

GLASTONBURY ZONING BOARD OF APPEALS  
*Regular Meeting Minutes of Monday, May 2, 2022*

The Glastonbury Zoning Board of Appeals with Mr. Lincoln White, Building Official, in attendance held a Regular Meeting on Monday, May 2, 2022 via ZOOM video conferencing.

**ROLL CALL**

**Board Members- Present**

Susan Dzialo, Acting Chairman  
Nicholas Korn, Secretary  
David Hoopes  
Jaye Winkler  
Douglas Bowman, Alternate  
Philip Markuszka, Alternate

**Board Members- Excused**

Brian Smith, Chairman

*Due to technical problems, the meeting started late.*

*Vice-Chair Dzialo served as the Acting Chair. Chairman Dzialo seated Mr. Markuszka as a voting member.*

Chairman Dzialo called the meeting to order at 7:16 pm and explained the public hearing process to the audience. Chairman Dzialo also noted that 4/5 votes are needed for an application to pass and there is a 15-day appeal period.

Secretary Korn informed the Board that the zones are not listed on the agenda. Secretary Korn noted that the zone for the first application is the Planned Business and Development Zone. The Secretary noted that the zone for the second application is the Planned Commercial Zone. Mr. White confirmed that these are the correct zones.

**Public Hearing**

- 1. By Keyvan Falahati representing Chick-fil-A of 2941 Main St. requesting variance from Sections 4.6.7 and 4.6.8 defining minimum building setback distances from adjacent property lines, Front and Side yard setback lines, in order to accommodate an order processing area to protect employees and customers from the weather.**

Mr. White read the 1<sup>st</sup> application.

Mr. Andrew Chan explained that Mr. Falahati is not available. As Mr. Falahati's immediate supervisor, Mr. Chan presented on behalf of Chick-fil-A. Mr. Chan explained that there is traffic

congestion at the Chick-fil-A site because the community is increasingly utilizing the drive-through. He stated that Chick-fil-A employees use smart tablets to process these drive-through orders. Mr. Chan explained that they would like to put in a canopy to protect their employees and customers from the sun, snow, wind, and other weather conditions. He stated that the proposed canopy will be weather resistant. Mr. Chan noted he is requesting a variance because the proposed canopy will encroach a bit on the south and east side.

Secretary Korns noted that there is a possible error in the application. The application lists a variance request for the property line on the west instead of the eastern property line. Mr. Chan noted that it should state the west side and added that the Secretary is correct.

Mr. Markuszka inquired about the lighting onsite. He asked if the lights would be turned off and if the lights were motion sensor activated. Mr. Chan stated that the lights are supposed to turn on when its gets dim outside. Mr. White asked if the light stays on all night or if there is a timer. Mr. Chan stated that it should have a timeout and added that he thinks the light times out when Chick-fil-A is not in operation. Secretary Korns asked how late the business is open. Mr. Chan stated that he will provide that information in a few minutes.

Ms. Winkler asked if it was correct that the proposed canopy will infringe by about 2 feet onto the front property on the Main Street side. She asked if a pillar would stick out into the area of the sidewalk. Mr. Chan stated that there is no such pillar and they propose a true overhang of 50 feet as specified in the supporting documents. Ms. Winkler noted that on page 1 of 4 in the supporting documents there is an indication of 2 feet. She asked for an explanation. Mr. Chan explained that they want a canopy as long as possible to provide shade. He noted that the business closes at 10:00 pm.

Chairman Dzialo asked the Board if there were any other questions. Ms. Winkler inquired if there have been any traffic accidents on the site. Mr. Chan stated that he will have to get back to them about specifics. He explained that accidents can happen on the site. Mr. Chan stated that there are discussions with the design team that are planning to modify certain locations to meet the needs of the business. Ms. Winkler noted that the area looks dangerous for people to stand around in. She noted that several employees are on the west side and south side with tablets. Mr. Chan stated that is correct. He stated that the canopy is a way to alleviate the congestion. Mr. Chan noted that he can provide better details after conferring with his client. Ms. Winkler remarked that the product is so popular that employees are outside. Mr. Chan explained that this occurs during peak hours. He noted that fewer people are eating inside and more people are using the drive-through. Ms. Winkler inquired if the employees were outside during certain hours. Mr. Chan stated that the employees are outside during the busiest part of the day.

Ms. Winkler stated that the neighboring McDonalds has 2 lanes of traffic and asked if the property dimensions is such that they can have 2 lanes and no canopy. Secretary Korns noted that there are 2 lanes that blend in. Mr. Chan stated correct and added that the existing drive-through area cannot be increased any further. Mr. Chan stated that their solution is to provide a canopy that will protect employees and provide shade to the customers.

Ms. Winkler asked if the business will stop using employees outside once the proposed canopies are up. Mr. Chan explained that the proposed canopies and smart tablets go hand in hand. He stated that this and the increased use of the drive-through is becoming the norm. Mr. Chan stated that the canopies are an efficient way to provide safety for team members during peak hours. He stated that in the future more changes might be required. Mr. Hoopes informed the Board that a request for a variance and a special exception are listed on the online application. Mr. Hoopes noted that a special exception does not fit in with the application. Mr. White stated that is correct. He noted it is a scrivener's error.

Chairman Dzialo stated that the Board will move on to public comment.

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

Mr. Chan thanked the Board for their time.

**2. By Mark Friend representing GL Properties LLC of 121 Kreiger Lane requesting a variance from Section 4.15.1 to allow use without principal use & Section 4.15.2 to allow accessory structures without principle use structures.**

Mr. White read the 2<sup>nd</sup> application.

Mr. Mark Friend of Megson, Heagle & Friend, Civil Engineers and Land Surveyors, LLC, began the presentation. He stated that Mr. Jeff Pell, Owner of GL Properties, LLC will be available as well. Mr. Friend explained that his client's office is located at 100 Krieger Lane (Lot 12). Mr. Pell also owns 116 Krieger Lane (Lot 11) which is adjacent to 100 Krieger Lane. The lot at 116 Krieger Lane is used for employee parking, parking of construction equipment and storage of landscaping stock, which includes mulch, nursery stock, crushed stone, and other material. A hoop house for sand storage is also located at 116 Krieger Lane. Mr. Friend explained that accessory structures are on this lot and they are looking for a variance to allow an accessory structure without a principal use for the lot located on 121 Krieger Lane. Mr. Friend stated that his client purchased 121 Krieger Lane in September of 2020. Mr. Friend informed the Board that a variance was granted on December 3, 2001 to allow an accessory building without a principal building at 116 Krieger Lane. Mr. Friend noted that 121 Krieger Lane would provide additional employee parking, which is needed. There would also be similar accessory structures to those located at 116 Krieger Lane. Mr. Friend stated that they are looking for a variance to allow an accessory structure without a principal structure. Mr. Friend explained that his client owns a condominium unit at 100 Krieger Lane and this is where the business is conducted. Mr. Friend stated that his client does not need another principal building and added that a hardship exists by strict application of the regulations. A site proposal detailing 121 Krieger Lane was put up on the screen. Mr. Friend reiterated that the plans for 121 Krieger Lane would be similar to 116 Krieger Lane. Mr. Friend noted that they plan to put in 15 parking spaces and 6 concrete

bins. The bins will hold mulch, crushed stone, and other items determined by the season. The shaded area in the center is the stormwater management system. The presentation was concluded.

Mr. Hoopes asked the applicants if they would need to go before TPZ for an approval for a Special Permit with Design Review. Mr. Friend stated yes. IT Manager, Mr. Bobby Ashton, asked the applicants if the slide showcasing 121 Krieger Lane was submitted to the ZBA. Mr. White stated that the plans were not part of the packet and asked the applicants to submit the materials. Mr. White explained that the meeting is recorded and the documentation that was presented is part of the record.

Ms. Winkler inquired if the ownership of 121 Krieger Lane is connected to the Condo. Mr. Friend stated that the Condos were built before the variance was issued. Ms. Winkler read out a portion of the variance that was dated on December 6, 2001.

*“The approval will become effective when it is recorded by the property owner in the Town Clerk’s Office but to satisfy the provisions of Section 13.10 of the Glastonbury Building Zone Regulations concerning expiration, this approval shall become null and void two years from December 6, 2001, unless substantial construction on a building or a structure or use is established on a lot.”*

Mr. Hoopes stated that the variance was for 116 Krieger Lane. Mr. Friend replied correct. Ms. Winkler asked if the applicants can sell 116 or 121, which leaves the property without a principal structure. Mr. White explained that the applicant can sell the property and have a home office anywhere. Mr. Hoopes noted that the variance is to allow use of an accessory structure without a principal structure. Mr. White explained that the structure includes the infrastructure, underground work, and the detention pond. Mr. White further explained that substantial construction was done and the criteria was followed. Chairman Dzialo asked the Board if there were any other questions. Mr. White reminded the Board that this application will go before TPZ.

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

Mr. Friend thanked the Board for their time.

*The Chairman stated that a brief recess would be taken before the Board moves on to deliberations.*

## **1) Action on Public Hearings**

- 1. By Keyvan Falahati representing Chick-fil-A of 2941 Main St. requesting variance from Sections 4.6.7 and 4.6.8 defining minimum building setback distances from adjacent property lines, Front and Side yard setback lines, in order to accommodate an order processing area to protect employees and customers from the weather.**

Secretary Korn read the 1<sup>st</sup> application.

*Motion by:* Secretary Korn

*Seconded by:* Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Keyvan Falahati representing Chick-fil-A of 2941 Main St. in Planned Business and Development Zone, requesting variance from Sections 4.6.7 and 4.6.8 defining minimum building setback distances from adjacent property lines, Front and Side yard setback lines, with a variance of no more than 1 foot and 7 inches to the east (rounded to 2 feet) and 6 feet and 6 inches to the south (rounded to 7 feet) the plan as submitted (A-1.00) as shown, in order to accommodate an order processing area to protect employees and customers from the weather on the grounds that the planned canopies would enable more efficient service, thus enhancing traffic flow and reducing vehicle congestion and thereby enhancing safety and protecting health and safety for employees and that the canopies extension beyond the required setback would impact no other structure as they are extended over paved or planted buffer areas. The requirements of Section 13.9 have been met.

**Discussion:**

Secretary Korn stated that he is familiar with the complex and added that it is very congested. The congestion is worse during peak hours. Secretary Korn noted that the canopies make sense and will protect employees and customers. The Secretary stated that the renderings look esthetically pleasing. He added that he does not see a downside.

Mr. Hoopes agreed with Secretary Korn and added that he will vote in favor.

Mr. White noted that the encroachment line is to the east (not the west) and the south. He asked the Secretary to amend the motion to reflect the plan submitted (A-100) as shown.

Secretary Korn accepted the friendly amendment.

Ms. Winkler asked for the measurements.

Secretary Korn stated that the friendly amendment dealt with the 2 feet to the east (rounded up).

Chairman Dzialo noted that the Board often gives wiggle room.

Ms. Winkler suggested rounding upwards to the nearest foot.

Secretary Korn accepted the friendly amendment.

Chairman Dzialo stated that it sounds like a reasonable addition and added that it will help alleviate the congestion during peak hours. The Chairman noted that it is a good addition.

Ms. Winkler noted that the canopies are visually distracting. She stated that she agrees that the site is congested. Ms. Winkler reminded the Board that they made McDonalds remove the golden arches sign because it does not fit with the character of Glastonbury. She noted that this application is similar regarding the visual impact. Ms. Winkler stated that she is opposed to the application.

**Result:** Motion passes. (4-1-0)

(Ms. Winkler voted against.)

**2. By Mark Friend representing GL Properties LLC of 121 Kreiger Lane requesting a variance from Section 4.15.1 to allow use without principal use & Section 4.15.2 to allow accessory structures without principle use structures.**

*Secretary Kornis read the 2<sup>nd</sup> application. The Secretary noted that the agenda had an incorrect spelling of the word “principal” and provided the correct spelling.*

**Motion by:** Mr. Hoopes

**Seconded by:** Secretary Kornis

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by GL Properties, LLC for variance with respect to 121 Krieger Lane in Planned Commercial Zone from Sections 4.15.1 and 4.15.2 to allow accessory uses without principal use structures, including accessory structures, on the grounds that a hardship exists which is the regulations itself. The requirements of Section 13.9 are satisfied.

**Discussion:**

Mr. Hoopes stated that he is in favor of the application. He noted that there is no reason to have a building on that lot.

Secretary Kornis agreed and added that the use will be similar to the applicant’s continuous operations in that area. The Secretary noted that the proposal is consistent with the commercial nature of the area.

Chairman Dzialo noted that the proposal seems to solve a problem. The Chairman explained that it was noticeable to see the cars and trucks parked on the street. Chairman Dzialo agreed with the point made that it is a commercial area.

Chairman Dzialo asked if there were any additional comments. *There were no other comments.*

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

## **2.) Acceptance of Minutes from March 7, 2022 Meeting**

**Motion by:** Secretary Korns

**Seconded by:** Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals accepts the March 7, 2022 minutes as presented.

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

### **Discussion:**

Secretary Korns inquired about the in-person meetings. He noted that it was mentioned in the last meeting that it might happen in May. Secretary Korns noted that the Town Council and the Board of Education are back to in-person meetings.

Chairman Dzialo noted that she has the same question and asked the other members how they feel about the in-person meetings.

Mr. White asked the acting Chair to inform Chairman Smith which meeting format the Board prefers. Mr. White asked the Board where the in-person meetings had taken place.

Secretary Korns stated that they met at Council Chambers and when that was not available they met in the conference room. The Secretary noted that he can meet over Zoom because it is convenient. He added that meeting in person also works and is beneficial when there is a lot of public interest.

Mr. Hoopes stated that he can go either way. He noted that Zoom is convenient. Mr. Hoopes stated that he does not mind the in-person format.

Mr. White asked Mr. Ashton if the Town is going with the hybrid meeting format.

Mr. Ashton explained that hybrid meetings are used when some Board members cannot meet in person. He noted that this Board does not have as many members of the public watching as the Town Council has.

Chairman Dzialo stated that she agrees with Secretary Korn and Mr. Hoopes. The Chairman noted that the weather is getting better and she is inclined to go back in person.

Mr. White stated that he has no issues with the in-person meeting format.

Ms. Winkler stated that technology is a barrier for some members of the public. She noted that the signage policy has resumed and added that she is equally happy either way, in person or via Zoom. Ms. Winkler remarked that the decision might be up to the Town, and asked Mr. Ashton how much of IT is dedicated to Zoom meetings

Mr. Ashton stated that the Town is hiring more IT workers. He noted that many Commissions like the hybrid format and added that some Committees and Boards will continue to stay on Zoom.

Mr. White noted that it is on an ad hoc basis.

Mr. Ashton noted that the Board can choose to be hybrid for one month and change the meeting format later.

Chairman Dzialo noted that this discussion will be in the minutes and she will provide Chairman Smith a recap of the Board's preference.

Mr. Ashton explained that the mask mandate is gone, and some people like a 6-foot separation. He noted that some of the meeting rooms make distancing 6-feet apart difficult.

Chairman Dzialo noted that it is a good point and thanked Mr. Ashton.

### **3) Adjournment**

**Motion by:** Chairman Dzialo

**Seconded by:** Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals adjourns their regular Meeting of May 2, 2022 at 8:30 pm.

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

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Susan Dzialo, Chairperson