

****TOWN OF GRAND ISLAND**
ZONING BOARD OF APPEALS**

**MINUTES
October 6, 2022**

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MEMBERS PRESENT: Chairman Bob Mesmer, Betty Harris, Tim Phillips, John Braddell

MEMBERS ABSENT: Dan Drexelius

OTHERS PRESENT: Nick Cultrara, Code Enforcement Officer
Ronald Milks, Code Enforcement Officer, via zoom
Mike Madigan, tech support

*Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 220.1 issued on March 12, 2020 suspending the Open Meetings Law, the Zoning Board of Appeals of Grand Island will be held electronically via the Town’s website link/You Tube Channel as well as a public meeting open for the public to attend in person. Members of the public may view the Zoning Board’s meetings by connecting to the You Tube Channel via the Town’s website: www.grand-island.ny.us. or be heard by connecting via the zoom link provided on the Town’s website.

Chairperson, Robert Mesmer opened the meeting at 7:00 p.m. and introduced the members of the Zoning Board of Appeals and explained the process.

NEW BUSINESS:

1) 2924 Stony Point Road – Frank Conner

This property is zoned R-1D. The applicant is requesting to construct a 24' x 50' x 17' tall (1200 sq. ft) detached garage. Currently there are two to three sheds located on this lot that will need to be addressed. Town Code §407-142.B. there shall be no more than two accessory buildings per lot allowed in any residential district. Town Code § 407-142. C. sets the maximum height of an accessory storage structure at 16 ft. making a 1 ft. height variance necessary and Town Code §407-142.A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the accessory storage structure. The applicant is proposing the new structure to be located 10 ft. from the south lot line making a 7 ft. side yard setback variance necessary.

Appearing before the Board was Frank Conner who resides at 2924. He stated he would like to build a pole barn for extra storage, he has no garage. Mr. Connor is asking to locate the storage structure at the end of his current driveway which would be about 10 ft. off the south lot line. Board member Phillips asked why the building could not be to code at 17 ft. from the lot line. Mr. Conner answered he preferred not to locate it in the middle of his yard to leave more yard room. Also, there was a creek to the north side of the lot he wanted to avoid being too close to. Chairman Mesmer stated that the yard looked to be of good size.

A **motion** was made by Phillips / Harris to close the public hearing. All in favor.

A **motion** was made by Phillips / Braddell to **GRANT** the request for a 1 ft. height variance to construct a 24' x 50' x 17' tall storage structure at 2924 Stony Point Rd. NO COMMERCIAL USE.

Roll Call:

Ayes: Harris, Phillips, Braddell, Mesmer

Noes: None

Carried

A **motion** was made by Phillips / Harris to **DENY** the request for a 7 ft. side yard setback variance on the south lot line for the location of a 24' x 50' x 17' storage structure. The minimum setback for his structure is 17 ft. from any lot line at 2924 Stony Point Rd.

Roll Call:

Ayes: Harris, Mesmer, Phillips, Braddell

Noes: None

Carried

Rationale:

1. The Board felt that the applicant could not meet the criteria for granting the requested building location. There was no real hardship for not meeting the required setback and was self-created. The side yard setback request was also substantial in relationship to the height of the structure.
2. The Board recognized the height of the storage building as conforming to other structures in the neighborhood.
3. The variance request was minimal and necessary for the types of item the applicant is requesting to store.

2) 44 Elsie Lane – Patricia Vampotic

This property is zoned R-1E. The applicant is requesting to construct a 20' x 20' x 12' tall (400 sq. ft.) detached garage in the southeast corner of the lot. Town Code §407-142.A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than

the height of the accessory storage structure. The applicant is requesting to locate the new structure 4 ft. from both the rear and east side lot line, making a 8 ft. rear yard setback variance and a 8 ft. side yard setback variance necessary.

Appearing before the Board was Ms. Patricia Vampotic who resides at 44 Elsie Lane. Ms. Vampotic explained to the Board that she currently has a storage shed in the same location she is requesting to put the new shed. Chairman Mesmer stated for the record that the ZBA had received a letter from a neighbor in objection to the shed location due to proximity to there lot line and drainage issues. Chairman Mesmer also questioned Ms. Vampotic if she were aware that there was a 5 ft. utility easement in the rear yard in the same location as the requested shed. Ms. Vampotic replied no, she was unaware. Member Phillips asked Ms. Vampotic if there were any reason why the shed could not be located at the proper setback and Ms. Vampotic said that she had a large concrete patio on the rear of the house and she didn't want the shed to appear to close to the patio. The Board and Ms. Vampotic discussed a reasonable setback they could agree upon.

A **motion** was made by Harris / Braddell to close the public hearing. All in favor.

A **motion** was made by Phillips / Braddell to **GRANT** the request for a 4 ft. side yard setback variance from the east side lot line, and a 4 ft. rear yard setback variance for the location of a 20' x 20' x 12' detached storage structure to be located 8 ft. from the side and rear lot lines at 44 Elsie Lane.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips,

Noes: None

Carried

Rationale:

1. The Board recognizes the need for storage and difficulties presented on some of the smaller sized lots. They felt this location to be a good compromise and would be out of the utility easement.
2. There was a hardship with the size and location of the existing concrete patio to negotiate.
3. This variance request will not create a detriment to nearby properties.
4. This variance request is reasonable and compatible with other homes in the neighborhood

3) 3043 Westwood Drive – Joseph Saraceno

This property is zoned R-1A. The applicant is requesting to locate a 20' x 30' x 15'tall (600 sq. ft.) detached garage in line with the single family dwelling 15 ft. from the side lot line and 35 ft. from the front lot line. Town Code 407-142.A all detached accessory structures shall observe the applicable front and side

yard requirements applicable to principal buildings in the district. Town Code 407-Attachment I Schedule I table sets the required front yard setback for primary structures at 50 ft., making a 15 ft. front yard setback variance necessary for the garage.

Appearing before the Board was Mr. Joe Saraceno who resides at 3043 Westwood Dr. Mr. Saraceno explained that he would like to construct a new detached garage next to his house keeping the same setback as the house. Unfortunately, the road makes a slight bend in front of his house making the west corner too close to the road. Mr. Saraceno stated that by moving it back it would block his distant view of the river and interfere with his garden. Board member Phillips stated that he noticed there was an existing garage on the lot behind the house. Mr. Saraceno replied that the existing garage would be taken down.

A **motion** was made by Harris / Braddell to close the public hearing. All in favor.

A **motion** was made by Phillips / Harris to **DENY** the request for a 15 ft. front yard setback variance for the construction of a 20' x 30' detached storage structure at 3043 Westwood Drive.

Roll Call:

Ayes: Mesmer, Braddell, Harris, Phillips

Noes: None

Carried

Rationale:

1. There was no real hardship shown here as to why the shed had to be located closer to the lot line than required. There seemed to be ample room behind the house or in same location as the existing garage
2. The requested location would not be like any other in the neighborhood
3. The requested variance would have been substantial

4) 103 Colonial Drive – Kenneth O’Keefe

This property is zoned R-1D. The applicant is proposing to construct a 16' x 20' x 12½' tall (320 sq. ft.) storage building 8 ft. from side and rear lot line. Town Code §407-142.A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the accessory storage structure making a 4½ ft. rear yard setback variance and a 4½ ft. east side yard setback variance necessary.

Appearing before the Board was Mr. Kenneth O’Keefe who resides at 103 Colonial Drive. Mr. O’Keefe explained that he had a smaller shed in the requested location but had taken it down because it was in disrepair. He

would like to construct a larger shed in its place not realizing the code had changed regarding setbacks. Mr. O'Keefe also stated that he had left the old concrete pad in hopes of reconstruction the newer building on the same pad. Chairman Mesmer asked Mr. O'Keefe if he would consider reducing the height therefore reducing the required setback needed. Mr. O'Keefe agreed to reduce the height in hopes to reuse the pad. He stated that relocation the building would be very difficult because of the location of the inground pool which left few options.

A **motion** was made by Harris / Braddell to close the public hearing. All in favor.

A **motion** was made by Braddell / Phillips to **GRANT** the request for a 4 ft. side yard setback variance from the east lot line for the construction of a 16' x 20' x11' storage structure to be placed 7 ft. from the lot line at 103 Colonial Drive.

Roll Call:

Ayes: Phillips, Mesmer, Laurendi, Harris,
Noes: None
Carried

A **motion** was made by Braddell / Harris to **GRANT** the request for a 4 ft. rear yard setback variance for the location of a storage structure to be located 7 ft. from the rear yard lot line at 103 Colonial Drive.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips
Noes: None
Carried

Rationale:

1. The Board recognizes the difficulties with the small size lots. The applicant did have the hardship of working around an existing inground pool.
2. The granting of the requested variance would conform to other existing structures in the neighborhood
3. The applicant reduced the height of the structure to minimize the required setback amount
4. The ZBA determined this would not be a detriment to nearby properties.

5) 2610 Baseline Road – Richard Campagna

This property is zoned R-1D. The applicant is requesting to construct a 32' x 48' x 14' tall (1536 sq. ft.) detached garage to be located 10 ft. from the south lot line. Town Code §407-142.C allows an accessory storage structure for a R1D zoned district to have an aggregate floor area not to exceed 1200 sq. ft. regardless of how many structures are proposed, making a 336 sq. ft. area variance for garage space necessary. The location of the proposed structure is requested to be 10 ft off the south side lot line. Town Code §407-142.A. the

setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the accessory storage structure, making a 4 ft. side yard setback on the south lot line necessary.

Appearing before the Board was Rich Campagna who resides at 2610 Baseline Road. Mr. Campagna explained he had a very deep lot on Baseline Road and would like to construct a detached garage approximately 100 ft. behind his house. He would like to locate it closer to the south lot line for better views out the back windows of their home. Code Enforcement Officer Nick Cultrara stated that he noticed some sort of drainage ditch in the rear of the lot and questioned the purpose of the ditch. Mr. Campagna replied that the ditch was a private drainage swale for several of the lots on Baseline and he planned on running the garage runoff to the swale. The Board discussed the height of the building with regard to the size and the setbacks.

A **motion** was made by Harris / Phillips to close the public hearing. All in favor.

A **motion** was made by Phillips / Braddell to **GRANT** the request for a 336 sq. ft. area variance to construct a 32' x 48' x 14' (1536 sq. ft) detached garage at 2610 Baseline Road.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips

Noes: None

Carried

A **motion** was made by Braddell / Phillips to **DENY** the request for a 4 ft. side yard setback variance from the south lot line for the location of a detached garage at 2610 Baseline Road.

Roll Call:

Ayes: Harris, Mesmer, Braddell, Phillips

Noes: None

Carried

Rationale:

6) 3751 East River Road – Frank Vacanti

This property is zoned R-1B. The applicant is requesting to construct a 20' x 34' x 17' tall (680 sq. ft.) detached garage to be located 8 ft. from the south side lot line. The shed in that current location will be removed. Town Code §407-142. A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the

accessory storage structure, making a 9 ft. side yard setback variance from the south side lot line necessary.

Appearing before the Board was Jerry Schaffer architect for the project. He stated that his client would like to construct a new building for work space and storage. The structure would be constructed and detailed to match the house and would be in line with the existing accessory structure not to block any views of the river from the neighbors on the side or across the street. Mr. Schaffer continued to say he realizes the new code for setbacks was partially to alleviate drainage issues that have been occurring with these types of detached structures. The lot is well drained with water runoff directed downhill to the Niagara River. Chairman Mesmer asked if the structure was two stories. Mr. Schaffer answered no more like one and a half because of loft area. The Board members were concerned with the side yard setback and the height of the building.

Speaker, Frank Vacanti, owner and resident of 3751 East River Road came forward and explained that he had conversations with his neighbors regarding his project and the location and everyone was onboard. The requested side yard would not be any less than the structure that is currently there. The single-family dwelling adjacent to his lot is also closer than the required setback at 6ft. from the lot line.

The Board continued to discuss moving the structure closer to the main house and Mr. Vacanti reiterated that the structure should be in line with the existing structure not to impair views for anyone. Mr. Vacanti then asked the Board to TABLE his request so he could provide correspondence from his neighbors regarding his project.

A **motion** was made by Harris / Phillips to close the public hearing. All in favor.

A **motion** was made by Braddell / Harris to **TABLE** at the applicants request a 9 ft side yard setback variance from the south side lot line for the construction of a 680 sq. ft. detached storage structure at 3751 East River Road.

Roll Call:

Ayes: Phillips, Mesmer, Braddell, Harris

Noes: None

Carried

7) SBL # 36.01-3-52 Located at the end of Fourth Street

This is a vacant lot zoned R-1A and is located at the end of 4th Street. Currently the Town owned and maintained street ends before this parcel of land. The applicant is seeking relief from Town Code to build a single-family dwelling on the vacant lot of record. Town Code §327-19. D. All lots shall front

upon a public street. Also, Town Code § 407-17.J. Street frontage: No dwelling or structure shall be erected, or use conducted, on any lot which does not have immediate frontage on an existing or platted street or highway, suitably improved to the satisfaction of the Town Board, unless a variance is granted by the Zoning Board in accordance with Town Law §407-188.

Appearing before the Board was Pieter Louw, a sales agent for the vacant lot. Mr. Louw explained that he has had several conversations with the Town Engineer regarding access to this lot. He would like to develop this lot for a single family home to use as a model for other similar lots in that area.

Speaker, Giorgio Panepinto, who owns the vacant lot in question, stated that he owns a sanitation company and one of the best turnarounds on the island is located at the end of Fourth St. He said it was the reason he purchased the lot because of the safe and easy access the turnaround provided and has not issue with meeting Town requirements.

For the record, a letter was received from the Town Engineering department stating that in discussions the Town Highway Superintendent, Building/Zoning, and Engineering have come to establish a minimum requirement to be constructed to allow for access and safe operation (plowing, garbage, school bus, fore, etc.) for the ends of Town Roads. This is shown in the attached detail. Please note that this configuration only works on a Right-of-Way that is less than 70 ft. at an existing intersection and is specifically identified in the "Number Street" area of Whitehaven/West River. This will not work for "mid-block" ending of roads in this area. Should the ZBA grant a variance to a petitioner for relief from the legal frontage requirement, it be conditioned on meeting the Highway Superintendent's and Engineering's requirements for a turn-a-round. Also, it should be noted that utilities (such as water – design standards meeting Town requirements for a distribution main and fire protection) may need to be extended at the petitioner's cost, and would be constructed and dedicated to the Town.

The Board discussed further what crossroad parcels may be affected by the granting of this request. The decided to look into this request further. The Public Hearing remains open.

A **motion** was made by Phillips / Braddell to **TABLE** the request for relief from Town Code 407-17.A. requiring legal street frontage for a buildable lot.
Roll Call:

Ayes: Harris, Braddell, Phillips, Mesmer
Noes: None
Carried

OLD BUSINESS - NONE

APPROVE MINUTES:

A **motion** was made by Harris / Drexelius to Approve the September 1, 2022 ZBA Minutes as written. The meeting was held live via zoom and may be viewed on the town YouTube site.

Roll Call:

Ayes: Mesmer, Harris, Braddell, Phillips

Noes: None

Carried

OTHER MINUTES AVAILABLE FOR REVIEW

Board of Architectural Review Minutes –July 19, 2022

Planning Board Agenda –August 8, 2022

Planning Board Minutes–July 11, 2022

Town Board Agenda – Regular Meeting #12, July 18, 2022, Regular Meeting #13, Aug. 1, 2022, Regular Meeting #13, Aug. 15, 2022,

Town Board Minutes –Regular Meeting #12, July 18, 2022,

A **motion** was made by Phillips / Harris to adjourn the meeting at 9:15 p.m. All in favor. Minutes prepared by Rhonda Tollner, Zoning Clerk. The meeting was conducted via Zoom and may be viewed on the town You tube link.