

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
June 15, 2017

PRESENT: Chairman Hoover Mr. Johnson
 Mr. Bentley Mrs. Oliver
 Ms. Hoover - Alternate

EXCUSED: Mr. Airth Mr. Amato

Chairman Hoover called the meeting to order at 7:30 PM and explained the process of the Zoning Board of Appeals. Ms. Hoover-Alternate will be acting on all the applications tonight. Mrs. Oliver made a motion to approve the minutes of the May 18, 2017, meeting. Ms. Hoover seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #17-021, David & Karen Lanning owners of property at 5102 County Road 11, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard setback. The proposed new home exceeds lot coverage.

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

Mr. Lanning was present and presented his application to the board.

Mr. Lanning stated that they are seeking to have a single family home, craftsmen style consistent with the neighborhood. They do meet the height requirement at 23' 9". They will have a 56' setback from the road and they will have an 88' setback on the front/west side. They will be removing two structures from the property. They are removing the outdoor garden shed and the storage building that is on the lakeside. The revised new home has been reduced in width. Their original proposal was at 30 feet they have reduced it to 27 feet. The new proposal is 27' x 56'. They are proposing a south side setback of 12 feet and a north side setback of 10 feet. That will increase the north side setback by 6 feet. They are currently at 4 feet on the north side. They have offset the home to accommodate emergency vehicles and access to the lake in event that any construction is needed on the lakefront walls. There is 27 feet between their proposed home and the neighbor's home on the south side. They have reduced their impervious surface from 47% to 38%. They have maintained the proposed home to be 4½ behind the edge

of their neighbors' homes to preserve the existing lake views that they have today.

Mr. Bentley questioned if the setback measurements on the plan were to the overhang or to the footprint.

Mr. Lanning stated that they are measured to the footprint.

The setbacks will be 9 feet on the north and 11 feet on the south to the overhangs.

Chairman Hoover stated that after he went and visited the site and looking at the plan if they tried to move the home to eliminate one of the side yard variances there may not be enough room to address the storm water drainage around the building.

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

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]:

Mrs. Oliver made a motion to grant a north side variance of 6' for a setback of 9' to the overhang, a south side variance of 4' for a setback of 11' to the overhang and a variance of 12.9% for lot coverage of 37.9%. Ms. Hoover seconded the motion, which carried unanimously.

Application #17-046, John A. Manila, owner of property at 5220 & 5222 Long Point Road, requests an area variance to build a single family home. Proposed home does not meet the front yard setback, the rear yard setback, the south side yard setback, and exceeds lot coverage.

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

Scott Harter, Professional Engineer and John & Stephanie Manila were present and presented their application to the board.

Mr. Harter explained that last month they were asked to rotate the home on the plan to see if one of the variances could be eliminated. He has submitted two plans one with the rotation and one as it was proposed last month. He also has placed the 692 elevation on the plan, which is the base flood elevation on Canandaigua Lake. With the rotation it puts the house in somewhat of an odd condition relative to the geometrics of the lot.

Mr. Harter presented an aerial photo showing that the rotation of the home would be odd to the neighborhood. This photo will be kept in the file.

Mr. Harter stated that with the original proposal they have the ability to put a stormwater treatment system for the roof runoff in the front yard. As rotated they would pinch the frontage on the lake where they would want to put that system.

There was discussion on moving the home to the north enough to meet the 15 feet on the south side. The home to the overhangs on the north side would set within the required setbacks, only a variance would be needed for the egress window well.

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

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Mr. Bentley made a motion to grant a north side variance of 1.8' for a setback of 13.2' for the escape well, a front yard variance of 16.6' for a setback of 13.4', a rear yard variance of 5.6' for a setback of 24.4 feet, and a variance for lot coverage of 15.5% for lot coverage of 40.5%. The previous front yard setback that was granted on 9/15/16 is rescinded. Mr. Johnson seconded the motion, which carried unanimously.

Application #17-167, Roger & Jane Dunham, owners of property at 3726 Thorndale Bch, requests an area variance to build a 14 x 24 garage. Proposed garage does not meet the north and south side yard setbacks.

The application did go to Ontario County Planning Board. The County Planning Board made the following comment and findings: The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Findings: 1. Protection of water features is a stated goal of the CPB. 2. The Finger Lakes are an indispensable part of the quality of life in Ontario County. 3. Increases in impervious surface lead to increased runoff and pollution. 4. Runoff from lakefront development is more likely to impact water quality. 5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot

coverage that allow reasonable use of lakefront properties. 6. Protection of community character, as it relates to tourism, is a goal of the CPB. 7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger lakes and overall community character. 8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

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

Roger & Jane Dunham were present and presented their application to the board.

They would like to remove a shed and replace it with a small garage. They will be using the proposed garage for a car and winter storage. The garage will be in line with the neighboring garage.

The measurements on the survey were to the building and not the overhangs. The setback requirement goes to the overhangs. The applicant stated that the overhangs would be no more than 6 inches, making the setbacks on both sides 5 feet.

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

Three letters were received from neighboring property owners who had no objections to the proposal. These were read and will be kept in the file.

After hearing no other comments Chairman Hoover closed the public hearing.

Mr. Johnson questioned if the proposal would need a lot coverage variance.

The legal notice did not include the requested variance for lot coverage.

Mr. Johnson made a motion to adjourn the decision on the application so that a new legal notice can be published for the lot coverage variance. Mr. Bentley seconded the motion, which carried unanimously.

Application #17-068, Carol Oakleaf, owner of property at 3935 Middle Road, requests an area variance for animal husbandry. Proposed request does not meet the required 300 foot frontage and width for animal husbandry.

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

Carol Oakleaf was present and presented her application to the board.

Ms. Oakleaf stated that she is trying to build a garage/barn that would be for her one horse. The variance would be for the fact that she only has two hundred feet of road frontage and needs three hundred feet for animal husbandry.

She included in her proposal a letter from her neighbor to the north granting her permission to lease 100 feet of his property for horse purposes.

Chairman Hoover asked what she plans on doing with the manure.

Ms. Oakleaf stated that the manure will be removed and disposed of on the property west of her across Middle Road on a farm field owned by Rockefeller Brothers. They have worked out a schedule where she will be dumping the manure on their field.

Chairman Hoover asked how she was going to handle the storage of the manure when she can't dump do to crops in the field.

Ms. Oakleaf stated that she will be composting it next to the barn. She will not be able to dump on the field when it is planted but will be able to dump along the field road way.

Chairman Hoover asked how often she would be dumping and how much would be stored on her property.

Ms. Oakleaf stated that she is only having one horse so there won't be much stored on site. The winter will be the hardest getting over to the field to dump.

Mrs. Oliver stated that it will not be solid waste because the horse is probably bedded down with shavings.

Ms. Oakleaf stated that is correct.

Ms. Oakleaf stated that the back pasture area will be 280 feet by 160 feet. The front pasture will be 150 feet by 160 feet.

Ms. Oakleaf stated that she has no intention of having more than one horse.

The manure storage was discussed. Ms. Oakleaf stated that she can put a concrete pad to store the manure when she is unable to dump it on the field across the road.

Mr. Johnson stated that he would like to see the manure pile covered with at least a tarp.

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

Ken Miles stated that when he purchased the property he was told that you need 300 feet for animal husbandry. He expressed his concern with flies and with the runoff.

Chairman Hoover explained that the pasture is going to be 20 feet from his property line and the barn is going to be 107 feet from his property line.

Mr. Miles stated presently there is no swale that should have been put in when the house was built. He gets huge amounts of water on his property. "If I wanted to live next to a farm I would have bought property that way. What happens if the neighbor to the north of her decides that he's going sell or decides that he doesn't want to lease the property to her? Then what?"

Chairman Hoover stated that they haven't addressed whether we are going to put a condition that she has to lease the property. They are waiting to hear all the concerns before they make any decision.

Gordon Freida, Code Enforcement Officer, stated that because the barn will house an animal the applicant will need site plan review by the Town Planning Board. The Planning Board will address the drainage.

Chairman Hoover asked Ms. Oakleaf if she does anything for fly control.

Ms. Oakleaf stated actually you don't want to do anything but make sure there is no standing water, no buckets of water that stays for a certain amount of time to grow algae. Mosquitos and flies are attracted by the algae water.

Ms. Oakleaf stated that because she is building in the middle of her property that is low she will have to put in a swale on the north. She has shared this with Mr. Miles. If the variance is not granted then the barn would not be built and the runoff would continue to flow towards Mr. Miles property.

Chairman Hoover asked if it would be possible to get rid of the manure on a weekly base from April 1 to November 1.

Ms. Oakleaf stated absolutely yes.

Mr. Bentley suggested that there be a lease from the neighbor to the north for the pasture land from April 1 to November 1.

Chairman Hoover asked what the goal was for the extra pasture land.

Ms. Oakleaf stated that the goal was to try to make up the extra 100 feet that is required by the Town. All the pasture would be on her property and there would be no fencing on the neighboring property.

Mr. Miles asked how long the variance would be good for if it was granted and is it for one horse only.

Chairman Hoover stated that if the variance is granted she has indicated to the board that it is for only one horse. If the variance is granted it will be for one horse only. The variance runs with the life of the property. Unless there is a change and the board feels there needs to be a rehearing.

Mr. Johnson stated that the lot has enough acreage for animal husbandry. He is trying to see the reason for a 100 year lease for the neighbor property. It is sort of a meaningless thing. She already has the acreage. He can understand Mr. Miles concern with the drainage.

Mr. Miles stated that when he bought his property it was very clearly stated that you have to have 300 feet road frontage for animal husbandry.

Chairman Hoover explained that whenever there is rule where there is an area requirement the process to attempt to do something outside of those rules is exactly what she is here for tonight is a variance.

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

The Board had a brief discussion on the land that Ms. Oakleaf stated she could rent from the neighbor to give her the 300 feet. The board decided that since her lot was over the acreage needed that they did not feel she needed to rent land from her neighbor.

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Ms. Hoover made a motion to grant a variance of 100 feet for the use of animal husbandry for one horse with the following conditions: 1. A drainage swale be constructed from the low spot on the property to the road ditch based on final approval from the Planning Board. 2. A Concrete pad be constructed on the north east corner of the barn for the storage of the manure before it is taken off site. 3. Between April 1 and November 1 the manure is to be removed weekly and as much as possible from November 1 to April 1. Mrs. Oliver seconded the motion, which carried unanimously.

Application #17-069, Sally Napolitano, owner of property at 4661 Lake Drive, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard.

The application was submitted to Ontario County Planning Board. The Ontario County Planning Board recommended the referring board to grant the minimum variance necessary.

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

Ken Napolitano and Wendy Meagher, Meagher Engineering, were present and presented the application to the board.

The engineer document mentioned a height variance of 3 feet. The parcel is in the R-1 zoning district and the height of the building can be as high as 35 feet. No variance is needed for the height.

Mr. Napolitano stated that the cottage that they are proposing to tear down is .9 feet from the north property line. They are proposing the new cottage at 5 feet from the north property line and 10 feet on the south side to the overhang. They meet the front and rear setback requirements and they meet the lot coverage requirement. The height will be at 25 feet.

Mr. Johnson questioned whether they had to be further away from the ingress & egress easement.

Mr. Napolitano stated that it was never specified how big the easement had to be and it was drawn up at 12 feet. He is proposing to have the deed redone to show an easement of 10 feet instead of 12 feet.

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

A letter was received from Roger and Carol Kober supporting the project. This letter will be kept in the file.

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

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Ms. Hoover made a motion to grant a south side variance of 5' for a setback of 10' to the overhang, a north side variance of 10' for a setback of 5' to the overhang. The easement will change from a 12 foot ingress/egress to a 10 foot ingress/egress for the neighboring lot. Mr. Johnson seconded the motion, which carried unanimously.

Mr. Bentley made a motion to adjourn the meeting at 9:21PM. Chairman Hoover seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary