

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
January 18, 2018

PRESENT: Mr. Johnson Mr. Bentley
 Mrs. Oliver Mr. Airth
 Mr. Amato Mr. Lonsberry

Fred Lightfoote, Town of Gorham Supervisor was present and explained that Emily Hoover, Alternate and Jerry Hoover, Chairman of the Zoning Board of Appeals has resigned and before the ZBA can open the meeting they must make a decision who will chair the meeting. Mr. Airth made a motion nominating Mr. Johnson as Acting Chairman. Mr.s Oliver seconded the motion. Roll call was read with Airth, Oliver, Amato, Bentley & Lonsberry voting AYE. Johnson voting NAY. (5-1).

Mr. Johnson called the meeting to order at 7:30 PM. Mr. Amato made a motion to approve the minutes of the December 21, 2017, meeting. Mr. Bentley seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #17-171, Lawrence & Cynthia Lovejoy, owners of property at 3798 State Rt.364, requests an area variance to build a single family home. Proposed home does not meet the north side yard setback, exceeds lot coverage and exceeds maximum height.

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

The Ontario County Planning Board determined the application to be a Class 2. The Ontario County Planning Board made the following 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.

The County Planning Board made the following comment: The town should grant the minimum variances necessary. Final Recommendation: Denial.

Brennan Marks, Engineer and Rick Garrett, Contractor were present and presented the application to the board.

Mr. Marks explained that the application is to tear down the old home and build a new home on a small lot. The existing home encroaches on the side yard setbacks and also exceeds the lot coverage. They are proposing a reduction in lot coverage and an increase in the side yard setback. They are also requesting a height variance for the new structure. The modesty size structure also includes an attached garage, single family two story home with a 5 in 12 pitch roof. The hardship is the existing lot is pretty narrow. Pictures of the home were presented to the board. These will be kept in the file.

Mr. Johnson asked if the home was having 8 foot ceilings.

Mr. Garrett stated that the ceiling height on the first floor is 9'6" the ceiling height on second floor is 8'4" with a 5 in 12 pitch. To try to mitigate the height issue they designed the house so that it would only be one step grade into the house as opposed to the traditional two steps. From a building standpoint they are not comfortable getting the pitch lower than 5 in 12. This home will be a year around home. They have several children and grandchildren and that is the reason for renovation. They did look into renovating the existing home. The existing home was built in the 1940's and the addition was built in 1978. That was 40 years ago and with today's codes and that sort of thing it would be difficult to remodel and update the existing home. As far as the side setbacks the existing home is about 2 ½ feet off the property line to the north. They are looking to get it approximately 12 feet from the north property line. On the north side of the home they have shrunk the size of the overhang to a 6" overhang.

Also on lot coverage the proposed home will be approximately 100 square feet smaller than the existing home. The existing garage would be removed so the total lot coverage from a structural stand point would be approximately 500 square feet less than the coverage now on the lot. They have also moved the home back off of the lake about 5 to 10 feet. The driveway area going to the existing garage will be eliminated. There are drainage issues coming down the lot and the way the proposed drainage is designed will help with some of these issues. The flag lot to the south is a 20 foot easement that comes down. There is not a home on there.

Mr. Marks explained that they are proposing taking the roof litters coming off of the downspouts and daylight those into a curtain drain, which is exposed aggregate to a drain below, which is going to promote infiltration and treatment of the water before it is discharged into the lake. Also they are putting in a swale on the north side of the property and diverting water towards the south.

Mr. Johnson asked how big the garage was going to be.

Mr. Garrett stated that the garage is a two and a half car garage. It's designed for two cars and a storage area.

The house plans were presented to the board.

Mr. Bentley stated that essentially it is a three car garage.

Mr. Lonsberry asked what they would be storing in the storage area garage.

Mr. Garrett stated that they would be storing a lawnmower, snow blower, lawn equipment, etc.

The board discussed the size of the garage and felt it was an awfully big garage with it being almost 1000 square feet, for a small lot.

Mr. Bentley stated that he understands what they are trying to do, but thinks they have some room to minimize the size of the garage. A storage shed in his mind is a 10' x 12'. Not a 13' x 19', which you could store a car in.

Mr. Johnson stated that they also have a lot of asphalt proposed in front of the new garage.

Mr. Bentley stated that it looks like the house could be shifted south.

Mr. Marks stated that they are trying to meet at least one of the side setbacks and maintain the location of the existing house.

Mr. Amato suggested that they narrow up the house to meet the side yard setbacks.

Mr. Marks stated that the owner has requested them to draw up the site plan at this width.

Mr. Garrett stated that would get into redesigning the size of rooms and everything else. They have designed the house the way the owner would like to have the house.

Mr. Marks stated that they are matching the existing footprint of the house and decreasing the nonconformance of this lot.

Mr. Lonsberry stated that if they are going to take and tear the old house down and build a new one to him he thinks they should follow the requirements that are outlined in the town code.

Mrs. Oliver stated that she feels they should follow the requirements as close as they can.

Mr. Bentley suggested that they cut two feet off the side and put it two feet closer to the lake, because they have room to move it closer to the lake and still meet the front yard setback.

Mr. Garrett stated that he supposes they could redesign the home. It depends on how the rooms work out. By doing that we won't reduce the coverage area.

Mr. Johnson stated that they could reduce the coverage by reducing the 18" overhang to a 6' overhang on the south.

Mr. Garrett stated that yes they could go back and redesign the home. The owner may say it is not going to work for him and say he is going to leave it the way it is today and then you will have more coverage and a home 2 ½ feet off of the property line. We have tried our very best to get what the owner was looking for and minimize and make the situation much more conforming.

Mr. Johnson suggested that they look at the height of the home again. He suggested that they go to 8 foot ceilings.

Mr. Garrett asked what width a lot has to be to build a home at 35 feet.

Mr. Freida, Code Enforcement Officer stated a lot has to be 100 feet.

Mr. Garrett stated that they are 80 feet wide and with using the easement to the south.

Mr. Freida stated that that is not your easement.

Mr. Garrett stated that he acknowledges that that is not their easement. "I'm just saying affectively the lot is 100 feet.

Mr. Freida stated no it is not it is 80 feet and the 20 feet is not an easement it is a pre-existing non-conforming lot.

Mr. Marks stated that Rick's point is the density of the lakefront. As you view it from the shoreline the 20 foot lot is not buildable so essentially you are looking at 100 feet free space. The reason for that zoning code is to allow taller houses on larger lots because they have more frontage and the density at the shoreline doesn't look to vast.

Mr. Amato stated that they are basically closing off view from the lakeside and the roadside.

Mr. Marks stated that was just a point he was talking about from the shoreline. Understandably from the rear that is a valid argument.

Mr. Bentley stated that his concern is that these variances can be minimized and or reduce very easily. "I am 100% in favor of increasing the character of the neighborhood. 100% favor as long as it does that. Does this house do it? Absolutely. But also does this house require several variances to meet that. This can be met without all of these variances. That's my concern. So we're minimizing the lot coverage to your point. We're bringing it down from what it is today. I understand that. There's still a variance required. We're increasing the height by 10 feet, which if we increased it by 7 feet we are within the guidance and the accordance with the required codes. There are two of them that are very easily fixable, which we just discussed. These can be minimized and or reduced with a little bit of reconfiguration."

Mr. Amato asked if there was going to be a basement.

Mr. Garrett stated no just a crawlspace.

Mr. Amato asked how high the crawlspace was going to be.

Mr. Garrett stated that the crawlspace would be 4 feet.

Mr. Garrett stated that he has done everything that he can keeping a 9' 6" ceiling on the first floor and an 8' 4" on the second floor. Because you will see in the design of the house it was designed with the windows with transoms over the doors and things like that. You can't obviously do that with an 8 foot ceiling. It is part of the architectural effect.

Mr. Marks asked if there is a happy medium between what was presented and what the board would accept. Then they could go back to the architect and work with that.

Mr. Amato stated that from his perspective you could build a very nice house on this size piece of property without requesting any variances except for possibly coverage. Anything beyond that I don't see a need.

Mr. Johnson stated that right now the roof pitch is at 5 in 12 and the best they can do is go to a 4 in 12 pitch. You will pick up 2 feet.

Mr. Marks stated that a 4 in 12 pitch roof is not aesthetically appealing.

Mr. Bentley stated that he agreed.

Mr. Marks stated that in other townships they sometimes make you match the neighboring house pitches. Some of the house pitches down there are steep. It may be aesthetically pleasing to keep that 6 in 12 pitch and above to keep the architecture of the neighborhood.

Mr. Johnson stated that then the building will need to be shorter.

Mr. Bentley asked if the crawlspace was designed to be for storage.

Mr. Garrett stated no, just for mechanicals.

Mr. Airth asked what the current water problem is on the site.

Mr. Marks stated that the drainage comes right into the back of the house.

Mr. Airth asked what they were going to do with the water when building the new home.

Mr. Marks stated that they are going to collect the roof water and divert it to the north and there is a new swale plan with an open curtain drain with an exposed aggregate at the top. Basically it is a low area with a drain at the bottom and surface flow comes in from the downspout and daylights to a splash block, which then has the opportunity to infiltrate into the ground and go down through all that media and collect into the bottom drain and then drain out to the lake. So it gives it a chance to treat and slow it down.

Mr. Johnson asked if there were any comments from the public.

June Fisher explained that her family owns the 20 foot lot to the south. The Lovejoy's home was the family home. She has lived on the property for 69 years so she has seen everything change. She stated that they now have a neighborhood problem with the drainage. The water happens to come to her parcel because her lot is the lowest now, but it wasn't the lowest at one point. She presented pictures of the flooding on her lot. They were not left with the board. She said that she is concerned about all the impervious surfaces and the drainage to the south making her property worse. She is concerned about the grading and the drainage.

Mr. Marks stated that they could also put a drainage swale down the south property line. That would help relieve some of the water problems on her property.

Mr. Johnson stated that will be a Planning Board decision during site plan review. The Zoning Board of Appeals does have to look at the impervious areas as far as lot coverage.

Mr. Marks stated that they are sending all the drainage north where right now it all goes south.

Mr. Johnson asked if there was anyone else that would like to make a comment from the public.

Tim Long who owns the property to the north stated that they are very excited for the Lovejoy's to build a new home. They would like some of the issues corrected such as the setbacks. They would like the setback on the north and the front to be corrected. He asked if the porch on the front was going to be open or screened it.

Mr. Garrett stated that it is going to be an open porch. It is also farther away from the lake than the existing structure.

Mr. Long stated that if the height is a little over or the lot coverage is a little over they don't have any concern about that.

Mr. Marks stated that they are increasing the setback on the north from 2 ½ feet to 12 feet. It does not sound like the neighbor to the north would like us to move the house forward any more.

It was discussed moving the home to meet the 15 feet on the north side making the setback on south side 13 feet.

Mr. Airth asked Mr. Garrett and Mr. Marks if they start making changes from what was proposed by the owner are they able to speak on behalf of the owner.

Mr. Garrett stated that if he has heard what has been discussed as a possible alternative is to maintain a 15 foot setback to the north and move the house south and reduce the width of the overhang for a 2 foot variance on the south. That is certainly workable.

Mr. Airth stated that that is just one of the suggestions.

Mr. Johnson asked Mrs. Fisher if she would have a problem if the home moved two feet south.

Mrs. Fisher stated yes because of where the garage and the driveway is the water already comes south.

Mr. Johnson stated that the driveway would not move. The house would move two feet south. The driveway would stay right where it is shown on the plans and actually get smaller.

The board invited Mrs. Fisher to the table to look at the plan and explained to her what has been suggested.

The height of the building was discussed. It was suggested that they lower the pitch of the roof to 4 in 12.

Mr. Garrett stated that from a building standpoint it is not a good idea architecturally and also structurally.

Mr. Johnson stated that he is not a fan of a 4 in 12 pitch either.

Mr. Bentley stated that they need to be visually aesthetically be somewhat conforming with the neighborhood. "I think the only option here to minimize this is to reduce the ceiling heights."

Mr. Amato stated that he does not see a need for any variance for a height. 30 feet in height is plenty to deal with.

Mr. Bentley suggested that they lower the ceiling heights to minimize the height variance.

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

The Zoning Board of Appeals discussed the application. They would like the 15 foot setbacks met on the north and south sides. The board also felt that the garage could be reduced to decrease the lot coverage variance. Lot coverage and height was a big concern with the board.

Mr. Johnson stated that they as a board are not architects and can't redesign the building. The Zoning Board of Appeals should not be trying to redesign the building. The applicants need to take another look at the design to reduce the lot coverage and meet the maximum height allowed by zoning.

Mr. Garrett asked if the board could leave their decision open so that he could go back to the owner and discuss this further with him and come back to the board next month.

Mr. Amato suggested that they present elevations of the proposed home at the next meeting.

Mr. Johnson stated that the ZBA will table their decision on this application until February 15, 2018.

Application #17-172, John & Deborah Tschiderer, owners of property at 5094 County Road 11, requests an area variance to build a 20 x 24 residential addition. Proposed addition does not meet the north and south side yard setback and exceeds lot coverage

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

The Ontario County Planning Board determined the application to be a Class 2. The Ontario County Planning Board made the following 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.

The County Planning Board made the following comment: The town should grant the minimum variances necessary. Final Recommendation: Denial.

John Tschiderer and Brennan Marks, Engineer was present and presented the application to the board.

Mr. Marks presented a revised drawing from what was submitted to the town with the application. To reduce the lot coverage the owner has requested to remove the sidewalk from the driveway to the lake to save one of the wood decks, which was shown on the first plan as being removed.

Mr. Marks stated that the owner would like to sell his place in Mendon and move to the property full time. The existing home is a single story with 3 bedrooms and a small footprint. They are proposing to add a 20' x 25' addition. They are going to maintain 3 bedrooms and make the kitchen from a cottage size kitchen to a normal size kitchen. They are going to maintain the single story. There will be two steps up from the existing cottage into the new addition. The new addition is going to be a master bedroom, bathroom, closets and a small office area.

Mr. Tschiderer stated that the washer and dryer are now in the basement and they will be brought up into the new addition.

Mr. Marks stated that the variances that they are requesting are lot coverage and side yard variances.

Mr. Lonsberry asked if they would be willing to eliminate the small wood deck.

Mr. Tschiderer stated that deck is set up for a hot tub. There is a panel box right on the deck. They would like to keep that deck.

The frame shed will be removed, part of the driveway will be removed and the walkway will be removed.

Mr. Bentley asked about the drainage on the property.

Mr. Marks stated that they are proposing a drain to the north to a infiltration system, which is an infiltration trench with chambers in it. The downspouts will be piped into that promoting infiltration and absorption and treatment of the water into the outlet on the north side, which will then drain to the lake.

Mr. Johnson asked if there were any comments from the public.

Greg Gula asked if the setback was from the overhang.

Mr. Marks stated yes. There will be 12 inch overhangs.

Mr. Gula stated that his biggest concern is the drainage with removal of the sidewalk. This past summer when they had the storm there was a foot of water flowing down the sidewalk and down the steps and into the lake. "If they remove those sidewalks there will need to be some kind of drainage or it could overflow into the space between us. As long as the second entrance doesn't have a roof over it and just one step up I am ok with it. I am concerned with the drainage."

Mr. Bentley asked to address Mr. Gula's concern, if the second entrance was going to have an overhang roof.

Mr. Marks stated no. It will just have a door.

Mr. Airth stated in regards to water issue. Is removing the walkway going to make the water issue worse or better?

Mr. Johnson stated that that would depend on the site grading. That is up to the Planning Board.

Mr. Marks stated that one thing that they could do is take the swale on the east side of the house coming off the end of the driveway so it takes it to the north and drains it between the house and the north line.

Mr. Johnson stated that there again that would be a Planning Board issue.

Mr. Tschiderer stated the only reason he was getting rid of the walkway is to meet the lot coverage and if the board would approve leaving the walk in he would not be opposed to leaving the walkway in.

Mr. Gula stated that he is an engineer by trade also, and believes that taking the walkway out will do something to Mr. Tschiderer's property with not having the walkway, because it just flows right down to the lake. "If you don't have the walkway depending on what you do with that soil you have a drainage problem from what I see."

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

The board discussed the removal of the sidewalk. It was decided by the Zoning Board of Appeals the sidewalk should remain because they felt that it would help with the drainage. Lot coverage can be no more than what it is today, which is 40.49%.

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 3' variance for a south side yard setback of 12', a 2.94' variance for a 12.06' north side yard setback, the lot coverage of 40.49% can't be exceeded granting a 15.49% lot coverage variance. The frame shed must be removed as well as part of the driveway. Mr. Amato seconded the motion, which carried unanimously.

Mr. Airth made a motion to adjourn the meeting at 9:25 PM. Mr. Amato seconded the motion, which carried unanimously.

William Johnson, Acting Chairman

Sue Yarger, Secretary