

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
February 21, 2019

PRESENT: Chairman Bentley Mrs. Oliver
 Mr. Lonsberry Mr. Coriddi
 Mr. Burley Mr. Amato

Chairman Bentley called the meeting to order at 7:30 PM and explained the process. Mrs. Oliver made a motion to approve the minutes of the August 16, 2018, meeting. Mr. Coriddi seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #19-012, Dolores Kruchten, owner of property at 4124 Torrey Bch., requests an area variance to build a single family home and relocate an existing shed. Proposed home does not meet the north and south side, rear and front yard setbacks and exceeds lot coverage. The shed will not meet south side and rear yard setbacks.

Chairman Bentley 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: 1. The referring board is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. 3. Demolition debris should be salvaged or recycled where possible and any remainder disposed of at a licensed facility. Final Recommendation: Denial.

OCDPW Comment: The site plan should be reviewed by Canandaigua Lake County Sewer District and a permit may be required.

Scott Harter, Engineer, Daniel Habza, Architect, and Mr. and Mrs. Kruchten were present and presented their application to the board.

Mr. Harter presented an aerial photo of the property showing the size of the lot and the area that could be built in without a variance. This will be kept in the file.

Mr. Harter stated that the proposed is about the minimum amount of building structure, deck and impervious area that is necessary in order to use and enjoy the property to a reasonable extent. He explained that they don't comply with the front setback the rear setback and the side setback, which under existing conditions they don't comply. On the proposed they were able to bring the side setback into a minimum of 5 feet. If they move it in more than 5 feet they squeeze the house size to a point where it is not possible to have enough room to enjoy the residence.

Mr. Habza stated that they are proposing the home to be 24' x 32', which gives them a footprint of only 768 square feet on the first level. It is going to be a two story wood frame and the second level will be 713 square feet. It will be a relatively small house at 1480 square feet.

Chairman Bentley asked what the current square footage is today.

Mr. Kruchten stated that the existing is the same footprint on the first floor 768 square foot. On the second floor there is no second floor over the sunroom. The proposed is to have a second floor over the entire first floor.

Mr. Harter stated that the existing house on the south lot line is 2.5 feet away from the lot line. It's not a huge improvement but it is an improvement moving the home to be 5 feet from the property line. Another part of the application is to largely preserve the deck that is in the front. It is an area that is enjoyed by the owners. The deck is being trimmed back on the south side to accommodate a water treatment area where they understand they are going to have to take their storm water and put it into an infiltration system as part of the site plan approval.

Chairman Bentley asked if the existing deck is going to be demolished and completely replaced.

Mr. Kruchten stated yes.

Mr. Lonsberry asked when the property was purchased.

Mr. Kruchten stated that they purchased it 5 years ago. He just retired and they would like to live at the lake more often. In the current house he can't stand up upstairs. So it is fairly limiting and they can't spend more time at the lake. To have him be able to stand up on the second floor the proposed is something they needed to do. There are only 5 foot ceilings upstairs, which was ok when it was a weekend home.

Mr. Lonsberry stated that there is another part to this, which is the shed in the back. They are asking for a 10 foot variance for a setback of 5 feet. He asked the applicants if there was a reason why they could not meet the 15' required setback.

Mr. Harter stated that it would push the shed into the central area of the lot. Where in the location it is shown it is a lot more functional. It is also consistent with the neighborhood.

Mr. Lonsberry stated that he sees no reason why the shed couldn't adhere to the setback requirements. He understands the 5 foot setbacks on the house north and south but expressed concern with the deck being so close to the front setback. He also expressed concern with 52% lot coverage.

Mr. Harter stated that in the calculations they have proposed pervious pavers on the back lot to affect a reduction in pervious area to lower the lot coverage. "When I encounter projects like this with a small lot and a certain amount of development that is the minimum today verses when the lot was first created, we try techniques such as that to improve the situation. So I can say to you that we're making the lot less conforming. But we cannot make this lot totally conforming as evident by the yellow on the drawing that you are holding in your hand."

Mr. Lonsberry stated that he agrees with him that there is not much space for a year around home but is concerned about the total coverage. That is an issue that certainly could be addressed.

Chairman Bentley stated that they are asking for two variances for the shed. From his perspective there are a few variances they could eliminate.

Mr. Harter stated that they probably could look at the lot where the shed is situated and reevaluate that.

Chairman Bentley stated that he believes that there is room to decrease the variances requested in the front yard as well.

Mrs. Oliver asked if something could be done with the decks so that more of the surface was pervious.

Mr. Kruchten stated that there is no material that is eco-friendly. "You would have to go to like more like a paver?"

Mrs. Oliver stated that is her question. "If that is something you have considered or thought about?"

Mr. Harter stated that they are proposing pavers on the back lot to offset the gravel condition that they have. "Pervious pavers are an option but I think the reason we didn't explore that in the front is that deck was constructed as part of what the owners purchased and I think they enjoy it. I believe according with my research with Gordy the other day the former owners when they constructed the deck obtained a variance for that. I think the owners would like to keep it or something like that if at all possible. But I suppose if the board is concerned about that."

Mrs. Oliver stated that she is just asking what other options might be available that might decrease the lot coverage and still give them a beautiful place to be out in front of your cottage and enjoy the water.

Mr. Kruchten stated that the water runoff the angle of the land is steep and there is stairs down and to get a flat surface.

Mr. Harter stated that the deck is actually stepped. It steps up from the dock.

Chairman Bentley asked if there has been any thought of removing the shed.

Mrs. Kruchten stated that today it is their only storage.

Mr. Kruchten stated that they just bought it three years ago. They replaced a shed that was already there.

Mr. Harter stated that they are willing to work on some changes if the board feels that there are areas that they want them to improve upon. They don't want the board to think that they are not negotiable. "But we've declared what the owners need and the reasons for it. When you think about if you were to occupy this land and this summer residence, or maybe it's a year around residence when this is all over with. How much room is it that you would need? And this kind of goes into the five criteria that you folks evaluate as part of your findings and was this a self-created problem? Well, I can say the owners did not create this lot. This lot was created prior to their ownership. We're left dealing with decisions that were made prior to this ownership. And times have changed. The cabins that went in here when this was first created; you don't see cabins like that anymore on the lake."

Chairman Bentley asked if there were any comments from public.

Mrs. Madara, neighbor to the north stated "I would just say we would support the plan. We would hope that the house could be moved towards the road. It's a private road. It doesn't seem like it would cause harm. We understand regulations and the codes. We live year around in the house to the north and we would like to preserve the southerly light exposure. So it would be wonderful if the house could be pushed more towards the road. We support whatever we can support."

Chairman Bentley thanked Mrs. Madara and asked if there were anymore comments.

An e-mail of support that was received in the Zoning Office From Carol Steron was read and will be kept in the file.

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

Mr. Harter stated "If the board is inclined to deny it as currently proposed, we would appreciate the opportunity to table the application and return to you with something perhaps more to your liking."

Mr. Kruchten stated that he does not know the process but questioned why the board could not make their decision now.

Chairman Bentley explained the process and that the board was going to discuss the application.

After discussing the application the following motion was made: Mr. Lonsberry made a motion to deny the request. There was no second to the motion.

Mr. Harter stated that if the board would like them to return with a revised plan with the shed in a better location and reduce the lot coverage his request would be for the board to allow them to do this.

After discussing the application further and reviewing the questions on the back of the application the following motion was made: [attached hereto] Chairman Bentley made a motion to grant a 10 foot variance for a 5 foot setback on the north side. A 10 foot variance for a 5 foot setback on the south side. A 27.8 foot variance for a 2.2 foot setback from the high water mark for the deck. A 3.4 foot variance for a 26.6 foot setback from the road right of way. A variance of 25% for a maximum of 50% lot coverage on the lakeside and total lot coverage is not to exceed 50%. Mr. Amato seconded the motion, which carried unanimously.

Application #19-018, Susan Glenz, owner of property at 3696 Nibawauka Bch, requests an area variance to build a residential addition. Proposed addition does not meet the north and south side yard setbacks and exceeds lot coverage.

Chairman Bentley 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 comments: 1. The referring board is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. Final Recommendation: Denial.

OCDPW Comment: This project will require review by the Canandaigua Lake County Sewer District and possibly a highway work permit.

Richard Krapf, Architect and Susan Glenz were present and presented their application to the board.

Mr. Krapf stated that "Susan would like to add a small addition to the back of the existing home. To make that functional it requires a variance to the side yard setbacks. Without the addition the lot coverage is at 28.5%. The effect of this addition and taking out a patio that's on the side of the house and reducing the walkway has a net increase of .6% of lot coverage. As it is it's over the maximum and doing this would increase it that .6%. My understanding is that the neighbors have been shown this design and are approving of it."

Chairman Bentley asked if they had any elevation drawings.

Mr. Krapf stated no that they are not to that point yet.

Mr. Krapf stated that they are proposing an addition that is 14' x 18' with a small gable entry point.

Chairman Bentley questioned if the addition was going to be 14' x 22'.

Mr. Krapf stated roughly. There is a structure at that point that will be removed.

Ms. Glenz stated that "the objective here really is to increase quality of living where we can get away from the sun from 5 to 7PM when it's glaring down. I grew up three doors down from this property at 3690 Nibawauka as a little girl. I was super excited to be able to buy this property last year and get back on the lake, because it was in my family for like 5 generations. So the objective here is for my father to move into the house with me and us to be able to enjoy this property year around. And that sun beats down on you. And I remember most of the neighbors to the left and right of me have a space in the back where they can enjoy a meal and gather and get away from the sun. The house itself is updated and year around, that space is not. It's old it doesn't fit with the house we really want to update it and modernize it. And have it be a place that we can enjoy verses kind of a stoop.

In terms of the setbacks, the side setbacks we don't protrude further than the existing main building right?"

Mr. Krapf stated no. "The existing house extends further on either side. To meet current setbacks for this addition we are asking for the variance."

Mr. Amato asked if there was a reason they are asking for a 3" variance on the south side. Is there something in the house that is the reason for that setback?

Ms. Glenz stated that she thinks they lined the larger porch up with the existing entry way of the porch so that was probably not factored in, but she would be fine moving it the three inches to meet the 15 foot setback.

The applicant is asking for a 14' x 18' addition with a 5' x 5' covered stoop.

Chairman Bentley asked if there were any more comments from public.

Mr. Santee asked what was mentioned in the beginning about the County reviews.

It was explained that the County denied the application. If the Town approves the application they will need to have a majority vote to overrule the County.

Mr. Santee asked how close the proposed would be to the roadway.

Gordon Freida stated that it will be closer to the road but does not need a variance.

Mr. Santee asked how close to the sewer will the addition be.

Chairman Bentley stated that is not the ZBA's jurisdiction. He does not know that.

Gordon Freida stated that the proposed will be roughly 35 feet from the road right of way and 26' from the sewer line.

An e-mail of support that was received in the Zoning Office from Jeff and Sue Fitch was read and will be kept in the file.

A letter of support was received from Edward and Cindy Wrobbel was read and will be kept in the file.

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

After a brief discussion and reviewing the questions on the back of the application the following motion was made: [attached hereto] Mr. Amato made a motion to grant 6.4 foot variance for a 8.6 foot setback on the north, a 4.1% variance for a lot coverage of 29.1%. Mr. Lonsberry seconded the motion, which carried unanimously.

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Chairman Bentley made a motion to adjourn the meeting at 8:12. Mr. Lonsberry seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary