

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
September 15, 2016

PRESENT: Chairman Hoover Mr. Markell
 Mr. Bentley Mr. Farrell
 Mrs. Oliver Mr. Johnson

EXCUSED: Mr. Airth ABSENT: Ms. Hoover-Alternate

Chairman Hoover called the meeting to order at 7:30 PM. Mrs. Oliver made a motion to approve the minutes of the August 18, 2016, meeting. Mr. Bentley seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #15-167, John J. Manilla, owner of property at 5220 & 5222 Long Point Rd, requests an area variance to build a residential addition. Proposed addition does not meet the front yard setback and exceeds lot coverage.

Chairman Hoover opened the public hearing and the notice as it appeared in the official newspaper of the Town was read.

John & Steph Manilla, and Scott Harter, Engineer, was present and presented the application to the board.

Scott Harter stated that with the new build they will be reducing lot coverage from 49% to 43%. They have redesigned the additions on the home so that it would be 6.4' from the high water mark, which is the same as the existing home sets today.

On the site plan it shows the setback on the rear to be 29.2 feet. Gordon Freida, Code Enforcement Officer stated that the required setback on the rear is 30 feet. The proposed home will need to be decreased to meet the 30 feet or a variance will need to be granted for the rear setback.

Chairman Hoover asked if there were any comments from the public. Hearing none, the public hearing was closed.

Mr. Bentley asked the applicant why they are keeping the frame shed.

Mr. Manilla stated that they don't have a garage on the property so they need the shed for storage.

After discussing the application and the questions on the back of the application the following motion was made [attached hereto]: Mr. Farrell made a motion to grant a 23.6' variance for a 6.4' front yard setback. Lot coverage is not to exceed 43%. Mr. Bentley seconded the motion, which carried unanimously.

Application #16-093, Linda Conley-McCall, owner of property at 4248 State Rt.364, requests an area variance to build a single family home with attached garage. Proposed structure does not meet the North and South side yard setbacks, the rear yard setback, exceeds lot coverage and exceeds maximum height allowed.

Chairman Hoover opened the public hearing and the notice as it appeared in the official newspaper of the Town was read.

Linda Conley-McCall Motola, Sol Motola, & Charles Smith, Architect, was present and presented the application to the board.

Chairman Hoover stated that the corner of the front proposed deck on the plan is just outside the required setback.

Mr. Smith stated that he thought in the Town of Gorham code lakeside decks did not have to meet the setbacks.

Gordon Freida, Code Enforcement Officer stated that lakeside decks do have to meet the required setbacks. A stand-alone lakefront deck can have a 0 setback on the shoreline.

Mr. Smith stated that they will truncate the front deck to meet the required setback.

They will now meet the height of 26 feet. They have decreased the lot coverage from 30.8% to 29.08%. They decreased the south side setback from 9'5" to 10'31/2".

The proposed driveway was discussed. Mr. Smith stated that the driveway will be open flat stone with grass growing through it, which is 100% pervious. There will be no curbing on the edges of the flat stone.

Chairman Hoover asked if they were proposing a sidewalk coming off of the front deck going down to the lake.

Mr. Smith stated that that area will just be grass.

Chairman Hoover asked if there were any comments from the public.

Carolyn Kless stated "One concern I have is a huge old willow tree, which is my only source of shade and with a house being moved forward to the lake I'm concerned about damage to the roots during digging. The other thing, the plans I was shown it mentions a sidewalk and there is no indication where the sidewalk might be."

Mrs. Motola stated that she thinks they have a small sidewalk from the garage to the front porch.

Mr. Bentley stated that there are no sidewalks shown on the original plan or the current plan.

Mr. Smith stated "The roots of the tree, when you look at the safety of a tree you look at the drip line of the tree, which is the outside plank where the branches hit and that's where the roots go out. In this case we have an existing cottage that's seven feet from the property line, which is the closes to the tree right now. We're moving that back to about 11 feet to the foundation. So we're actually moving the house closer to the lake but its 4 feet away from the tree to the north. We might catch some roots there but it will be a tiny percentage."

Chairman Hoover stated that there is no sidewalk on the plan so they are not going to act on a sidewalk at this point in time.

Mrs. Kless stated "I live there 12 months a year, I love the lake, but in the past 20 years I've seen very little usage of that property to put something that large on it. It just concerns us."

Kathy Bromley stated "Again as Carolyn just mentioned, we were very surprised when Sol and Linda decided to build a house because the last 20 years there has been extremely little use of the property. So we bought the property 30 years ago from them. There was a 6 foot stockade fence that ran through the south side of our property from the road all the way to the lake. It blocked our views to the south on our lawn. We discussed it with them; we talked about possibly taking it down because it was out of code. The back side of the fence faced us. Through the 30 years this fence has fallen down. It has been repaired on our side by putting steel posts wired if you want to see pictures of what it looks like. So we just thought again as Carolyn pointed out 20 years Sol and Linda have not been around. We didn't do anything, we put some arbors up we grew vines so we wouldn't have to look at it. Because every time it fell down they propped it up with whatever. Ok fast forward this spring they came to us and said they were going to build a house. We were surprised as Carolyn said again. Now they tell us they know they're going to block our views from the south side. Not from the lawn but the house. We're going to be blocked from the house. We understand when you live on a lake you're in close proximity. You got to give and take. They brought us plans,

which is the plan that we just showed you that showed they took into consideration the fact that they were going to block our views but they were going to try and minimize it. I wrote a letter of support, which I believe you read last time. Surprise number 2. We found out that the plans submitted to you, the house moved forward 7 feet and blocked us even more. I have some pictures if I can show you the blockage that ends up happening with this house moving forward." Ms. Bromley presented and reviewed the pictures with the board and applicant.

Ms. Bromley stated "Again as I said we wanted to be good neighbors and I supported you. But then when we found out they were moving it 7 feet further it was like this shock. What happened here? It certainly impedes our view of the lake. It also takes out all the trees, which of course everyone needs the shade. But we live there permanently. This is our permanent home. This is going to block our views. So it's the south side view that we are trying to protect as you can see. We live there permanently. We're there 365 days a year. This is our house. We've had this view for the last 20 years. And again we were willing to make a compromise on the view because I wrote you the letter stating that we supported it and then we didn't realize and here's the map and as you can see it originally was on the map they gave us and now it is moved out to here. It does impact us and I would like to withdraw my support. There could be a compromise and we are willing to address a compromise. If we go back to the plan of 7 feet and that saves our view or partial saves our view, saves trees, gives you lawn and minimizes the coverage."

Mr. Motola stated "In terms of the view, I think that the plan would provide about 146 degree angle view of the lake. There are basically two decks off the house."

Mr. Smith stated "The plan that the neighbors are talking was an early scheme where the garage actually was in a different place and we had the house differently arranged. It wasn't the plan that we brought in front of you last month and there was no reason we were trying to hide something so that was unfortunate. Right now we're situated smack between two 30 foot setbacks, which we're avoiding. I designed the house specifically to recognize both neighbor's views when I first started the project. I did a little diagram for the board. I also by the way have been talking to the neighbors to the north about this. We've had a good working relationship in discussing these things. These comments aren't a surprise. This is all good so there's no surprises here. One thing I did just to show the

board what I first looked at was I looked to the south there's a 45 degree window right there. And to the north there's a 45 degree window here. And then also there's a window facing almost due south on the house to the north. I immediately looked at this and I said if I were these folks I recognize there's a gorgeous view down the south and these folks despite the tree that's here do have a view across the property. And so as a right we could build this red square, which is 15' setback 30 and 15 and it would cut across those view substantially. So what I did was I said we'll keep the two story house back, we'll put a one story piece in front and we'll tilt it, when you tilt it it kind of goes with those views and it minimizes the views. So that was my reaction as an architect to meet my client's needs. Give them that nice view down the south and try to minimize the impact of the views for the neighbors. We can't eliminate blocking a view on the south unless the property is sold. Then there's no issues. So the degree, we've given you know if you look at a 90 degree view straight across the lake, we've given them 140 degrees on both directions. And our setbacks actually are equal to or more than the neighbors. That was the other thing I looked at was to say well we don't want to be any closer than the neighbors. Let's try to be at least equal to or more than the neighbors. Beyond that I don't know what a responsible architect should do."

Mr. Smith stated that they do meet the front and rear setbacks. "It was interesting when our neighbors to the north suggested to move the house back that's a little bit of a compromise because it starts to get this big willow that we want to protect. We can move it back a little bit, but then we're stuck with adding a 4th variance."

Mr. Bentley asked if the setback on the rear was 26 feet on the first proposal.

Mr. Smith stated that it was 26 feet.

Greg Talomie stated "I think its a travesty especially on the lake side that we don't protect our trees. I think there so much a part of the ecological system that we need. Our particular house we were fortunate we had two trees but we kept them up not for the view. Carolyn has trees for the shade too. We have no central air condition because we have shade. People that cut out all their trees they have to hide in their house in the afternoon. There are three trees that are out in front of the house that are ash trees. And I don't know if you guys know Dr. Marion from the college, he takes care of my trees. He happened to be there yesterday so I asked him about the trees, you know the ash trees. And he looked at them and said if they

build a house and can keep enough of a circle around the outside, it doesn't have to be necessarily all the way out to the drip line, but the one tree in the front of the house there that they are pushing up against and the tree on my side that they are pushing up against so basically those trees could be saved with some movement of the house a little bit. The house is not centered on the lot number 1. It doesn't matter to me I don't care I'm happy with the variance you're going to give him, but I'm not happy with it if there's a way to have those trees survive the construction. That's what I'm going for. The root system there is what's needed to hold the bank. The root system is lower than grass. It is very important because that root system acts as an eco filter out to the lake as well. You take those trees out you got nothing but grass. Grass doesn't do anything hardly in the coverage thing. The other thing that happened if you moved it back the driveway would be shorter so it's less coverage. So that's a little bit of a bonus too. So that's kind of where I'm going and it's all kind of tree based but it's a little bit about the view too. The last thing I was going to bring up was just something about your notification process. I think refilling there's no notification. We didn't get a phone call, we didn't get a letter, we didn't get a new sign. So if it wasn't for Carols diligent we might not be here tonight."

Chairman Hoover explained that the reason they did not get another notice is because at the last meeting it was announced that the public hearing was adjourned to be re-opened on September 15, 2016.

Mrs. Motola stated "In response to Carolyn and the Talomies about the fact that we didn't use the property for 20 years I feel I have to say something. Ok I raised my kids as a single parent until I retired. We spent every summer there. But when I was working we couldn't be there obviously. It was not a year around place. It was a cottage. After that I took on taking care of my mother the minute I retired for 12 years in her home. When I had a home I sold it. I put that money into the permanent dock knowing that someday that we would be building. That's why I put the money into the dock. Every ounce of equity I had in the house that I sold in the Fairport area I put into the dock. Living with my mother my husband was happy enough to work and live in Pennsylvania to let me do that. She died three and half years ago. It took me two years to adjust to what I had been through. I was the nursing home 24/7 with my sister. We didn't take her anywhere else. She stayed in her home. We

took her there. We spent as much time as we could at the cottage, which was not much, because of whatever she could stand. That's the way it was. We decided to adapt. After two years of recuperation, which I desperately needed, we planned that we might decide to do it because if we didn't do it now we wouldn't be doing it because of our age. And it is unfortunate, we never said we would not keep trees. We told everybody we'd keep everything we could. We don't want a barren lot. I mean that's ludicrous even to think that we would want that. Of course with the builders and the architect they'll decide what needs to be done as far as the house. We're trying to build a year around home not a year around cottage. Because we would like to be here. My family's here. I grew up in Red Jacket Manchester NY. I've lived here all my life. My friends all of my extended family are here. So we would like to be back here. And this is the only opportunity that we have to do it. So I just wanted to let you know that it wasn't just on a whim. This has been planned since the day we bought the place even with my former husband. He always wanted to build on that lot. He loved it and that's what he wanted. I wish we could do a home where we didn't obstruct anyone's view, because that's why I went to Chuck and the builders and said you must work with the neighbors. I tried to be very respectful. The first plans that we gave them were so preliminary and I told everybody that. I guess the only thing we didn't do is resubmit something to you before we came. So I apologize for that. But we sent them, Greg requested them, Chuck was more than happy to send them everything of course that's when everything has kind of broken apart. Now we think that we've made a lot of changes. As much as we can and still feel that we can get a comfortable enough home on a first floor because of our age."

Mr. Motola stated "As far as the trees go also I mean the construction could very well hit those roots that are closes to where the construction is going to be. To remove those trees later would be very disruptive if they had to be removed two or three years later. One of the trees in question is basically leaning towards the Talomie house. So if that tree went it would go on that house. We would not want to be responsible for it at this point and that would have to be written into stone. So if those roots are hurt and that tree goes at any time of year, because those ash trees are not very stable, then we don't want to be responsible for them falling onto their house should we be able to keep it."

Mr. Talomie stated "Part of this is whether there is any accommodation that can be made. I had a tree expert there. These trees have been there 40 to 50 years if we're careful about the roots there not going to come down. Matter of fact the one thing about these ash trees is eventually there all going to get if you don't treat them they're going to be subject to the boar and we're going to lose them anyway. As far as, this is the first I heard that they're talking about this being a permanent home. They haven't used the house so now all of a sudden it's going to be a permanent home. They built a dock it has two hoists that have never moved. It has a boat on it that's carried out there every year thrown on the hoist and I've got to look at a beat up old aluminum boat that never hits the water. It's like a Hollywood set it's all nice and pretty and then people come down and do a few shoots. That's what we see. That's what everybody sees that's ever seen their property."

Chairman Hoover asked the applicants of all the trees which ones they thought would be taken out and which ones would be saved.

Mr. Smith by referring to the plan explained which ones he believed could be saved and the ones that might be removed.

Mrs. Motola stated they will keep as many trees as they can they do not want a barren lot.

Chairman Hoover asked if there were any more questions or concerns from the public. Hearing none, the public hearing was closed.

The view from the neighboring property to the north was discussed. The placement of the proposed home as shown on the plan meets the front and the rear yard setbacks of 30 feet. Given the concerns with the neighbors the board discussed moving the home closer to the rear yard lot line as presented on the original application. The applicant and neighbors were in favor of this.

After discussing the application and the questions on the back of the application the following motion was made [attached hereto]: Mr. Bentley made a motion to grant 6'8" variance for an 8' 4" north side yard setback, a 4'8 ½" variance for a 10' 3 ½" south side setback, a 3 foot variance for a 27' rear yard setback, 4% variance for 29% lot coverage. Mr. Farrell seconded the motion, which carried unanimously.

Chairman Hoover made a motion to adjourn the meeting at 8:55PM. Mr. Bentley seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary