

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
February 16, 2023

PRESENT: Chairman Bentley Mr. Bishop
 Mr. Lonsberry Mr. Goodwin
 Mr. Morris Mr. Amato
 Mr. Coriddi via Zoom

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mr. Lonsberry made a motion to approve the January 19, 2023, minutes as presented. Mr. Bishop seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #23-010, Jim & Kristine Canessa, owners of property at 4990 County Road 11, requests an area variance to build a single family home with attached garage. Proposed home does not meet the 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 application was referred to the Ontario County Planning Board. The only comment was a sewer renovation permit will be required.

Jim Canessa and Anthony Venezia, Surveyor, were present and Chuck Smith, Architect was present via zoom and presented the application to the board.

Mr. Canessa stated that they bought the property in 2014 and would like to tear down the existing home and rebuild a home with attached garage. The existing home is 981 square feet. The property has 45 feet of water frontage and is a narrow property. This gives them some very serious design constraints. When he first met with Chuck Smith he wanted a much larger home and Mr. Smith talked him down to what is being presented to minimize the variance request as much as possible. They are pulling the home back away from the lake. They narrowed the width to 28+' and instead of a 2 ½ car garage they have reduced it to a 2 car garage. They meet the setbacks on the lakeside and the street side. They are staying within the allowed height of 22'. That left them with the 3 variances that they are asking for. The existing home now sets 2.9 feet from the north property line. They are proposing the new home at 5 feet from

the north property line. On the south the existing home is 11.3 feet from the property line. They are proposing the new home at 10 feet from south property line. The existing lot coverage is 45.2% and they are proposing to reduce the lot coverage to 42.3%.

Mr. Bishop asked if the pavers on the property were figured in as part of the lot coverage.

Mr. Canessa stated yes. "There is a story behind that and I have actually worked with Jim. When we bought the property there was a permanent fixed deck where those pavers are. After we bought it we removed that deck. I approached Jim via e-mail saying I wanted to put back pavers there. So I showed him it was in the prior survey when we bought it. So I asked him for instructions. What's the best way to proceed on this? And he said as long as I stayed within the footprint of what was there before to proceed. So that is what I have done."

Mr. Amato asked if there was going to be any egress from the lanai.

Mr. Canessa stated that the lanai to the grass is going to be less than a footstep so there is no steps being proposed off of the lanai.

Mr. Amato asked if there were going to be any walkways from the front of the house to the back.

Mr. Canessa stated that there currently is no walkways and they are not being considered in this concept. It will be all grass.

Mr. Amato asked about an air conditioning unit as he does not see one on the plan.

Mr. Canessa stated that it is his understanding that air conditioning units don't count towards lot coverage and so it is not on the plan.

Chairman Bentley stated that on the old drawing of the old house the south wall and the north wall have the same measurements.

Mr. Venezia stated that is an error on the old drawing.

Chairman Bentley stated, "I'm trying to understand the math here of what we are how we got here and where we're going."

Mr. Venezia presented a breakdown of everything on the site.

Lot coverage and how it was figured continued to be discussed at length.

Mr. Amato asked if they had elevations of what the proposed home would look like.

Mr. Canessa presented elevations to the board.

Chairman Bentley asked Mr. Smith what the proposed back out line was out of the garage. "It looks very hazardous."

Mr. Canessa stated that the way that they would be entering and exiting the garage is that they would be pulling in from the street and driving straight into the garage. They would not be turning around in the driveway they would be backing all the way out or they would back down the driveway and into the garage and then pull straight out.

Mr. Smith stated that there is room for a K-turn from the eastern bay of the garage.

Mr. Canessa stated that they considered whether to have a front load or side load garage. They have experienced neighbors in big thunderstorms rain running down the driveway and straight into the garage. They are hesitant in having a front load garage.

Mr. Bishop asked where their water was going to go.

Mr. Canessa stated that the water will go into the grass. They will be working with their design team as to how the water will be handled.

Mr. Venezia stated that there will be a storm water plan design and put in place as required.

Mr. Goodwin asked what the total lot coverage is after all the changes.

Mr. Venezia stated that the existing is 45.2% and the proposed is 42.2%.

Chairman Bentley stated that it is a 3% reduction but there is an increase of living space. "It is a very tight lot for this size house."

Chairman Bentley asked for the record that any letters from the public be read.

Letters from the neighbors to the south expressing their concerns were read and will be kept in the file.

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

Karen Lejman 4992 Co Rd 11 stated, "I've researched this further since I wrote this letter to you folks. I've pulled the survey lot from the property on ONCOR. This has different setbacks on it. It has the north setback of 4.3 feet and the south setback shown at 12 feet. So there is a discrepancy as to what you're claiming as setbacks and what this that's on the public record says. And as you noted there's also a discrepancy on the dimensions on the old property. So I kind of question what's going on here. Why are the numbers different? If this is going to go through I would just like to keep the house the property lines footprint the south wall where it is today.

I don't want to lose two feet of space. It's two foot less space and there is hardly any room there now. As you know it is a small lot. Have all of you visited this property to look at it. There's not much room there. So that's my point on the variances that I see discrepancies. The lot area coverage we can go back and forth the gravel apron permeable or impervious and I looked in your zoning manual or guidelines and you have gravel as being impervious. In this case I think that gravel was put there because they couldn't grow grass. So you can pick and choose these and say the paver patio was a last minute add this past summer to try to gain more square footage. Whether it's 45 or 43 or 42 or 41 basically they're building a new house and eliminating things like driveway and decks and putting all building on this property two stories high. I think I calculated 3558 square feet and then the latest numbers I looked at them today it looks like 3674. So up 3600 square feet on a 45 foot lake frontage property. They're basically trying to use every possible square foot of space to cram as much building as they can on this property. And my question on that would be when I look at your zoning local law Town of Gorham under the Lake Front Overlay section page 54 I'll read you what I found. It talks about demolition and reconstruction of existing structures. It says where an existing lot coverage exceeds the maximum allowed in the underlying zoning district a building footprint cannot be expanded in the reconstruction by reducing decks driveways or other impervious surfaces in order to have lot coverage that exceeds that allowed by the underlying zoning district. So my question to you guys. Isn't that what's happening here? We're putting the building on top of the deck the driveway and other impervious areas. How does this fit with your zoning local law? It doesn't from what I read. You're putting a house 4 times the size of what is there today. It's going to be enormous. There is no variance required on the east side by the road because they put it all the way up to 30 feet of the road. It is just significantly large. Lets talk about the views. They say well we're moving it back from the lake. They're moving it back from the deck that's on the front part by the lake. But when you compare the front of the cottage the wall of the cottage to the wall of the new house the new house, and I can't tell from the drawing, I'm guessing it's probably a foot or two closer to the water than the old house. That's on the map that was sent February 7th. The other thing I had asked the question what is the Lanai? Is that going to remain open? No we are going to put horizontal slats on that.

So again that's restricting the view and making my view less than what it is today. Then we get to the driveway. The big concern with the driveway especially with the drainage you're putting your driveway a foot from my property line going from the road practically halfway down the property line. I don't know where the snow melt is going to go. I don't know where the rain is going to go. If you're going to have somebody snowplow that driveway they're not going to back the truck down and push the snow up the road. They're going to push it down the hill probably push it towards my property. So I have real concerns about the rainwater and the snow. I would rather see the driveway be a center front load driveway or put it on the north side of the house. They claim they're 110 feet from the next house put it over there. The next house probably won't care but I care. Visibility to the lake, you stand up on the road I don't think you're going to see much lake. You're going to see house. And the only lake you're going to see is probably the 10 foot of grass on the south side. When the application says ample visibility I would disagree with that. It's not ample it's minimal visibility. There is no air conditioner or generator on any of the maps that I've seen. They need to go on the north side of the house. I don't want to listen to that stuff all day. There's nothing here mentioned about a basement. I just see steps on a drawing that show downward steps and a lot of steps. So I'm thinking that's a big basement. Bottom line they're trying to squeeze every square foot on this property that they possibly can. It's like putting 10 pounds of something into a 5 pound bag. I've lived here for 36 years it's been a real nice neighborhood. The Edgcombs built a house about 5 years ago. A nice one story with a walkout basement that fits very well with the neighborhood. This is going to be a monster. I just think it will negatively impact me. I would like to understand this zoning law and how you can allow expanding and putting buildings and replacing the driveways and the other impervious areas. This proposal doesn't align with your zoning law."

Chairman Bentley stated that out of respect he will answer a few of the questions. "As duly noted there is a discrepancy with the lot coverage and the size of the existing house on the current drawing. To answer your question about what ONCOR says and what the map says is if you take the overhangs and add it together that's where you get the difference of what you're seeing from the current footprint.

To answer your next question about how is it possible. That's why there is a Zoning Board of Appeals. Is that you can ask for a variance to any code that is in the book. Not saying that you are going to get it but you can ask for a variance. So that is why we are here today. Everybody has the due process of asking for a variance. Some get them some get minimized and some get none. Your comments are very well noted."

Louis Cianca 4992 Co Rd 11 stated, "My thought was in looking at that my concern is mostly with the driveway. Irrespective of the other concerns that we all have. Is that it seems to me that the lot is basically a trapezoid shape where the north property line is longer than the south property line when you measure from the road. So that having a driveway on the north side gives them not only more privacy for us but also more length of driveway by a couple of feet for them. And also it seems from the topography there that the grade is less steep on the north side verses the south side. So I would think that would be more advantageous to have the driveway there as opposed to on the south side. And of course they would have to flip the garage the other way. I think that could be done without a lot of fudging with the design of the house. I hope that's the case. But I think that would be something that would be go along way to address the concerns that we have. We don't want to deny Jim and Kristine to have their house it's just we might want to have some compromises to make it a little bit more fit in with the character of the neighborhood. I think the numbers are the numbers and you can play around with them as much as you want but bottom line is that is that size of a house appropriate for that size of a lot. The driveway part is what I would recommend as one way to help alleviate some concerns."

Jim Morse, Code Enforcement Officer stated that as far as the driveway the closes that they can go to the property line is two feet.

Paula Cianca 4992 Co Rd 11 stated, "There was a comment made on the application in answering the questions that this isn't unusual and that they look through and you got requests on this. But I looked through the past 3 years and I have not unless I missed it, I have not seen a request to increase a house size from 975 square feet to over 3500 square feet. That is a big increase. I think it effects property value next door. I think it really kind of invades onto our privacy of our property. The other thing I would mention is I have real concerns about safety of the driveway. That road is very busy. I park my car very close to 4990's property line up on the road

because my car is low and I cannot go in her driveway. So on the edge of that property for them to come out of that driveway and see that road with oncoming cars coming from the south going north that's an easy accident."

Robert Brancato stated, "I own the property across the road from this property 4991 barn and open land there. A few concerns one is when a house is completely torn down don't you basically start from scratch in regards to zoning regulations and all. My understanding that if you take a house down you have to get variances for positioning and everything else. Should that also be for lot coverage? I believe lot coverage is 25% of the lot. I don't really care if they're downsizing from 45 to 42. I think our concerns should be they're upsizing from 25 to 42. So that is a major concern. And that's not just this place I see that going on multiple places up and down the road. I've lived on the lake in my home at 5015 Co Rd 11 for over 50 years and I've seen this type of thing happening. Second point is where does 22 feet from the ground start from? I've seen many homes come in fill the land and start 22 feet 10 feet above where the house use to be. There's a house across from us that was built that is probably only 35 feet tall but they put it on 15 feet of fill. That's my concern. Is where does that 22 feet actually start from? From the back of where that house is, from the center where this present house is or from the front where this present house is? Because that has a big impact in regards of what's going on. Three other points. One is and this is just in general. Silt fences have not been consistently put up and maintained throughout construction of places on Co Rd 11. This is something that needs to be stressed excessively in regards to anybody building on the road. Porta potties is another type of thing. We have property on the road. Two of our properties have been used as port a potties for people that have been working on the lakeside of the place. One was a landscaper that was there for two months working on a place they wore a path into our property I wasn't even going to go up there and see what was left in there in regard to that. Another was some indoor work that was being done on a house that took over three weeks and those people used our woods across from their place to go to the bathroom. I talked with the Zoning Officer in regard to that and I guess they were not required to have porta potties in those situations. But that is a concern because I don't want my place be used as a porta potty. I'll start charging them for it. And the last thing is when you're looking at 45 feet of lake frontage or 45 feet of road frontage

where are they going to put all their construction work all their cars, trucks and everything else that goes along there. There is no place for them to be parking and that is going to be interrupting the flow on Co Rd 11 continuously. And presently we have construction going up and down East Lake Road and you can see the building material is right on the road and people are using parking on neighbors property. So those are concerns that I have in regard to this. Not just specifically to the design of the house other than the height and the lot coverage."

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

Mr. Canessa stated that he has an e-mail from his northern neighbor in support of the project that he read. This will be kept in the file.

Mr. Canessa stated that also in preparing for this meeting he has gone through every meeting minutes that are on the web site. He has cataloged all of the variances that have been granted similar as to what they are requesting. He presented these to the board.

Chairman Bentley explained that there are many mitigating circumstances around all variances. That is why everybody gets the due process of a variance hearing. "The biggest thing that I will share with you from my advantage point is taking a property, the plans look great, but when you take a property and you exacerbate it to remove items of asphalt, walls, patios to increase living space that concerns me. The driveway is a huge concern for me."

Mr. Bishop asked if this is going to be a summer residence.

Mr. Canessa stated that their plan is to move there full time.

Mr. Amato stated that he is concerned with the driveway as well. He also expressed that he is very concerned with the size of the house on the lot.

Mr. Bishop stated that he can understand why they would want a garage if they are going to live there full time. "It's almost like between the driveway and the other issues it's almost like taking that garage off would solve a lot of problems. I know it wouldn't solve problems for you. Just stating my opinion. I got the experience of backing out of there the other day when I went to go see the property and that is a hazardous situation. Having even less driveway is definitely a problem. I didn't know until Jim brought it up that the driveway has to be 2 feet from the property line so that makes it even more of a problem. I don't know what is possible to do with the garage to make it smaller or something

like that. Move the driveway to help mitigate some of those problems. I don't know but those are my opinions."

Mr. Morris asked if they were going to have a basement.

Mr. Canessa stated that it is an unfinished basement.

Mr. Morris asked how many bedrooms they were going to have.

Mr. Canessa stated three bedrooms.

Jim Morse, Code Enforcement Officer stated that the basement will be an issue because it is going to be below the floodplain.

Chuck Smith disagreed that it was below the floodplain and stated that it is at the floodplain of 692.

Chairman Bentley stated that there is a home a few properties from here that had the similar situation they built a home 2 stories with no garage. He believes it was 18 or 20 feet wide. He expressed that he feels that this house is too big for this piece of property. He also expressed his concern with the driveway and the safety of the driveway. He also expressed that he would have no clue what to vote on as the numbers are incorrect on the plan.

Mr. Canessa asked the board to adjourn their decision on their proposal to allow him to get correct numbers on the application and possibly make minor changes to the application.

Mr. Goodwin stated that one of the concerns is the safety with the side load garage. There was mention that water comes down and would go into the garage. He suggested that they could put a grate in just before the garage to catch the water into a French drain before it goes into the garage.

Chairman Bentley made a motion to adjourn the decision on the application. Mr. Amato seconded the motion which carried unanimously.

Chairman Bentley made a motion to adjourn the meeting at 8:10PM. Mr. Goodwin seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary