Town of Granby
Zoning Code Review Committee
Meeting Notes – August 19, 2020

A meeting was held via "ZOOM" remote meetings on Wednesday August 19, 2020 at 5:00 pm with the following members and professionals present:

John Snow Jr.
David Crockford
Tina Sawyer - absent
Loretta Waldron
Lisa Somers
Lynn Lyons - absent
Christine Bassett
Jamie Lynn Sutphen - attorney
Howard Brodsky - planner
Doug Miller – engineer

Also Present: no one.

SOLAR ENERGY SYSTEMS

Supervisor John Snow informed the members that the Solar Regulations had been adopted by the Town Board, and that several neighboring Towns have called and requested copies to provide a framework for developing regulations in their own Towns. Howard Brodsky commented that only systems smaller than 25MW were addressed in the regulations, and that the State has regulating authority over the larger facilities, but the sheer fact of having Local regulations yields some influence for the Town should a large project approach Granby. He also stated that PILOT's are usually handled by the County which may not be advantageous to the Town, therefore if approached, the Town should respond quickly in order to close a loophole involving a time clock that starts after initial contact by an applicant is made.

HOME OCCUPATIONS

The consultants provided the members with an initial draft for regulations regarding home occupations that was created from the discussions at previous meetings. Discussion began by confirming the philosophy of the intended code amendment in that it is to provide guidance for home occupation usage to eliminate impacts to the surrounding community. It was agreed upon by the Committee members that the Town has no interest in what activities occur within the home but do care about the impacts for home occupations that spill-over to the exterior and have potential to cause impact to a residential neighborhood.

Excerpts from the Granby Zoning Ordinance that are relative to home occupations were provided as follows:

~ Section III (A): Use Chart denotes that home occupations are permitted by right in the A-1, A/R and R-1 zoning districts but not in the CIT. The Use Chart also allows for an Accessory Use with the issuance of a special use permit in all districts.

~ **Section V (A(1)):** Supplementary Regulations – General Provisions – Home Occupations. This area provides a definition with current provisions for regulation of home occupations which has been targeted as the location for the amendment. The draft to be reviewed is 4 pages long and will add considerable verbiage to this area.

~ Section V (B)(1)(e): Parking space allotment is one space per employee which will remain the same.

~ Section V (E)(1)(a): Sign Regulations for Residential Districts – Added text that this section does not include home occupations.

~ Section XI: Definitions – Proposed new definition to represent the three levels established.

The consultants recounted the following considerations as being the goals and guiding principles for development of the draft:

1.) *People engaged in activity of home occupation are the owner and fulltime occupant of the dwelling.*
2.) *The home occupation activity has little or no external evidence, has no discernible effect beyond the property and usable space is limited to a portion of the home.*
3.) *Physical changes to the property are contained within the structure and are reversible to maintain ease of future residential activity.*

An example of a home occupation situation without reversible change would be an auto repair business within an accessory structure (garage) that installs a vehicle lift; if the property were sold it is a change to the structure that is not easily reversible to resume the residential use. David Crockford agreed that the concept is correct. A new definition was proposed that includes the points necessary to clarify the intent of a home occupation in the Town of Granby; it also presents the three levels of activity. The members agreed that the definition should also state the home occupation is by the owner of the property. Additional text classifies a Bed & Breakfast as always being a Major Home Occupation, and that an Airbnb is considered a bed and breakfast. David Crockford stated that a bed and breakfast shouldn't be allowed in the R-1 district, to which John Snow responded that the riverfront is the R-1 district and is probably the ideal location for a bed and breakfast. Some discussion ensued regarding the size of the R-1 district, which Dave Crockford has stated is a problem throughout the Committee's work. Howard Brodsky stated that rezoning the R-1 district would need mapping and considerable time to address properly which is not conducive to the project currently being worked on. John Snow recounted a situation of an approved bed and breakfast in his neighborhood where the owner essentially lied to the Town regarding his primary residence and as to his intentions for the home business. He stated that he lived in Granby fulltime, but actually lives in California (although he's registered to vote locally), and that people would bring food for their visit when in fact a kitchen was utilized by guests. The situation resolved itself but the ordeal left a bad taste, and Mr. Snow would like regulations that allow the Town to address situations where applicants deviate from the information contained within the application and approvals. The consultants stated that the process of the Planning Board will be heavily relied upon for this objective; and that their next project is to provide structure for Site Plan Review and Special Use Permits which is currently lacking in the Town's Ordinance. Lumber processing for firewood and millwork is another use that will be added as a form of home occupation that shall always be considered a Major home occupation.

The Committee read the DRAFT HOME OCCUPATION REGULATIONS (dated 8/17/20) aloud, discussion was as follows:

(a) Levels of home occupation – Establishes that three levels are recognized in the code -basic, minor and major; also provides general descriptors as follows:

basic has no external visibility or impact,
minor - minimal external visibility/impact, is observable, and exceeds thresholds of basic,
major has some external visibility/impact, is observable, and exceeds thresholds of minor.

(b) Town Review – Establishes that basic has no required permit, minor requires site plan review by planning board, and major requires a special use permit from the planning board. The required Town process becomes more extensive as the activity of the home occupation increases and has greater potential for impact to the surrounding properties.

(c) Owner/Operator – All three levels require fulltime on-site resident that is the owner of the primary dwelling and is also the operator of the home occupation.

(d) On-site placement, size and improvements – Basic and minor are limited to dwelling while major allows use of an accessory structure. Minor and major limits the usable space for the home occupation to 25% or 1,000 sq. ft. while basic allows up to 30% or 1,500 sq ft of usable space. Basic and minor does not permit customized structural improvements but major does,

provided that the changes are reasonably reversible. The give and take of these elements represent the transitional nature of home occupations moving outside of the home with the introduction of people (employees and clients), cars, parking, and so on. Attorney Jamie Sutphen added that the reversible nature of any structural changes is an important detail because changes that are not able to be repurposed for residential use can give an owner grounds to receive a Use Variance and create a non-conforming entity in a residential community.

Christine Bassett commented that the basic level has limited allowable space yet the Town has no review process – why have a regulation? Setting a limit is beneficial for enforcement purposes if a problem develops at a property and would come into play when a complaint is filed at the Codes Office. Howard reiterated that the number values are completely at the Committee's discretion, and that what is in the draft are commonly used values. He added that some may think that 30% is too small a value if there is no external visibility or impact from the home occupation which as a basic level has no non-resident employees. He cited an example of a lady that has a quilting business in her home that would be considered basic, wherein the quilting machine takes up nearly the entire floor space of the basement. Engineer Doug Miller commented that traditionally private music lessons or tutoring would be a basic level use but instead it is a minor level use according to the proposed regulations. Howard Brodsky replied that traditional no longer works and activity limitations are needed. He also cited an example of funeral homes previously being considered as a traditional home occupation because they would be located in the Funeral Director's home. The equipment (refrigerators) installed for funerial purposes can be considered permanent and are not easily reversible for residential use - they are considered a business, not a home occupation. John Snow agreed that traditional uses are changing and added that because of the social distancing mandates imposed by Covid, a new normal is developing with reopening plans allowing for more people to work from their home environments instead of offices utilizing google team, ZOOM or some other remote meeting software. Jamie Sutphen speculated on a situation where a group works from their homes with ZOOM meetings, but once a month the entire group gets together for an in-person meeting at one house – how does the regulations classify that home occupation? After some discussion it was decided that the business would be classified as a major level because of the numbers. The difference between a group gathering for work purposes or for social purposes will be dependent upon neighbor complaints. Howard Brodsky stated that the code does not address frequency; and to remember that the goal is to protect the residential character of the community while permitting a home occupation.

The departments authorized to process applications will need to apply the code completely to identify and categorize the activity so that potential impacts are minimized. The code structure establishes three levels of detail regarding activity - this gives enforceable guidance to the Codes Office and the Planning Board in that the many details under consideration are no longer subjective and can be applied consistently. Lisa Somers commented that the distinctions are clear and will be much easier for the planning board and codes office to direct applicants. The regulations will also be clearer for applicants to understand what they can and can't do as a home occupation, and defines the line where they are no longer a home occupation, but rather a business. David Crockford agreed that they are clearer but also much stricter; previously a home occupation could have two employees and not require a permit from the Town whereas now it would require Site Plan Review. Howard and Jamie both commented that the Site Plan review looks at the exterior design for items such as parking and egress to insure the property can function safely, but there are still subjective qualities in determining whether there is detrimental impact to the character of the neighborhood. The process does not require a public hearing and can be relatively quick for the applicant.

(e) On-site sales – No sales allowed for basic, but minor and major allows for on-site sales with a maximum floor area at 5% and 10% respectively. Christine Bassett questioned the small

percentages and whether it was a fair amount of space devoted for product sales. The consultants responded that the percentages are small purposely because home businesses shouldn't be retail sales which are more akin to commercial business. The sales space is incidental to the home occupation and not general retail. An example is a hair salon having shampoos brushes and other products for sale which are directly related to the home occupation. The members are asked to review the percentages for the next meeting.

(f) Non-resident employees - No non-resident employees allowed for basic, but minor allows for maximum of 2 and major allows for maximum of 5.

(g) Customer/Client/Patient & Group activity – Basic does not allow physical presence of anyone. Minor allows for a maximum of 3 people on site for individual or group activity, and major allows for a maximum of 10.

Loretta Waldron questioned the fairness of the interior space allotments for the different levels – basic is allowed more floor space at 30% - why? Wouldn't residents reading the regulations be confused? Howard Brodsky explained that there are trade-offs between the levels, for example basic may have more area to work with but can't have employees, customers or on-site sales. Minor is allotted less space but can use some of the space for on-site sales since they are allowed customers. Major has less space but can use an accessory structure or can make reversible changes to the structure to facilitate the activity of the home occupation. The intention is to allow home occupations without impact to the neighbors, therefore each level takes into account how an increase of the particular threshold impacts the surroundings. David Crockford stated that if a basic home occupation wished to add customers and move up to a minor classification, they would lose physical space, which could be an issue. After some discussion it was decided to modify the minor level to allow additional space through reversible structural improvements approved by the planning board, and be the same as a major. Christine Bassett reiterated that the Town employees will really need to verbalize the differences between the levels and the threshold values. Howard Brodsky replied that a review of the home occupation particulars will readily and easily determine the level for compliance because as a threshold is exceeded the home occupation moves up from basic to minor to major, and if it exceeds major then it would be determined NOT to be a home occupation.

(h) Hours of operation – Basic has no limits, minor is limited to 7am thru 7pm, and major is subject to discretion of the planning board. If the activity is intrusive to the community, the hours could be shortened as a condition of approval. Is 7am too early for a residential area? Jamie Sutphen asked the members to consider the hours and what would work for this Town, the hours of 7am to 7pm was pulled from various noise ordinances.

(i) Exterior storage and display – Basic and minor allow nothing, and major by special use permit is allowed up to 10,000 sq. ft. provided the design is appropriate and adequate screening, drainage and lighting are considered. An example of a home occupation that would use a large exterior storage yard is a landscaping business that has a home office in the dwelling and stockpiles mulch, gravels, and parks mowers, trailers and other equipment on the property. The consultants explained that the planning board will have a great deal of discretion determining the adequacy of the design through special use permit approval wherein the review will examine the particulars of a home occupation activity on a case by case basis and impose reasonable conditions.

(j) Parking – Basic does not allow parking, but minor and major allows additional parking to avoid on-street parking while maintaining residential character. Follows the Town's provisions in Section V of 1 space per 200 sq. ft. plus one space/employee.

(**l) Signage** – No signs allowed for basic, minor can have up to 4 sq. ft. on a wall, and major can have up to16 sq. ft. on a wall or free-standing.

(m) Lot size and location – Home occupations are allowed in districts permitting residential uses – A-1, A/R and R-1, except major is not allowed within the R-1. This category needs further research and discussion by the committee to include non-conforming structures (residential) located within the CIT district. The limitations for major to be located on a State, County or other similar major roadway needs further discussion as well.

(n) Traffic related – Basic and minor allow three pick-up/deliveries per day and no routine tractor trailer trips. Major is dependent upon traffic related information provided to the planning board, for their consideration when evaluating whether the existing road network of the neighborhood can reasonably accommodate the increased traffic.
(o) Noise, odor, vibration, smoke – Shall be the same as what is currently customary in the Town's residential neighborhood. Add dust to the listing.
(p) Prohibited activities – Activities prohibited within the district are also prohibited as home occupations. Includes listing of prohibited uses. Christine Bassett asked for mining to be added to the list. Discussion regarding retail sales as a prohibited activity resulted with additional clarifying text – except for those incidental to the home occupation and in compliance with thresholds above. John Snow asked if a fruit stand should be considered a home occupation and be required to comply with the Town review process that's appropriate. There are a couple within the Town that are permanent structures situated close to the road and impact neighborhood traffic. Howard Brodsky stated that it would most likely be considered as agriculture and protected under a large umbrella of State regulations. Jamie Sutphen commented that the temporary nature of the stand, the short-term usage and activity conducted wholly outside makes it somewhat problematic to categorize as well. Members are asked to think of other home occupations that they think should be added to the prohibited list.

In conclusion, home occupations must be compatible with the residential districts they occur within. The details of activity involved for the home occupation will identify a type or level that is recognized by the code with descriptors and requirements to guide the approval process. These regulations strive to establish the measurable elements to accomplish this task.

The next meeting is scheduled via remote "ZOOM" meetings for **Wednesday, September 16, 2020** between **5:00 & 7:00 pm.** Howard Brodsky to send link information for ZOOM meeting.
Consultants Tasks:

- Continuing work to bring the Zoning Ordinance Word document to current and complete status – creating an Official Copy.
- Town-Wide Mapping with Oswego County Planning.
- Home Occupations – draft proposal.
- Site Plan & SUP's – draft procedures and policies.

Members Tasks:

- All number values in RED can be changed – please review to confirm as final values at next meeting. The following values were discussed in detail at the meeting:
  - Size of floor space devoted to the home occupation for all levels,
  - On-site sales floor area of 5% and 10%,
  - Hours of operation 7am to 7 pm,
  - Exterior storage for major at 10,000 sq. ft.
- Category (m) Lot size and location:
  - How do we address home occupations within non-conforming residences that exist within the CIT district.
  - Should home occupations be allowed within the R-1 district?
- Home occupations to be added to the 'Prohibited List'.

Meeting ended at 7:15 pm.
Respectfully submitted,
Lisa Somers, Zoning Code Review Committee Clerk