

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
October 15, 2020

PRESENT: Chairman Bentley Mr. Lonsberry
 Mrs. Oliver Mr. Bishop
 Mr. Coriddi Mr. Amato
 Mr. Morris Mr. Goodwin-Alternate

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mrs. Oliver made a motion to approve the minutes of the September 17, 2020, meeting. Mr. Coriddi seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #20-155, Stephen J. Imburgia, owner of property at 3999 State Rt. 364, requests an area variance to build a deck. Proposed deck does not meet the front and side setback and exceeds 30% lot coverage. Public Hearing time 7:00PM-7:25PM.

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

The application was submitted to the Ontario County Planning Board.

The County Planning Board made no formal recommendation to deny or approve the application. They did make the following comments: 1. The Town 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 as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

Stephen J. Imburgia was present and presented the application to the board.

Mr. Imburgia stated that all of his neighbors have decks in front of their homes. He has no access in the front of his home. He would like to add a deck to the front to have another access point to enter the home.

Chairman Bentley stated to be very clear the neighbor to the south does not have a front deck they have what he would call a stoop.

Chairman Bentley asked the size of the proposed deck.

Mr. Imburgia stated that it is roughly 10' x 20'.

Chairman Bentley asked Mr. Imburgia if he planned on keeping the existing porch at the end of the driveway or if he was planning on eliminating that porch.

Mr. Imburgia stated that he plans on keeping it and fixing it up.

Mr. Morris stated that there is some impervious surfaces that are not shown on the plan. There is a concrete sidewalk up to the steps that are not on the plan.

Chairman Bentley asked Mr. Imburgia if the concrete sidewalk was included in the lot coverage.

Mr. Imburgia stated he believes it is included in the porch area.

Chairman Bentley stated that it is not shown on the plan so that is why they are asking.

Mr. Imburgia stated that he would like to have a sliding glass door in the front of the house and a spot to get into the house, because of the view of the lake.

Mr. Morris asked where the steps would be for the proposed deck.

Mr. Imburgia stated that they would come off the driveway side. They would be within the 20 feet of the deck.

Chairman Bentley asked Mr. Imburgia if he knew what his current lot coverage was.

Mr. Imburgia stated that he did not know his current lot coverage.

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

After the board discussed the application Chairman Bentley made a motion to table the decision on the application until they can get an adequate drawing showing lot coverage as it is today and what the lot coverage being proposed is. Mr. Lonsberry seconded the motion, which carried unanimously.

Application #20-156, Avery S. Beer Revocable Trust, owner of property at 5282 County Road 11, requests an area variance to build a residential addition. Proposed addition does not meet the natural resource protection setback. Public Hearing time 7:25PM-7:50PM.

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

Avery Beer and Terence L. Robinson, Attorney were present and presented the application to the board.

Mr. Robinson stated that this property is a camp that has been there for a number of years. There's a small cabin that is the subject of this variance.

This structure is pre-existing non-conforming and has been here a long time. Mr. Beer wants to build a small second story addition and a small kitchen addition on the south side, which is the side away from the stream. Nothing will be built closer to the stream.

Chairman Bentley stated that it looks like the work has already been done.

Mr. Robinson stated that a portion of the addition has already been done.

Mr. Beer stated that about 80 to 90 percent of the addition has already been built.

Mr. Robinson stated that Mr. Beer contracted with a general contractor who represented that he was going to apply for and obtain the proper permits for the project. Mr. Beer relied on that representation and the contractor never did apply for any permits, which was not discovered for some period of time.

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

A letter of no objection to the project that was received 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 discussing the application and reviewing the questions on the back of the application the following motion was made [attached hereto]: Chairman Bentley stated for clarity this is a non-conforming lot, there is to be no digging in the confines of the variance of the non-conforming property. Chairman Bentley made a motion to grant a 15.9' setback with an 84.1' variance on the northeast corner of the existing cottage as it currently sets today. A 13.1' setback with an 86.9' variance to the front corner of the existing deck that is also non-conforming. A 31.7' setback with a 68.3' variance off the min line on the southwest corner of the application drawing as submitted. Mr. Amato seconded the motion, which carried unanimously.

Application #20-160, John & Christine Thomann, owners of property at 4546 Lake Drive, request an area variance to build a single family home and detached garage. Proposed single family home does not meet the front yard setback. Proposed garage does not meet the rear and side yard setback and exceeds the height requirement. Proposed home and garage exceeds 25% lot coverage. Public Hearing time 7:50PM-8:10PM.

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

The application was submitted to the Ontario County Planning Board.

The Ontario County Planning Board determined the application to be a Class 2. Their final recommendation was denial. 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.

Comments:

1. The referring body 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 as early in the review process as possible to ensure proper design and implementation of storm water and erosion control.

John Thomann and Mark Thomann were present and presented their application to the board.

Mark Thomann stated that they would like to rebuild their home to fit their needs. He is one of eight siblings and there are a lot of grandchildren so they would like to rebuild and make it to accommodate two people year around and during the summer months have it a year around home for the siblings and the grandchildren to enjoy. They are bringing the house in to conform with the side yard setback. They are building a new garage for two reasons. One is to have a space for cars in the winter and the second reason is in the summer months having a loft space for bunks for some of the grandchildren and in the winter months for storage. They also presented an alternative layout that fits the setbacks on the site but would block the view for the neighbors across the street.

They are trying to keep the new project on roughly the existing footprint to maintain the views for the neighbors. They have a series of retaining walls that exist along the shore that is where they are tending to minimize excavation of the shoreline to use as the front face of the proposed basement walkout level. In terms of lot coverage, they are keeping lot coverage the same.

Chairman Bentley stated that he feels the proposed structure is a mammoth of a structure for that neighborhood. He feels that there is a lot of area where the variances can be minimized. There is a lot of hardscape that could be decreased to reduce the lot coverage.

Mr. Bishop asked if they went to the alternative plan that was proposed what the height of the garage would be.

Mark Thomann stated that it would be the same height as the house because it would be attached to the house.

Chairman Bentley stated that the home is essentially going to be three stories. There's a full basement, main floor, and an upstairs.

Mark Thomann stated that there will be a partial basement at the front and then two stories above that.

Mr. Coriddi asked the applicant if he had talked to the neighbors across the street about the project to get their thoughts as to whether the proposed project would impact their views.

Mark Thomann stated that they have spoken to the two adjacent neighbors and the neighbor across the street about their project and the neighbor across the street did comment about the view since they had purchased the property. That was the deciding factor to keep the footprint of the garage structure more or less in the same location as the existing.

Mr. Amato asked what the height of the existing home was.

Mark Thomann stated that it is approximately 28 to 30 feet.

The proposed building height of the home is 29.52'

Lot coverage was discussed. It was unsure if everything was included in the lot coverage calculation.

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

James Doyle stated that he and his wife tend to re-locate from Penfield and live in the Crystal Beach area. "Based on what I've heard today and what I know we are opposed, five variances side to side setback etc. Mr. Bentley you pointed out that it was a massive property. We haven't had a chance to look at this and didn't know how it was going to come down and where it's going to go.

New development should preserve the views of the lake. From what I'm hearing this is going to seriously impact changing the views. Without even knowing this we now have an opportunity to purchase the property that is next to the property that is opposite the lake road with the view. We have a contract, we haven't closed on it yet, but we should own the property soon. So, this development will seriously impact the view that in certain since we're paying for it because we're buying this property because it has a wonderful view. We're concerned about the coverage, we're concerned about the setbacks, we're concerned about the view, we're concerned about the height. Miss Sue read the County's position in this entire process I would support it 100% and back it up. I don't want to stop somebody from doing something if they're reasonable. I'm not trying to be unreasonable, but from everything I hear and from everything I see there are a lot of questions here. Thank you all."

Lynn Klotz stated that she owns two houses south of this property and mostly came to get information. "My primary concern would be the impact on the lake. So, bank stabilization, trees added, rain gardens put in to capture all the runoff. Because not this summer but the last few summers we've had terrible runoff and erosion. Five hundred year storms every couple of years."

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

Mark Thomann stated that they fully intend to keep the impacts to the neighborhood minimized. In terms of the height and in terms of the basement they are flexible with either minimizing or removing those elements.

The application was discussed. The board agreed that there was a lot of hardscape presented on the plan and felt that lot coverage could be reduced. The detached garage was discussed, and the board liked the idea of it being placed away from the home to eliminate blocking the view from the neighbors across the street but thought the garage was quite mammoth and could be reduced in size.

Chairman Bentley made a motion to adjourn the decision on the application for up to 62 days and will re-open the public hearing at that time if necessary. Mr. Amato seconded the motion, which carried unanimously.

MISCELLANEOUS:

Application #20-134, Kimberly L. Weaver, owner of property at 4003 State Rt 364, requests an area variance to build a 12 x 24 shed. Proposed shed does not meet the side yard setback and exceeds 30% lot coverage.

Kimberly Weaver and her father Duane Weaver were present and presented the application to the board.

A revised survey was received and given to the board showing the correct location of the driveway and showing the proposed lot coverage at 30%, which meets the lot coverage requirement.

Ms. Weaver read to the board a note that she had written it went as follows.

"I submitted a proposal to put a shed on my property 5 feet off of my property line. My previous dilapidated garage was actually over the line and had been there for 55 years. Recently I tore down the garage seeing it was more of a hazard than help to anyone. Note that even the old garage was over the property line I didn't think that 5 feet from the line would be an issue, since the Zoning Officer encouraged me to put in a variance to receive permission from the board to do so. That being said he couldn't say if I would get it or not, but he honestly gave me hope and I paid the fees and here we are tonight. Another factor that I thought would help in the approval of this variance was that my neighbor also approved up to five foot from his line. He submitted a letter to the board showing his approval. I honestly love where I live, and I truly thought taking down an old garage and putting a brand new shed on my property would be a welcome addition to my property and the town. My yard is so tiny, and this variance would continue to allow me to enjoy what little green space I have in my back yard. I'm asking that you please reconsider this request and allow me to improve on my little piece of paradise in the Town of Gorham. I sincerely never thought this process would have been so complicated and had intended on getting this project completed before winter. With that said I am now looking getting something done by the spring hopefully with a variance in hand. Thank you all for your time."

Chairman Bentley stated that he did go out to Ms. Weaver's house and walk the property with her. They marked off where approximately 10 feet would be. There is no survey stakes or pins. Taking into consideration what Ms. Weaver had said about her view, it is a very small lot. There is room to put a 12 x 24 proposed building.

Mr. Morris asked Ms. Weaver what she was planning on doing with the old foundation.

Ms. Weaver stated that the contractor bringing her shed is also contracted to dig out the old foundation.

Chairman Bentley stated that he still stands his position as before. "A shed is an amenity and there is plenty of space. I'm glad to see you've moved it back. I'm still going to stand my position that there's plenty of room to move that 5 feet over and still maintain the green space in the back yard."

Mr. Amato stated that he disagrees. "There's times where there's a right place for an addition or shed and that's the right place for it, regardless whether there is other room and in other instances we've granted plenty of variances where people could have reduced them an awful lot. This is not substantial."

Mr. Lonsberry asked what the lot coverage was going to be with the shed.

On the plan it shows 30% lot coverage with the shed.

Mr. Morris stated that there is some pavers behind the house that should be included in the lot coverage.

Ms. Weaver stated that those pavers are not going to stay there they will be removed.

Mr. Morris made a motion [attached hereto]: to grant a 5' variance for a 5' north side setback, with the removal of the existing foundation and the replacement of the gravel driveway to be within the boundaries of this property and not to exceed the back corner of the house. Mr. Coriddi seconded the motion. Roll call was read with Morris, Amato, Coriddi, Oliver & Bishop voting AYE and Bentley & Lonsberry voting NAY. Motion carried 5-2.

Application #20-112, Paul & Charin Greco, owners of property at 4674 Lake Dr, request an area variance to build a single family home. Proposed home does not meet the north and south side setbacks, front setback and exceeds lot coverage. Update: A new plan has been received eliminating the need for a front yard setback and a north yard setback.

Chairman Bentley reopened the public hearing and the notice as it appeared in the official newspaper of the Town was read. The application was submitted to the Ontario County Planning Board.

The Ontario County Planning Board determined the application to be a Class 2. Their final recommendation was denial.

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.

Comments:

1. The referring body 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. 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 placement of on-site septic system.

Paul & Charin Greco and Wendy Meagher, Meagher Engineering, were present and presented the application to the board.

Mr. Greco stated that they have reduced the first floor footprint very significantly from 2100 square feet down to 1549 square feet to eliminate some of the variances previously requested.

Ms. Meagher stated that they have reduce the house footprint significantly. It has been reduced by 20% from the previous plan. They have also reduced the setbacks. The original lot coverage was 50.39% and they have reduced it to 47.91%. They have reduced lot coverage and the side setback from the original home. They know that the lot coverage is still high however with the size of the lot it really doesn't warrant much with the current code, so they have taken and put in an infiltration trench along the property line to capture the 10 year storm.

Chairman Bentley asked what the square footage was on the existing home.

Ms. Meagher stated that it is 1125 sq feet.

Chairman Bentley stated that "we want to increase by 65% and we're removing some hardscape that where we're going down in the size of the lot coverage correct?"

Ms. Meagher stated "yes."

Chairman Bentley stated "I think we discussed this last time is that that's the opportunity that's posing itself with variances is that we're increasing these large substantial houses on these very small lots by removing hardscapes. I just want to make sure that you guys are very well aware that it's going to be the decision of this board that that's taken into account. The intent is not to increase the house footprint by removing hardscape."

Mr. Amato asked what the length and width of the house was to the eves.

Ms. Meagher presented house plans with the dimension of the house.

It appears that the dimensions are 33.4' x 56'.

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

Tim Andres stated "I agree with everything you guys are saying about the size of the lot and the size of the building. As I read through the zoning trying to make sense of this. When you look at the demolition and reconstruction it specifically says that you can't remove impervious surfaces and replace with building structure. I think that is what you all are eluding too. 65% more building structure is pretty significant. I understand the details of transferring it to a family LLC and what not, but I imagine if you did rescind this and say it's crazy you can't do anything more 1125 square foot and double it up that they could come back and redo the two parcels and put them together put in a significant amount of money and build one big house there across two lots. Because the property is still in the family LLC. It's still non-conforming to the surrounding area. I told you the last time we were here the two houses to the south have acre lots with 1700 square foot houses the two houses to the north the same thing acre lots with 1700 square foot houses. So out of 25 houses on the cove this would be the single biggest footprint in the entire cove on the smallest lot in the entire cove. The other thing is the drainage they're talking about a 10 year storm drain to the north and all of the water venting to the north. We have a full basement and not really jazzed up about every bit of that water coming off that

house venting north. We'd appreciate it if you would take that into consideration as well."

Chairman Bentley explained that the Planning Board will be the board to discuss the drainage.

Mr. Andres stated, "I appreciate your time and hope you put this to bed quickly."

Beth Delfranko stated, "Paul and Charin can certainly build a house. Nobody is saying that they don't want you to have a new house, especially for Charin and her needs. It just that we want it to conform to the size and zoning rules that are out there. The other concern that I have is we know what the footprint is. But does this mean if I have 1500 square foot footprint I'm going to have a 1500 on top, which would then be twice the size. We have seen nothing that shows what the actual square footage of the house is going to be."

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

Mr. Greco stated that "if you look at the existing first floor it is 1125 and the house as configured has a lot of flat roof on the second floor because it was just additions. If you were to consider it to be a standard existing first and second floor that kind of match and multiply the 1125 it equals 2250 in terms of square footage that would be on the existing structure. What we're asking for living space is 2832, which is only an additional 600 square feet if you're building out to the side in essence really a 26% increase in living space in the new structure is what we are asking for. And in addition, in the current plan the lot coverage is actually reduced by 14%. So, it's 600 square foot living space up and a 14% lot coverage down."

Chairman Bentley stated that he asked for the square footage of six houses in that cove and the square footage ranges from 1700 to 1750 total square feet.

After discussing the application and reviewing the questions on the back of the application the following motion was made Mr. Amato made a motion [attached hereto]: to deny the application. Chairman Bentley seconded the motion, which carried unanimously.

Mr. Lonsberry made a motion to adjourn the meeting at 9:37PM. Mr. Amato seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary