

Mr. Kornes agreed with Mr. Hoopes and added that the Board has heard enough.

Chairman Smith closed the public hearing.

1) Action on Public Hearings

- 1. By Gregory J. Gregonis for a variance from Section 7.1a.2b to allow a shed to be located less than 75 feet from the front property line at 436 Buttonball Lane in Residence AA zone.**

Secretary Kornes read the 1st application.

Motion by: Secretary Kornes

Seconded by: Ms. O'Leary

MOVED that the Glastonbury Zoning Board of Appeals approves the application by Gregory J. Gregonis for a variance from Section 7.1a.2b to allow a shed to be located less than 75 feet from the front property line but no closer than 50 feet at 436 Buttonball Lane located in Residence AA zone on the grounds that compliance with the 75-foot setback would place the shed in the flood zone which is a hardship. The requirements of section 13.9 have been met.

Discussion:

Secretary Korns remarked that the application is entirely reasonable and makes complete sense.

Ms. O’Leary agreed and stated that it will be tucked away in the corner and will look nice.

Ms. Dzialo stated that it will be an improvement.

Chairman Smith noted that the applicant gave a very thorough and impressive presentation.

Result: Motion passes unanimously. (5-0-0)

2. By Jason Elg for a Special Exception as provided for in section 7.1b.2b to allow a 4th car garage bay at 97 Dogwood Lane in RR zone.

Secretary Korns read the 2nd application.

Motion by: Ms. O’Leary

Seconded by: Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Jason Elg for a Special Exception as provided for in Section 7.1.b.2b to allow a 4th car garage bay at 97 Dogwood Lane in RR zone. The requirements of section 13.9 have been met.

Discussion:

Ms. O’Leary stated that she made the motion but does not approve of the application. She explained that what is being proposed is a very large structure. Ms. O’Leary stated that she visited the property and the space is wide open with no privacy. She stated that she would like to see the applicant go back to the drawing board. Ms. O’Leary stated that she thinks the applicant can do something else to appease his neighbor. She noted that trees do cost money, but the applicant is spending money on the proposed garage. The saplings are not sufficient for screening. Ms. O’Leary noted that the privacy will benefit the applicant as well as the neighbor.

Secretary Korns explained that the proposal is very unusual and it is not keeping in character with the neighborhood. He noted that there are no free-standing garages in that neighborhood. Secretary Korns questioned if the applicant would put in any screening. He also noted that there

is an ongoing neighbor dispute that the Board should not be involved in and added that it is not up to them to enforce that the plantings/screening are put up. Secretary Korns suggested that the Board either approve the application without screening or vote against it.

Chairman Smith explained that, if the Board is to approve the application, they would ask for 5 trees and not 15. He noted that 15 mature trees is not a reasonable request, and would ask the applicant to plant arbor vitae or Norway pines, something more than saplings. Chairman Smith reiterated that the Board would ask the applicant to put in screening that is reasonable. He noted that the applicant is not interested in doing that. Chairman Smith stated that the point raised about the structure not keeping with the neighborhood is valid. Chairman Smith stated that Mr. Hoopes' point about the applicant doing something within the regulations is also valid.

Ms. Winkler stated that she has visited the property and agreed that the neighborhood does not have detached garages. She noted that it is a tight cul-de-sac and parking is tight in the neighborhood. Ms. Winkler brought up the point about applications regarding swimming pools and noted that the Board routinely asks for applicants to put in screening. She explained that it is in the purview of the Board to put in conditions for screening. Ms. Winkler remarked that, if someone wanted to sell their property, it would get better value if privacy and screening were in place.

Secretary Korns stated that he remembers other applicants wholeheartedly agreeing to screening. He noted that it is not the case in this situation. Secretary Korns stated that the history indicates some questions of how the applicant would proceed.

Chairman Smith agreed with the point and added that the applicant is not willing to screen unless it was done on a cost-sharing basis, something the Board cannot require. He noted that it is a nonstarter. Chairman Smith explained that there are 3 courses of actions: approve it as is, impose a condition, or deny the application based on the factor of not keeping with the neighborhood.

Ms. Dzialo stated that she wanted to play devil's advocate. She stated that she agrees with all the issues brought up and the proposed garage is out of character for the neighborhood. Ms. Dzialo stated that she is inclined to support a condition requiring the applicant to screen the structure. She noted that the applicant can put in a new structure and might choose not to screen it at all. Ms. Dzialo asked the Board if they are better off adding a reasonable condition, not 15 trees, but something that is doable.

Chairman Smith asked the Board to decide on voting with a condition or without.

Ms. Winkler stated that she has seen many neighborhood conflicts over the years and believes the neighbors will come up with a solution that works. She noted that she is in favor of adding a condition of approval.

Chairman Smith asked the other Board members to indicate if they want to vote on imposing a condition.

Ms. O'Leary noted that the neighbors need to work out some issues. She stated that the applicant should have some time to rethink the proposal. Ms. O'Leary stated that the applicant did not realize he is in a situation where his neighbor has grievances. She added that the yard is open and the applicant needs time to rethink the entire structure.

Ms. Winker stated that the applicant is within his rights to put in a structure and the Board is here to review the proposal

Ms. O'Leary stated that applicants should take into consideration the perspective of their neighbors. She explained that it is not right to ignore them. She noted that it is not right to be one sided and situations like this are give and take.

Ms. Winkler stated that she misspoke and she is supportive of neighbors working out issues.

Ms. O'Leary explained that the applicant needs time to think. She remarked that the applicant was not aware his neighbor was upset. Ms. O'Leary stated that the applicant should work out a solution with his neighbor.

Ms. Dzialo stated that she understands Ms. O'Leary's point. She explained that she suspects, if the Board denies the application, it might have a negative impact and will not create a positive scenario. Ms. Dzialo stated that, if the Board moves forward with an approval with conditions, the applicant does not have to implement them. But it would give the applicant time to think about the project. Ms. Dzialo noted that it is helpful not to setup a negative context.

Secretary Korn stated that there are no freestanding garages in that neighborhood. The proposed garage is large and there is a significant neighbor objection. Secretary Korn stated that he does not agree with putting in conditions and explained that the Board cannot enforce these conditions. He added that putting in conditions opens up a can of worms. Secretary Korn stated that he will vote no and that has not changed.

Chairman Smith asked the Board if anyone wants to amend the motion to add conditions. Otherwise, the Board will vote on the question up or down. Chairman Smith stated that he hears no offers and will call the question.

Result: Motion fails unanimously. (0-5-0)

Chairman Smith recapped that the Motion fails unanimously, because it is not in keeping with the character of the neighborhood.

2.) Acceptance of Minutes from April 5, 2021 meeting

Motion by: Ms. Dzialo

Seconded by: Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals approves the minutes as presented.

Result: Motion passes unanimously. (5-0-0)

Discussion:

Ms. O’Leary informed the Board that today is her last meeting. She explained that she has been on the Board for 42 years, since 1979. Ms. O’Leary noted that it was quite a sendoff and added that she will miss serving on the Board meetings that occur on the first Mondays of the month. Ms. O’Leary thanked the Board members and especially thanked Chairman Smith and Mr. Carey for their guidance and support. She noted that Mr. Carey is retiring too and noted that time is flying. Ms. O’Leary stated that she enjoyed serving on the Board, and that she hopes the other members enjoy it too. She wished the Board members good luck and good health.

Chairman Smith suggested the Board offer an informal resolution thanking Ms. O’Leary for her years of service. The Board unanimously thanked Ms. O’Leary for her years of service.

Chairman Smith remarked that Ms. O’Leary will be greatly missed and noted that it will be strange continuing without her. Chairman Smith thanked Ms. O’Leary once again for her years of service.

3) Adjournment

Motion by: Ms. O’Leary

Seconded by: Secretary Kornis

MOVED, that the Glastonbury Zoning Board of Appeals adjourns their regular Meeting of May 3, 2021 at 8:56 pm.

Result: Motion passes unanimously. (5-0-0)

Brian Smith, Chairperson