

Town of Gorham

4736 South Street
Gorham, New York 1461

ZONING BOARD OF APPEALS

Thursday, April 18, 2024 7:00 p.m.

MINUTES—Approved

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.

Board Members Present: Mike Bentley, *Chairperson*
Tom Amato
Steve Coriddi
Charles Goodwin
Victor Lonsberry
Mary Ellen Oliver, *Alternate*

Board Members Excused: Alan Bishop

Staff Present:
James Morse, Town of Gorham Code Enforcement Officer

Applicant Present:
Lucas Graham, 4940 County Road 11
Rosemary Graham, 4940 County Road 11
David Hanlon, Hanlon Architects
Doug Templeton, Hanlon Architects
Adam Larrabee, 3776 Meadow View Drive
David Bayer, Bayer Landscape Architecture PLLC
Mark Bayer, Bayer Landscape Architecture PLLC

Others Present:
Elizabeth Druzvik, 3792 State Route 364
Douglas Druzvik, 3792 State Route 364
Gail Kaiser, 4938 County Road 11
Ed Kaiser, 4938 County Road 11
Nancy Bloom, 3774 Meadow View Drive
Alan Cohen, 3774 Meadow View Drive
Judi Gorenfio, 3772 Meadow View Drive

Doug Doebler, 3772 Meadow View Drive

Via Zoom:

Dan Graham, 4940 County Road 11

*Two additional unidentified people

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. by Mr. Bentley.

Mr. Bentley stated I am the Chairperson for the Zoning Board of Appeals for the Town of Gorham. This is the meeting for the month of April 2024. Minutes of each meeting are recorded and the vote of every member is recorded as well. The jurisdiction of the ZBA is limited to appellate review only. Before we can make a decision or hear an application, there must be first determination made by the Zoning Officer. Town Law 267-B says that we can reverse, modify or affirm any decision of the Zoning Officer. There's five questions that each of you have submitted on your application that we will go over before any determination is made and just for the record that if four out of those five are a yes the application will be made for a motion for denial and the application will be denied based off of the Town law. The ZBA in the granting of area variances shall grant the minimum variance that it shall deem necessary if a variance is granted and it is written to protect the character of the neighborhood, health, safety, and welfare of the community. In attendance tonight is Steve Coriddi, Victor Lonsberry, Mary Ellen Oliver and Charles Goodwin and Tom Amato will be joining us momentarily.

2. APPROVAL OF MINUTES OF MARCH 21, 2024

■ A motion was made by MS. OLIVER, seconded by MR. LONSBERRY, that the minutes of the MARCH 21, 2024, meeting be approved.

Motion carried by voice vote with all present voting aye.

3. LEGAL NOTICE

The following Legal Notice was published in the Finger Lakes Times newspaper on Thursday, March 14, 2024:

Please take notice that the Town of Gorham Zoning Board of Appeals will hold a public hearing on the following applications. Said hearing will be held in the Town Hall, Gorham, New York on Thursday March 21, 2024, at 7:00PM

Application #ZBA 47-2024, Daniel & Rosemary Graham, owner of property with Tax Map # 141.17-1-9.000 at 4940 Co. Rd. 11 requests an area variance to demo old and add a new single family home. Area variance applying for:

- 1-Side setback is lesser than the minimum required for the home.
- 2-Exceeds the maximum allowed height
- 3-Exceeds the maximum allowed lot coverage for this zone.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Mike Bentley
ZBA Chairman
Zoning Board of Appeals

4. CONTINUED PUBLIC HEARING

ZBA #47-2024 Daniel & Rosemary Graham 4940 County Road 11, Rushville, New York 14544

The applicant is requesting area variances to demo old and add a new single family home. Area variances applying for:

- 1-Side setback is lesser than the minimum required for the home.
- 2-Exceeds the maximum allowed height
- 3-Exceeds the maximum allowed lot coverage for this zone.

Mr. Bentley reconvened the Public Hearing on this application.

Mr. Bentley so you came last month and we asked you to go back to the drawing board and bring us, and I understand the reason for the drawing rather than getting too in depth and having to change it. I don't know anything about this. Do you have anything that shows the lot coverage or anything of that nature?

Mr. Hanlon said if you go to the colored site plan what we've done, and on there is should say it but it doesn't, we are reducing what was our former application of 43% down to 41%. We have achieved that by shrinking the length of the house, reducing the width of the house overhang to overhang. So we have reduced the lot coverage to 41%, which is right on par with our neighbors. The building height we reduced so that there is no height variance anymore. We are going to have that at twenty two feet. By reducing the width of the building we have improved, a little bit, the setbacks, although it is still requiring a variance. So that's the adjustments from last month.

Mr. Bentley said so it looks like that you have shrunk the house. So 72 by 25 is about 1750, is that about right? I think we were at 1782 last time, is that correct?

Mr. Hanlon said I couldn't tell you. We are at 41%. I don't have a breakdown of all the individual little pieces, but we are at 41% lot coverage.

Mr. Bentley said just for my recollection, is that we were at 4.5% last time for the north side and we were at 5% last time for the south side but that was to the building and not the overhangs. Am I recalling that correctly? Now it's five feet to the overhangs and four and a half feet so in essence you shrunk the house two feet.

Mr. Hanlon said not two feet but I think six inches on each side was the approximate. I couldn't tell you. I don't have the old drawings in front of me. I think it easier if we just stick to this plan. It might be confusing going forward but this is what we are asking for. Mr. Bentley said so it was twelve inch eaves and now it's six inch. So in essence we didn't shrink this side because it was five feet to the building and now it's four and a half, so we shrunk it by six. Then on this side over here, the south side, it was five and a half feet and now it's five, but in true factuality it was four and a half feet and now it's five to eaves.

Mr. Hanlon said correct.

Mr. Bentley said just to make sure I'm in the same page. So we have taken away the height variance and ok that makes a whole lot more sense. Currently this is a thirty four foot lot or thirty five foot lot.

Mr. Hanlon said thirty five foot lot.

Mr. Bentley said any other questions?

Mr. Hanlon said I think something we didn't highlight at the last meeting is that we are moving the house away from the lake from where it currently sits today. So that is another improvement, I think, that we are adding to the neighborhood.

Mr. Lonsberry said what is the distance to the lake now?

Mr. Hanlon said thirty feet.

Mr. Lonsberry said and what is the distance to the road?

Mr. Bentley said that's irrelevant because you have the garage back there that they want to put eight and a half feet.

Mr. Hanlon said it's the existing setback that is there today.

Mr. Bentley said any other questions? Since I don't think I closed the public hearing last month and these are new plans, is there anybody that would like to speak on behalf of this? All I ask you to do is to say your name and your relevance to the property. Those of you who are joining us via Zoom, I will come to you last, so if you have anything please just hold off and refrain until I come back to the Zoom . Anybody here have anything regarding this property that they would like to speak about?

Mr. Kaiser said I live directly to the North. Two things I'd like to clarify about what was said a minute ago. The current square footage 72 by 25 is 1800, so it went from 1750 to 1800.

Mr. Bentley said let me clarify that, it was actually 73 but I need the ruler.

Mr. Kaiser said I think one of the plans had the dimensions right on it.

Mr. Bentley said this one does but I am looking at last months.

Mr. Kaiser said last month, per the minutes, it was at 1752 square feet. Not that that's a big deal.

Mr. Bentley said I want to validate for myself, so we're all on the same page. I think that was one of the questions that we talked about last month. So last month it was 73 by 25, so it went down the foot that I thought it did. I respect that but if you recall that I did the math in my head, so I'd like to think I'm perfect I'm not.

Mr. Kaiser said second thing for clarification before I start my comments, so I can speak accurately. On the elevation drawing, the new elevation drawing.

Mr. Bentley said have you seen these?

Mr. Kaiser said yes I have, a couple times. [Mr. Kaiser approached the table to discuss the drawings.] This says peak height 25 foot 3 inches. So now they're saying it meets the criteria, but I don't know how if it's giving a dimension of 25 foot 3 inches. Then it shows here to the right of the total dimension 22 building height 6 foot 3 for the ridge height, but that's 28 foot 3. I don't know what the true height is. So I just want to clarify so I could speak accurately.

Mr. Bentley said absolutely. So I'm not the resident expert, so I'm going to turn that over to Jim, by the way that it's measured because it does not measure from the front.

Mr. Morse said it's based on the average.

Mr. Kaiser said right there is an average grade line on that plan that these dimensions are coming off of.

Mr. Morse said it's the average. So he would have to come up with the average and it would have to be close to the twenty two.

Mr. Hanlon said so we have an average grade around the building and there's a dimension to the right that says average grade to peak is twenty two feet. This 25 foot three is just the draftsman forgetting to erase it from the page, so I apologize for that. But on there you'll see from average grade to peak there is a number 22 on there to max building height and we are not asking for a variance. So I apologize the 25 foot 3 is from the old drawing.

Mr. Bentley said thank you for that clarity. Thank you for that question.

Mr. Kaiser said the Grahams design is requesting a proposed coverage now of 41% on change from 43%. That's a change of approximately 64% more than the guidelines currently allow. Last month the architect compared lot coverages with neighboring properties and I totally appreciate that. But in my opinion that only tells half of the story. I think to compare lot coverages you also need to compare lot sizes. The neighboring properties have an average of 30-40% larger lots than the Graham's currently have. But in my opinion 43%, I'm sorry now 41% lot coverage is much more impactful to a smaller lot. The second thing, and while I appreciate the board stance that you made that very clear last month that you review each property on its own, I was just reviewing the meeting minutes of the other properties previous and there was one that was in front of the Zoning Board last August of 2023 the neighboring property located at 4990. That applicant was trying to get approval to build a smaller house than what the Graham's are proposing on a larger and wider lot. That application was denied. So the proposed peak height right now at twenty two feet not what was shown on what I read on the drawing that's been changed a little bit. Ultimately, my biggest concern is that we got a house that is now seventy two feet long and twenty two feet tall average, still taller in the front and slightly shorter in the back on the lake. People sit on the lake side including my wife and myself. The house is substantially taller on the lakeside, I understand the ruling that it's an average. My concern is that they've got a house that's seventy two feet long that is four and a half feet from our property, which is 70% reduction from the allowable setbacks. I have numerous concerns with this. The Town Lake Front residential guidelines indicate that a fifteen foot setback is in place to adequately allow for fire separation and to support storm water management and retention needs, among other things. Typically when they do storm water design, they use the term hundred year flood. They try to plan for a big storm. The hundred year floods were meant and supposed to come one every hundred years. The County can testify to, and I'm sure you know we are now getting these storms once or twice a year. Hence the reason the County is constantly up and down that road cleaning out culverts and rebuilding because we are getting bad rain events. So I don't know how they can adequately manage their storm water when they're only four and a half feet from our property.

Mr. Bentley said how is the water today?

Mr. Kaiser said it's a different scenario today because they have no foundation or basement under their house. So in essence the water can run under their house. We do get it where it washes our mulch out because they have a drain that's in front of their door that is piped just around the side of their house and ultimately it ends up on our property. I'm not worried about it. They have a small house. They're good neighbors, but I'm concerned with what they're trying to build.

Mr. Bentley said so it still concerns you that they're proposing to improve by 350% on that side.

Mr. Kaiser said it concerns me, yeah.

Mr. Bentley said they are improving it because they are a foot away right now from the property line.

Mr. Kaiser said I understand that but that was that was before my time. They are 2.6 feet away. I have my site map that shows that.

Mr. Bentley said so 100%.

Mr. Kaiser said yes, I'm still concerned. The code is fifteen feet. So if you're four foot from our lot and five and a half from the other, how are you going to maintain your stormwater.

Mr. Bentley said not for this board. I won't even discuss that.

Mr. Kaiser said but that is part of the Town design guidelines.

Mr. Bentley said that's for the Planning Board if this is approved, so it's something I won't even discuss.

Mr. Kaiser said another concern I have with the seventy two foot long house at the height they're proposing has to do with our south facing windows. Now I understand they've lowered the house by four to six feet, whatever because it was not clear last month. The home would take away 100% of our view from these windows. Right now they have a one story home we can see over the top of it. We are slightly higher than them just because we're set back farther from the lake because the lake comes in about twenty five feet from the front of their retaining wall to front of ours, so we are set back slightly farther. So we're looking over the top of their house so if they built a house that is higher that goes away. We will no longer be able to do that. We're losing our sight, our line of view, and it'll totally block the sun during the winter months. They are four and a half feet from our property line. The second concern I have is the dormers that are on the second floor that are shown on the plan. It provides them the opportunity to look directly down into our south facing windows and takes away all of our privacy. In conclusion, my wife and I are permanent residents at our home, we are not seasonal. Well I understand the Graham's wish to build a new home, the lot they purchased in 1991 is only thirty five foot wide. It's currently still only thirty five foot wide. Nothing has changed. They bought what they bought. In my opinion, the new home should be designed to more appropriately meet the Town's Lakefront Residential guidelines and consequently be more appropriate for the lot they own and have less of an impact on the neighbors in the neighborhood. If they wish to build a home they have currently designed, I totally understand, but I think it might be more appropriate to look for a piece of property that's better suited for their design. Thank you.

Mr. Bentley said thank you for your comments. Anyone else? Would anyone on Zoom like to chime in? If you would raise your hand and then I will call on you because there's multiple people on Zoom. Having seen no hands, I will close the public hearing. Board discussion on this application.

Mr. Lonsberry said my feeling is, and I agree with the gentlemen who just spoke, you bought a small lot. You should build a home appropriate to the lot size. Asking for these small variances on the north side and south side, I think are extreme. Very seldom do we grant variances for a lot that small. Personally, I think we see it all the time, people buy these small lots and they are trying to build homes way too big for the lot size. They were

intended to be cottages down there not Taj Mahal's so to speak. Those are my feelings on the application.

Mr. Coriddi said I appreciate the fact that you guys lowered the height and worked on some of the other issues we talked about last month. I agree that it is still tight on both sides. I understand the lots are tight but at the end of the day people have to get through there is there was an emergency.

Mr. Amato said I concur; I think it's too much for to small spot. That's it in a nutshell to me.

Mr. Goodwin said I agree with everything that's been said from the board before. I'm also concerned about the loss of privacy from the line of sight from the second floor there and also the blockage of seeing the lake from a place where right now they can enjoy the lake. I think that is a negative for the neighborhood.

Ms. Oliver said I'm going to agree with that as well. It is too small of a piece of property for that size house.

Mr. Bentley said I am going to be in the dissension here I guess. But my thoughts are it's an improvement to the property. The lakefront is the lakefront and I've been very steadfast on this from day one and Ed, I appreciate your comments and your due diligence, but if it meets the height requirement there is nothing this board can do about it is my stance. The height variances are very, very, very, there's been one in my eleven years on this board and then that wasn't even used. To me it's an improvement for the property and I find what bothers me is that these properties there, and I agree with what the board said they are designed for cottages, and if you bring a footprint in with a two story cottage the way that it's built today, I think there's more reasonability to get it approved. You did do a height variance reduction, but that's my comment. I'll be on the other side on this application and I'll steadfast to that the entire time.

Mr. Bentley then asks the following five (5) proofs:

(1) whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance –

2 NO / 4 YES

(2) whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance -

4 NO / 2 YES

(3) whether the requested variance is substantial –

0 NO / 5 YES

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district –

1 NO / 4 YES

(5) whether an alleged difficulty is self-created –
0 NO / 5 YES

MR. BENTLEY made a motion to DENY the application and the motion was seconded by MR. LONSBERRY. Motion carried with 6 Yes / 0 No.

5. NEW PUBLIC HEARING

ZBA #48-2024: MARK BAYER c/o BAYER LANDSCAPE ARCHITECTURE PLLC 19 NORTH MAIN STREET, HONEOYE FALLS, NEW YORK, 14472:

Requests an area variance in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting relief to the maximum allowable lot coverage of 25% with a variance to allow a lot coverage of 28.75% and is also requesting an area variance for a front setback of nineteen (19) feet where thirty (30) feet is required and a rear setback of twenty seven (27) feet where thirty (30) feet is required. The variance is to allow the construction of a single family residence. The property is located at 3776 Meadow View Drive and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Bentley opened the public hearing on the above project and asked who was here to present the application.

Mark Bayer, David Bayer and Adam Larrabee presented the application.

Mark Bayer said Adam and his wife Jesse recently purchased this property. They hired an architect and builder to kind of assess the property and the project and their goals with their home. They did a full inspection of the home and there is structural issues, in the architects opinion, as well as foundation issues. It's not a cohesive build, if you will. They did an assessment of renovation costs verses new building and ultimately decided the new build made more sense. Shortly thereafter, they had a major water break in the upstairs and that sealed the decision to do a new build. We are bringing you the proposed plan of course. In the process of our work we met with Jim and he reviewed where we were from the perspective of zoning and the need for what variances would be required. He pointed out the lot coverage variance requirements and there is two setbacks. One is on the lakeside front and one is on the roadside rear yard. I'll start with the lot coverage. Right now we are proposing that we will be a little bit overweight at 28.75. But I think it's relatively consistent with other things I've seen in the area. I want to point out that it's actually a reduction in lot coverage. Today it is 31% lot coverage on the lot and we would be bringing it down to 28.75. The building envelope, the foundation footprint, the main body of the house is being reduced in area by 306 square feet. The building is actually being pulled back from the lake. The building envelope is being pulled back from the lake. One thing that may be able to help you on your drawing, the dashed red line is the existing footprints. So the existing footprint of the building is forward of the proposed footprint. So we are pulling it back from lake I would say on an average of about five feet. The only place that it's a touch closer is the open terrace, open porch, that corner of the new building is a bit forward. The

main body of the house, the solid portion of the house, is pulled back. About 505 square feet of impervious area, on the lakeside, are being returned to green space. On the plan, the drainage plan, which is in your big set we are proposing three infiltration gardens or rain gardens. We have about 125 lineal feet of infiltration trench and the infiltration trench is going to receive the water that's going to the rain gardens and further infiltrate. So what we're trying to do in that process is maximize our ability to store and manage stormwater. So our 125 lineal feet of infiltration trench also is basically about a two by two or two by thirty inch envelope of gravel with pipe running level. The purpose of all that, including the rain gardens, is to manage and slow rainwater in a storm event. We did a full design with Grove Engineering on that, but the reason I'm bringing that up is that one of the main concerns with lot coverage is impervious area and managing stormwater. We are making an effort to do a great job with stormwater management. The other thing I wanted to tell you is as part of this process, not only are we bringing the new house back off the lakefront, the body of the footprint of this house, we are removing the nonconforming gazebo. Which you can also see on your plan. It's the red octagon shape up on the embankment out in front of the house on the lake side of the house. All of that in my mind is with the goal of improving the lakeside character of the property, trying to conform better with the intentions of the Town Code there and that's why we're doing those things. Again related to the lot coverage we are reducing and also there is no stormwater management on the site right now. So we are bringing that to the project to do very, very thorough job with it. In summary, on the lot coverage, the property is going to be greener. We have a massively improved stormwater management system. The actual building envelope footprint is smaller. The lakeside character is in advanced by pulling the building back and removing the gazebo that's right out there on the embankment. I think we are much more in keeping with the Town's intention in the design guidelines for waterfront properties. So that's the lot coverage variance. I can answer questions on that now or I can go on to the setbacks.

Mr. Lonsberry said do you really need all of that paving in front of the house.

Mark Bayer said it's the lakeside terrace. I think so because it's really kind of the only entertainment space. It's actually less than what's there today and again our lot coverage is dropping because of the changes we've made.

Mr. Lonsberry said agreed but all I'm saying is that if you could reduce some of that impervious area you could also reduce the lot coverage.

Mark Bayer said I understand that but again I tried to scale this for the Larrabee's and their extended family so we tried not to be excessive with it. Currently with brick paving goes further. We are down by 505 square feet of impervious.

Mr. Lonsberry said you are heading in the right direction.

Ms. Oliver said has that come from the front however or the sides of the house.

Mark Bayer said most of the brick exist today in the lakeside of the house.

Ms. Oliver said right, but the brick that you are removing the 500 square feet, is that from the front or is that from those two paths that go around it?

David Bayer said the 505 square feet is referring to this lawn area which is currently all paved in brick so that equates to approximately 505 on the lake side.

Mr. Bentley said but isn't this back all brick to today?

David Bayer said the arrival side is, there's a path. That was the other thing that we did, there's only one path going around.

Mark Bayer said we don't have a path on the south side anymore.

David Bayer said the path that we are using is stone dust, so while it is impervious technically it is working to slow and manage stormwater.

Mr. Bentley said maybe my eyes are bad, but it looks like a whole heck of a lot more than 44% on the lakeside today for me. It looks like there's a substantial amount of coverage.

Mr. Morse said but they are allowed fifty on the lakeside.

Mr. Bentley said I understand that and it looks like more than fifty. I'm not questioning this it is just to the naked eye it looks like there is a purposed, I mean it's eighteen feet by however many feet on the back and it just looks like a large, large portion.

Mark Bayer said if you look at this it might help you determine the green relative to the paved.

Mr. Bentley said I think you probably can't get it up in the back, potentially.

David Bayer said I think the side yard on the south side and then the front is actually greener then it looks on the print.

Mr. Bentley said it still looks like there is a substantial amount of lot coverage here.

Mark Bayer said right now, overall lot coverage we are at 31 and we are dropping.

Ms. Oliver said I apologize that green space that you speak of, is it usable? I didn't go down there because it was a hot mess down there.

David Bayer said it's an embankment.

Ms. Oliver said so that's not a place where you could sit and enjoy the lake.

David Bayer said no it's just a vegetated slope with shrubs on it. It's sitting above the sea wall.

Mark Bayer said any other concerns on the lot coverage.

Mr. Bently said it's 31% today and 505 square feet of impervious surface?

Mark Bayer said no we are converting 505 square feet to green.

Mr. Bentley said and going down in the house by how much?

Mark Bayer said the building footprint is going down 306 square feet, the building envelope, the first floor conditioned space. There is a covered terrace.

Mr. Bentley said what is the current footprint today? You said it's 2600?

Mark Bayer said it's 2626 from what we calculated and we are going to 2320 on the conditioned space.

Mr. Lonsberry said are you going to maintain all the vegetation down the sides and along the roadway?

Mr. Larrabee said yes sir.

Ms. Oliver said and all of that is going to stay.

Daivd Bayer said along the road there will be a construction access made.

Mr. Coriddi said what about the height.

Mark Bayer said we do not need a height variance; we are within code on that.

Mr. Bentley said that's what I just asked Jim, it's because of the size of the property.

Mr. Morse said he's good because he is within thirty feet.

Mr. Bentley said some of those houses there are twenty two it's because it's the size of the width of the lot.

David Bayer said we provided an average grade table on that. We did a full calc on it.

Mr. Bentley said I'm sure it was in your favor.

David Bayer said it's pretty flat sight. It wasn't hard to calculate.

Mr. Bentley said those that are greater are vary trouble sum to calculate. I think the back variance that you are asking for is self-explanatory.

Mark Bayer said I can run through the setbacks if you'd like. In the redesign a couple of things have happened. We pulled the house east, the main body of footprint, and the entire conditioned envelope of the building is within setback. Where we ran into setback issues is with the roof overhang. The roof overhang on the street side is over by three feet and on the lakeside there is an open terrace on the northwest corner that has a roof on it. It is covered and that is encroaching by eleven feet. But it's an open terrace, it's not the building. There is no building walls there at all. Another thing, again, playing into the setbacks and any concerns anybody would have about sight lines from neighbors is the main body of the building is pulled back and the gazebo is gone which obstructs the view north and south now. On the northwest corner of the building with the open terrace it steps back and that is open even though the roof is encroaching and the terrace is encroaching it is an open structure. The other thing I want to bring to your attention on the lakeside setback is the current body of the main building at its closest point from the water is about twenty three feet today, the closest point on the lakeside. With the new design, again the reorientation and pulling back, the main body of the building at its closest point will be thirty two feet. The encroachment comes from the open terrace with the roof overhang. On the front of the house the main body of the building is within setback, it's the roof overhang. The existing house is noncompliant on all four sides. Although we need the variances for the two things I've mentioned overall in terms of a setback condition this is a dramatic improvement in terms of setback and compliance. Also getting rid of the gazebo which is non-compliant setback wise. Those are the those are the key things to consider again. We are going from encroachment on four sides to roof overhang on the roadside and the open terrace roof and open terrace on the lakeside.

Mr. Bentley said any questions from the board? Having heard none, I'm going to open it to the public. So there is a few of you that are here. If you would just raise your hand, let me call on you and then if you would state your name, your relevance to the property, etc. and I would appreciate it.

Mr. Doebler said my question was on the cover porch, I haven't seen a plan, is that a single story? One and a half story?

David Bayer said it's a single story with a post. [He reviewed the plans with the resident to clarify and further questions.]

Mr. Cohen said I wish I didn't have to be here because it's a wonderful neighborhood. Usually neighbors come around and talk about these things before they present it to you, but we haven't met. I haven't seen any of this really up until a couple days ago when I came to the Town to look at the survey. I wish I could say I was in support of this, but I must ask you to deny the request for the setback on the lakeside. If the variance is allowed, although it may be an improvement on the current property, it's my understanding the code is designed to maintain the character of the lake based on today not based on many years ago. This is substantial with the requested variance. This could be a substantial difference from what's allowed by code and it will obstruct our views and it will prevent light entering from the south and the west. What I do is I drew a diagram to show, there's a red line, and there's a picture I made my wife stand with a Swiffer to say where would the new structure

be. So you got the red line, which is where she would be standing approximately and the green line showing the angle of where a compliant structure would stand. So that's a 30° difference in terms of what is proposed versus what would be allowed by the current code. It's a substantial difference. It's a 15% reduction in view.

Mr. Bentley said I'm confused. When I present it I want the facts. The 30% reduction is from here to here.

Mr. Cohen said that's correct.

Mr. Bentley said okay but in fact it's from here to here because there's already a structure there. I just want to make sure I understand.

Mr. Cohen said yes, of course.

Mr. Bentley said perfect. Thank you. Thank you for the clarity.

Mr. Cohen said yeah even from there to the existing structure it is still 8%.

Mr. Bentley said okay, I just want to make sure I'm understanding because that's not 30°.

Mr. Cohen said it took us awhile to figure it all out. Unfortunately, I just have photographs of the site plans because they're not available to the public without Freedom of Information request. So too late for that. So yeah, we feel that the new property would be a substantial obstruction of our view. If it was compliant and with the code on the lake setback side it would be much better. We also asked our real estate agent about the potential impact on the value of our home and there's a letter in there from Steve Mendola who is well known from Edelweiss Realty. You know he can't say it's going to be an "x" dollar difference in the value of your home but what he says quite clearly is, and it said here in the previous discussion, people buy homes on the lake for the pleasure of enjoying the lakeview and anything that reduces that lakeview has a potential to substantially reduce the reason why they purchased the home and its potential resale value. I'm not an architect, I'm not professional of this but I looked at everything here and said, geez, you know there is a lot of room here and if we move the thing back toward the road eleven feet it would be compliant with giving me my 30° and there will be one variance requested on the street side of the property. From my naked eye it doesn't seem to me that that would substantially diminish pleasure of the Larrabee's moving in. Somebody said to me that a variance should only be granted if there's a hardship to the person presenting the request for variance. I don't see a hardship in this at all that there's a need to build this house eleven feet closer to the lake. That's where the bottom line, I don't have any objections to the lot coverage and certainly to the street side. It seems like an easy solution that would make things better. Not my area of expertise, I just sort of know where I live.

Mr. Druzvik said we live on the property directly to the southeast so the setbacks do not affect us at all. We have no information other than the notice from the Zoning Board so

we took the pleasure to come out here just to say hello. Thank you for the notification and the opportunity to reach out and good luck with your project.

Ms. Bloom said we are full time residents and we appreciate the sun, especially in the winter, and the structure that they're talking about, it's not the house part, it's the covered porch they're referring to as open but it is still covered. It's that cover that is a permanent structure that will impair our view there and our light. So that is one point and then the other point is they have rightly said that they have pulled back from the lake, but not on our side. So on our side that covered porch jets out in front of the existing footprint and that's our issue.

Mr. Bentley then had the residents approach the table so he and the applicants could review the submitted plans with them.

Mr. Bentley then asked if there was anyone else who would like to speak.

Mr. Doebler said I'm a forty year realtor and I walked through this house long before they bought it. I was the only one that said this is a teardown. This should be torn down and a new house should be built.

Mr. Amato said the garage across the street.

Mr. Bentley said that has nothing to do with this.

Mr. Amato said I know but I'm curious to know if it has facilities in it. Is there water and waste going through there?

Mr. Larrabee said yes water and waste.

Mr. Lonsberry said it looks like there is an apartment above it.

Mr. Morse said that will have to go before a permit would be issued.

David Bayer said Jim addressed that with us when we met him out there.

Ms. Oliver said but that can be a bunkhouse though, right? I mean, you could have bedrooms there.

Mr. Bentley said no, not a chance.

Mr. Morse said you can't have two residents on the same parcel.

Mr. Larrabee said it needs to be a garage in raw form. Right now it's got two bedrooms and two bathrooms and a kitchenette to be compliant that needs to be fixed.

Mr. Bentley said having heard nothing else from the public, I'm going to close the public hearing and we will discuss. You are welcome to stay for the discussion. If you choose to leave, that's totally up to you as well as the applicant. We will see where this takes us.

Mr. Amato said I have a comment here I know in a lot of places we are looking at houses that don't have enough room and in a lot of instances where we have people asking for variances they are required to make something that is reasonable. This is a big piece of property and they are putting a lot more on it then the property will legally allow. I think there's room, in my opinion, there's room to get it so that you might not even need any variances. That's my opinion. They're just it. It's a big piece of property and there's a lot here.

Mr. Goodwin said are you talking about leveling the house and the garage.

David Bayer said no we are leaving the garage and making it compliant.

Mr. Goodwin said ok so it's just going to be the house. It's a fairly narrow area down there, there's only a couple houses beyond it, but where are you going to put all this construction equipment and how much potential will there be for closing the roads with heavy equipment?

Mark Bayer said I don't think there will be any problem with that because they have a fairly open lot across the street so they will be able to stage there.

Mr. Larrabee said on the road it's important that with the construction that is going to be happening there is going to be some wear and tear and I assume that I would bear the cost of any improvements as a result of damage to the road. The road is not in great shape right now but s more construction comes the road is going to get worse at that point.

Mr. Goodwin said I was going to say the cottage I believe immediately to the South is up for sale and it's going to be hard to sell if it's a construction site.

Mr. Larrabee said I talked with Pierre on the phone last night. He seems pretty confident that he will get to move there someday. They just move up to Webster but said he'd like to build his house someday down there so it doesn't sound like it was for sale. Right now it's an Airbnb.

Mr. Morse said it's licensed.

Mr. Bentley said so I have a few questions. So I applaud the effort that's why I ask a lot of questions because typically when you see somebody come in and tear down a house they want to take them impervious surface out and they want to make their footprint bigger. I applaud you for not doing that and I'm also going to give you some feedback momentarily on things I think you could do better. I think there's a lot of coverage. So I think, me personally, there's some room for some coverage removal. I'm just being very candid with you. I had spotted this covered open terrace because there's a ton of trees there, right? Good

luck if you're approved and building with all those trees. So I think for me personally is that you could eliminate the front request for a setback. Mr. Cohen spoke up with his indifferent in reverse of what I'm going to say and it is if you didn't have that covered terrace at all, you wouldn't have to have a setback. I don't think that because this is your setback line here, then you would have to have a setback at all. So it eliminates a few issues for you as well. So that's my concern. I applaud the effort of what you've done. I think there's some space here for some removal and I don't know the size of this, I don't have the dimensions of anything of what things are, etc.

Mark Bayer said we can tell you quickly if you want to know.

Mr. Bentley said it's twenty three by fourteen. So if you've got twenty three feet there, and I'm not telling you what to do, I think you could either remove the roof on that and not even have it because there's trees there but I think that would eliminate, based off of your setback line, any setback or variance that you would need in the front. Those are my two concerns. We had this same application about nine or ten years ago and ironically enough the neighbor to the north had the same exact concern. I know that property very well too, and they just removed the roof and everything was settled. I think you could and I'm not going to tell you what to do, but I think there's some room where if you don't put a roof on you don't have a variance. My job is to minimize the variance. There is no need for one, make sense? So that would be my two cents. I love what you're doing with it.

Mark Mayer one comment, as you all know this is west facing, and one of the desires was to have one zone where you could sit undercover so they wouldn't be in the sun.

Mr. Bentley said you got twenty five feet to work with, so it's not like you're working with ten feet. You asked the question, I'm not telling you what to do, but if you did half of it then you are looking for a five foot variance instead of an eleven foot variance. I'm not sure the need for all of these pavers over here when there's a wraparound sidewalk. Is that going to be grill area? I mean the grill area looks like it's right here.

David Bayer said it's circulation for the kitchen over to the grill.

Mr. Oliver said and that's what this is a grilled space, not like a big chimney.

David Bayer said it an existing outdoor kitchen.

Mark Bayer said it's a thirty six inch counter.

Mr. Lonsberry said so no rooftop over it.

Mark Bayer said no.

Mr. Bentley said anyone else? Alright, same order as before and thank you for the detail on there. It's probably one of the first applications I've seen with impervious removed and lot size going down and size of the building going down.

Mr. Bentley then asks the following five (5) proofs:

(1) whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance –

4 NO / 1 YES

(2) whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance -

1 NO / 4 YES

(3) whether the requested variance is substantial –

4 NO / 1 YES

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district –

5 NO / 0 YES

(5) whether an alleged difficulty is self-created –

0 NO / 5 YES

Mr. Bentley said so we are going to discuss and you guys are welcome to stay, so if we need to get clarity on anything we will ask you. So thoughts here? Tom, I got your thoughts. I think I pretty much laid out mine. If we remove or reduce that awning there, I think that minimizes the variance you go from, according to this measurement, nineteen feet and if you go to a twelve foot, in my opinion, you would be at twenty four and a half feet. I would feel more comfortable with twenty four and a half foot and a five and a half foot variance. That's sort of my thoughts. The back variance is not substantial to me nor is the area variance since it's coming down and it's a decrease of 10% of what's currently there, almost.

Mr. Amato said but we're supposed to look towards minimizing and I guess with the area variance, to me just seems like there's so much there in the first place. Is all of that needed or is it just wanted and do we grant variances just because somebody wants them?

Mr. Bentley said I don't disagree with what you're saying. I agree with your thought process. In my opinion, I think that the variances are like I just said, it reduced the lot variances coming out. I would like to see something different over here on this side, I'm not sure what it's going to do. Minimizing and reducing or eliminating, there's two different scenarios and this for me this property is the largest size property. I don't disagree with what you're saying, but they have minimized the coverage by 10%. So it's not like they have come in here and asked for more, so that's my thoughts.

Mr. Amato said I do have a question though just for clarification, the exterior kitchen area, that's not considered a structure at all.

Mr. Morse said it would be but it goes to lot coverage. Even pavers go towards lot coverage but as far as setbacks they are kind of iffy.

Mr. Bentley said I think the question you're asking is if they were to tear it down then it would have to have a variance because it's existing because today.

Mr. Amato said that's what I was asking. Okay, so you're not going to tear that down.

Mark Bayer said that's proposed.

Ms. Oliver said there's no structure there, right.

Mark Bayer said it is a brick wall and pavers.

Mr. Larrabee said what is happening with the brick wall.

David Bayer said the brick wall is being dismantled.

Mr. Bentley said so then really your lot coverage would be, correct me if I'm wrong, that would be the variance to that point because it's the first building structure, right?

Mr. Morse said if something is going to be built there, that's where the setback goes to.

Mr. Amato said so it's a zero setback then.

Mark Bayer said it is an existing wall there now.

Mr. Amato said it's an existing wall, but if it's going to be torn down, disassembled, right?

Mr. Morse said are you talking about a framed wall or are you talking about the concrete wall?

Mr. Bentley said it's a rock wall.

Mr. Morse said stone is going to be treated different than framing in a wall.

Mr. Bentley said is this grill area, so there's a wall there now.

Mark Bayer said there's existing structure through that zone.

Mr. Amato said there's an existing stone wall and you're going to make it into a framed countertop. That's totally a different thing.

Mark Bayer said we are going to make it into a countertop, yes.

Mr. Morse said if that's framed in it's got to be considered a setback.

Mark Bayer said it's likely going to be masonry like it exists today.

Mr. Morse said that's an interpretation for you guys.

Mr. Amato said but if your existing concrete is going to be torn down and remade then that's a new structure.

Mr. Larrabee said we don't have to tear it down necessarily.

Mark Bayer said there are existing masonry walls there that are going to be repaired.

Mr. Amato said how tall is that wall.

Mark Bayer said thirty six inches.

Mr. Amato said but the countertop won't be that short right.

Mark Bayer said the countertop will be thirty six inches. This will be thirty six inches finished height above the patio. It's part of the garden landscape feature.

Mr. Bentley said I can't buy that. I mean, it can't be a landscape feature if it's going to have a grill.

Mark Bayer said well what I mean is it's part of the patio landscape.

Mr. Morse said landscape features have always been viewed as lot coverage and not considered in the setbacks. If it becomes a framed in deck or any of that type stuff, then it's considered framed. If they do masonry around it, unless it's built solely out of stone but they do a wood frame then it needs to meet the setbacks.

Mark Bayer said we are going to be doing entirely masonry.

Mr. Morse said are you going to put a stove on top or are you going to cut out the stones and set it in there or do you form it.

Mark Bayer said we make a recess in the masonry.

Mr. Oliver said are there going to be cupboards under it.

Mr. Morse said if that is what it is then it should be considered part of this consideration, yes if that's what it is and you have every right to say that's a 0% setback on that feature.

Mr. Bentley said it would be three feet and at that point it would be a different conversation. Okay, any further discussion?

Mr. Goodwin said I was just going to say that house was vacant for three or four years, so it's a good thing you're leveling the thing over because I'm sure that the water leak is not the only problem they had going on. I have to say I also agree that what's been said about

removing the roof from that patio area and also taking a few of the bricks out of that patio on the northwest corner to get some of that coverage down. Those are some of suggestions for me. The rest of it, I think you've done a pretty good job.

Mr. Bentley said I think the conversation for me, that grill area will have to be relocated to somewhere else. It will have to be conformed if anything was to be approved. I think that you've done a good job but I'm not understanding, you are asking for three feet on the back. Could you not put that in conforming and really only have a minimized variance request on the front and then obviously it's going to minimize your lot coverage if you take that three feet down. Is that something that you could do?

Mark Bayer said the only nonconforming on the front is the roof line.

Mr. Bentley said it's not three feet of roof line, right?

David Bayer said no it is three feet on the overhang of the front porch stoop. It's a post and a roof protecting the front door. So that's why it's that deep.

Mark Bayer said this is a covered porch right here with a post in the corner.

Mr. Amato said so you need that for architectural purposes.

David Bayer said well it is to protect the front door from inclement weather.

Mr. Amato said get a shortened up to stoop and shorten up the overhang, right? The only reason for it then, is architectural to match.

David Bayer said I guess that's one way to read it.

Mr. Amato said it's a ten foot stoop.

Mark Bayer said it is designed to be in scale with the front of the house. The welcoming feature on the front of the house is a nice entry porch.

Mr. Lonsberry said I pretty much agree with your reduction of the paving on the northwest corner. That was my first concern that I pointed out the amount of paving up there.

Mr. Bentley said anybody else? Okay, I'm going to make a suggestion. I think that you've done a good job and I think everybody wants this house gone in that neighborhood because it's an eyesore. I think you've got some room to work still. It's quite often that this is on the plan and then it's removed from the plan and the house is built and then guess what it goes right back to originally where it was on the plan after it was denied. I'll let you make this decision, I'm not going to make it for you, I think you can minimize or eliminate this one. I think we would agree with that. If you are going to move this it will potentially minimize the coverage very minimally. I said in the beginning if an area variance is granted, it's our job to grant the least area variance we deem possible. Then I think there's

some work to do back here. How can you bring it in? It's a ten foot porch and I'm not going to tell you what to do but if you brought that roof in or whatever the case may be to get it. You're only at this point if they brought this in and move this over then you're talking inches away. I'm not going to squabble over inches in a variance. So I think for me personally you've done a great job, I think there's still some work to go. You've heard the board; everybody's been concerned with this front piece. It's a 25 by 15 patio, and it still will accomplish what your desire is to have a covered open terrace, but I think that there's some work to do there and to get that lot coverage. So with your approval I will make the motion to table this until next month until you can submit a revised plan. All we would need is what you've changed here and the numbers. We don't need the entire elevations because it becomes costly. I understand and respect that. That's totally up to you.

Mr. Larrabee said turning the house, does that affect anything or is that crazy talk.

Mr. Bentley said you're probably going to create more headaches.

David Bayer said it's probably going to create more challenges because we looked at that early on in the design studies.

Mark Bayer said one question, just if you're thinking about that porch and I think somebody else brought this up but would there be latitude or consideration for sliding house back toward the road. If we were to increase the variance there to help solve or reduce this problem with the porch. What would be the board that because one of the unfortunate things about that is this will be a very nice area because it does give sun protection because of building wall here and the roof.

Ms. Oliver said would that increase your lot coverage with hardscape.

Mark Bayer said we can figure out ways to solve that. I'm trying to salvage the covered because I think with a lake property it's such a nice feature to have.

Mr. Bentley said and I don't disagree. For me it would be just being very candid because it doesn't solve the issue because then you're going to be asking for a, if you move it back eleven feet, then you're going to be asking for a fourteen foot. I understand that your garage is over here, but it's defeating the purpose because then you're going to have eleven feet more hardscapes, etc. I think that there is room to work or you could minimize the house and then that will solve all three issues. Is there room to minimize the house? I think you've done a good job, me personally. So you're literally four feet back here and you're literally inches away if you just readjust that roof line, in my opinion.

Mark Bayer said so in your opinion then is your goal to kind of get back to where the existing houses in terms of that encroachment.

Mr. Bentley said I always want to make it better. My goal is to minimize any variance that's asked for. That's our entire goal. Tom said it earlier. That's why there's this process. If you

do that and you move whatever you choose to do, you now have minimize this variance by your request of 50%. So that's my thoughts. Any other thoughts? Tom?

Mr. Amato said no, I think that's exactly right. I mean, it's a big piece of property. There's a lot of room to minimize what you're asking for and still have a lot of house and a lot of entertainment area.

Mr. Bentley said what is this over here?

Mark Bayer said it's a stone front garden.

Mr. Bentley said just asking but is that needed?

David Bayer said it's a stone bench sitting area with the garden.

Mr. Larrabee said that isn't very important to me.

Mr. Amato said a lot of stuff is done architecturally to look good but you're asking us to give you variances because of that, and that seems unreasonable.

Mr. Bentley said I can't sit here and I won't negotiate. I'm going to ask you if it's okay if I table it.

Mr. Larrabee said that makes sense.

Mr. Bentley said I'm going to make the motion to table this application until May.

Ms. Oliver said I second it.

Mr. Bentley said that meeting will be May 16th and you will be the first one on the docket. Have your undated plans in by May 6th but May the 3rd preferably and we will see where you go from there.

David Bayer said just to clarify, just revised plans, do we need to revised application?

Mr. Morse said no, just revised plans.

Mr. Bentley said we have to vote on it within sixty two days of submittal. When did you submit it?

Mr. Morse said we go based on the deadline so they submitted it on 12th so they are good for the next meeting.

Mr. Bentley said you want to provide what you are removing and what it's affected etc.

Mark Bayer said the drainage concept that I told you would probably stay the same.

Mr. Bentley said that is going to be for the Planning Board.

David Bayer said we will submit this plan with the changes.

Mr. Bentley said and we don't need elevations. The elevations aren't going to change that much. The most important thing to us is that we see reduction we see compliance and then we go from there.

All in favor? All present voted aye. Motion carried.

6. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, May 16, 2024 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

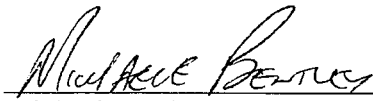
7. ADJOURNMENT

■ A motion was made by MR. BENTLEY, seconded by MR. AMATO, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:37 p.m.

Respectfully submitted,



L.S.

Michael Bentley
Chairperson of the Zoning Board of Appeals