

MINUTES  
TOWN OF GORHAM ZONING BOARD OF APPEALS  
August 18, 2016

PRESENT: Chairman Hoover            Mr. Markell  
          Mr. Bentley                 Mr. Farrell  
          Mrs. Oliver

EXCUSED: Mr. Johnson                Mr. Airth  
          Ms. Hoover-Alternate

Chairman Hoover called the meeting to order at 7:30 PM. Mrs. Oliver made a motion to approve the minutes of the June 16, 2016, meeting. Mr. Bentley seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #15-167, John J. Manila, owner of property at 5220 & 5222 Long Point Rd, requests an area variance to build a residential addition. Proposed addition does not meet the front yard setback and exceeds lot coverage.

The applicant has asked that the public hearing be adjourned to be re-opened on September 15, 2016.

Application #16-093, Linda Conley-McCall, owner of property at 4248 State Rt.364, requests an area variance to build a single family home with attached garage. Proposed structure does not meet the North and South side yard setbacks, the rear yard setback, exceeds lot coverage and exceeds maximum height allowed.

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

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

Linda Conley-McCall Motola, Sol Motola, & Charles Smith, Architect, was present and presented the application to the board.

Ms. Conley-McCall Motola gave a brief history of her parcel and the adjoining properties, which she had written out and given to the board. This will also be kept in the file. She would like to replace her seasonal cottage with a year-round home. She would like to be given similar consideration that her two neighbors were given approximately 18 years ago when they built their year-round homes.

Chairman Hoover asked Charles Smith, Architect, if he believes that this is the minimum packaged that they have put together knowing that they are asking for 5 variances. "Has there been consideration given to shrink this whole package down?"

Charles Smith stated that he would like to go over the elements of the design. "I like to follow the test for granting area variances that the state requires all zoning boards to follow in providing relief from zoning issues that we feel are creating a hardship. When I first designed the house under item number 1, whether there will be an undesirable change produced in the character of the neighborhood. We feel that we've created a lake cottage that compliments the lake frontage and would be pleasant to look at, will look like a cottage from the lake and it's slightly smaller in scale than the neighboring properties. In doing that I created a house that from the lake has sort of a porch look, which is a 17' high porch." He presented pictures of the proposed home to the board at this time. "From the street has a low garage from the street side that again presents a small cottage feel to the eye. Under number 2, whether the benefit sought can be achieved by other methods feasible other than an area variance, which goes right to the heart of your question sir. So we're faced with a lot that is 58 feet wide and we're required to measure setbacks off the roof overhang, not the actual walls of the house. If we were to use the required side yard setback of 15' each to the

roofs we would end up with a building width of 27', which is very difficult to design a building with a first floor living situation handicap accessibility with 27' wide. We wouldn't actually be able to fit the footprint we require within the 27' and then meet any other setbacks. If you look at what sort of the minimum requirement would be for a first floor living situation where you have a master bedroom suite, a laundry, a mudroom, an open kitchen and living area and then add on a small two car garage, which we looked at originally as a normal 24' wide, but to try to lessen the impact we reduced that garage to 20' x 20', which is the minimum that you really need to get in two cars."

Chairman Hoover questioned the size of the garage. On the plans it shows a 20' x 22'.

Mr. Smith corrected his statement to a 20' x 22' garage. "To make it smaller for less of an impact we have to reduce it to a one car garage, which most families do not function with one car, they function with two cars. We also have a full time living situation where we are required to have a certain amount of storage for living and so we looked at where that storage could possibly go so the garage will function for some storage capacity as well. You can hang things from the rafters and that kind of thing. That being said the only other thing that we could do to lessen the footprint is to remove a deck on the lakeside, but because the house is setting on a hill side you wouldn't be able to get from the front lakeside of the house down to the grade without some sort of stair. And to try to bar-b-cue if you were older and having to climb down stairs to get down to the bar-b-cue that would also be a hardship. So the proposed house footprint first floor is 1570 square feet. It's a modest home for first floor handicap accessible. We feel that we are exactly where we like if our clients are going to invest in building a new home on this property."

Chairman Hoover asked if the new home will have a full second story.

Mr. Smith stated no.

Chairman Hoover asked how big the second floor was going to be.

Mr. Smith stated that he would have to get back to them with that.

Chairman Hoover asked how big the bonus room over the garage was going to be.

Mr. Smith stated that the bonus room is going to be 10 x 20. The upstairs he guessed to be about 1000 square feet.

Mr. Smith stated that they are at 30.8% lot coverage. To get down to 25% they would have to remove the deck and remove the garage.

Mrs. Oliver asked if the driveway was included in the lot coverage calculations.

Mr. Smith stated that it was not, they do not plan on paving the driveway.

Chairman Hoover asked if the driveway was going to be grass.

Mr. Smith stated no that the driveway would be gravel.

Chairman Hoover explained that under the Town of Gorham's zoning, gravel is considered impervious so it has to be figured in lot coverage.

Mr. Smith stated that the driveway will be grass then.

Mrs. Oliver asked if a grass driveway would be feasible.

Mr. Smith stated that the town has approved pavers that have grass growing through them.

Gordon Freida, Code Enforcement Officer stated that a pervious paver driveway would need to be shown on the plan showing that it is 100% pervious.

Mr. Smith stated that with the footprint that they are proposing they are removing a storage shed so that is another reason they want to create all the storage within the home.

Mr. Smith stated "regarding the height I revised the height diagram." He presented the revised height diagram and reviewed it with the board. They are under the height of the neighbors at 28 feet.

Mr. Markell stated that the floor to ceiling measurement is 9' 1 1/8". If you lowered that to 8' ceilings that would eliminate the height variance.

Mr. Smith stated that that is true. "In today's standards of an open floor plan when you look at a proportion of the big space of an open floor plan an eight foot ceiling where it would be comfortable in a 12 x 12 room or even slightly bigger room starts to feel very low when you got lots of space open to each other, which is the way people like to live today. Is to have an open floor plan so everyone can gather and the cook isn't cut off from the rest of the family and so in today's standards of construction a nine foot plate height is not unusual at all for a high quality home that you are investing a lot of money in. Our second floor we're at our minimum 8 foot plate height."

Mr. Bentley stated the board's goal is to minimize the variance, which this is requiring a lot. "I think we are going to need some give and take from you before we get there. The eight foot floor plan is that totally out of the question?"

Mr. Smith stated that he would recommend to his clients to not go lower than a triple plate on an eight foot stud, which is eight foot four, which gives you that little bit of extra boost in that space.

Mr. Bentley stated that the crawl space is 6' 3 1/2". "So there is compromise room there as well for crawl space. I think you got the ability to maneuver, because it could be achieved in a different manner than a 2 foot variance on the sill, because that is right up underneath where you're asking for the variance of 2 feet. So there's some leeway in both of those areas that could give you that 2 feet."

Mr. Smith stated that's correct. He asked the applicant how tall he was. He stated 5'7". "So if we have 6'4" and we need to clear 5' 7" and give you a hard hat to clear any steel or beams."

Mr. Bentley stated that "you have a shed out back that probably is four times the content of that shed will fit in this crawl space. My house is similar to this so I know exactly what it's like. I got 40" of crawl space, little bit different. It's hard to get through so I am not asking you to go to 40" but maybe 57" or 58" somewhere around there."

Mr. Motola stated that their children are taller and they have to fit things in the crawl space and they would need their children's help because they can't do it themselves.

Chairman Hoover explained that the board is trying to minimize variances. "On the plans we're presented with a crawl space. But you say you want a walk in crawl space. So a crawl space to most people means it's a crawl space somewhere around a 4 foot height. So do you want a crawl space or a walk in basement? I guess that is my question. The other concern I have, I'm looking through the plans and I'm looking at the front of the lake and your telling me you don't want to take the deck away because that's the way down to the lake. Throughout the five questions on the back of the form, which is a state guideline, it's not an end all be all, it's a state guideline to guide boards. There are other things we can consider. It's riddled throughout there with concerns about accessibility. Everyway in shape and form you get down to the lake you're going down stairs. So I'm a little bit unnerved by the concern about the accessibility the handicap accessibility, but the primary way down to the lake is off a deck down a pretty good size set of stairs, where if we shrunk the height of that down looking at the lake it's going to do nothing but help that situation so you're not going up and down so many stairs. In your own words you're worried about the handicap accessibility, but I don't see

any provisions here for getting a person out of this house and down to the lake that's handicap, but yet you're asking me to consider handicap accessibility in the house when I'm considering my variances."

Mr. Smith stated that people wouldn't be going out the lake side door. "They'd be going out the garage, which is accessible and going around the side yard and out."

Chairman Hoover stated that he does not see any sidewalks proposed on the plan. "That would be lot coverage. You're going to take a wheelchair and walk across grass?"

Mr. Smith stated that no one is handicapped at the moment.

Chairman Hoover stated correct.

Mr. Smith stated that when he designs a home he likes to make the home last forever for people so he takes into consideration the possibilities. "But I think the main purpose of a tall crawl space is actually so you can throw kayaks and furniture you know the lakeside furniture and that kind of thing. So you know we really would like to at least be able to get Sol in there so he could get something in there."

Chairman Hoover asked how they would be entering the crawl space.

Mr. Smith said they would be entering it from the lakeside.

Mr. Smith stated that with a little bit of compromise with the floor heights and a little bit of compromise with crawl space they can get to where they need to be with the height.

Chairman Hoover asked if they can get to the 26 feet in height.

Mr. Smith stated yes, "however our neighbors are beyond that so I would like the board to consider that."

Chairman Hoover asked about the lot coverage. "You're going from 18.7% lot coverage up to, you're requesting going up to 30% lot coverage and that's under the consideration, you know I understand the size of the house you're building and I have a concern long term for our Zoning Officer, are you going to be happy forever with a grass driveway. And you're asking us to go to 30% lot coverage and then two years from now we put a sidewalk out the back to the lake, we put a driveway in understanding that if variance are granted for a lot coverage, anything you put in that's impervious or semi-impervious is going to be required to be removed."

Ms. Conley-McCall Motola stated that she has never considered a sidewalk. "In our area we don't have sidewalks."

Chairman Hoover stated that he is talking about a sidewalk from your doors down to the lake. "That's fine, if you're happy with a grass driveway. My concern is"

Ms. Conley-McCall Motola stated that we are talking about a sidewalk.

Chairman Hoover stated and a driveway. "I'm talking about are you going to be happy with a 26' deep driveway coming off the road that's completely grass long term? That's what you're committing to forever."

Mr. Smith stated "So if we were to look at the allowable lot coverage that the Town allows. It's 1900 square feet. And we deduct a garage, now we're down to 1400 square foot house. And we deduct a driveway, now we're down to a 1000 square foot house. And then we deduct overhangs so that your house will survive rain and now you're down to 900 square foot house and we don't have to come here."

Mr. Motola stated "When you talk about a grass driveway, we don't want a grass driveway. I thought we would have impervious pavers that might have things growing in them, but we can't just drive in grass and the mud."

The driveway was discussed. Mr. Freida stated that if the designer of the driveway can prove that it is 100% pervious it does not count towards lot coverage.

Chairman Hoover stated that the Zoning Board of Appeals needs to see what that design is for the driveway before they can consider approving the application.

Chairman Hoover explained to the applicants that he has a real concern with the size of development on this parcel. He understands what the neighbors have. Zoning was completely different when the neighbors built than what it is today. The Zoning Board of Appeals has to deal with what the zoning requirements are today. He would like to see the lot coverage down closer to 25%.

Mr. Smith stated that if the board is asking the lot coverage to be closer to 25% they won't be back. "Nothing will be built and you'll end up with that cottage and it will be sold and then someone else will come here and ask the same questions to the board."

Chairman Hoover stated that is a very good possibility.

Mr. Smith stated "I don't think you're providing relief from zoning laws that are very difficult for this situation."

Chairman Hoover stated "that is your opinion. I am looking to minimize the variance we have and I have not heard yet that you have looked at any alternative designs to try to fit better within our zoning. I'm asking you to consider something a little bit different with that."

Mr. Farrell explained that what the Chairman is saying is before the board makes a decision we need to see what you are using for

the driveway. "In the past we have found that the question of permeability is very subjective."

Ms. Conley-McCall Motola stated "so with the driveway not added in. Is there no compromise on 25%?"

Chairman Hoover stated "I'm asking you folks. You present 30 I'm asking you. Can you do something different to drop that lot coverage down?"

Ms. Conley-McCall Motola stated "but you said you wanted it to go to 25."

Chairman Hoover stated that he would like it to be at 25.

Ms. Conley-McCall Motola stated "so there's no compromise?"

Chairman Hoover stated "I didn't say there wasn't any compromise. But your architect indicated that if I asked him to do anything the projects off."

Ms. Conley-McCall Motola stated that they can't possibly go to 25% lot coverage, but maybe there is a compromise.

Chairman Hoover stated that he is asking them to minimize the variances. "You are at 30% lot coverage what can we do with this design to try to minimize that further, closer to 25."

Ms. Conley-McCall Motola asked "Does the height make the footprint larger?"

Chairman Hoover stated "no not in this case."

Ms. Conley-McCall Motola stated "then in a situation where we have two homes of lovely neighbors that I adore on either side of us that are 37 and 34 feet and you're asking me to again live in a valley and be 26 foot tall. I don't understand that."

Chairman Hoover stated that our zoning is asking you to do that. "The 26 foot, the two foot on this, really you're not going to see a difference when you're looking at it from the road. It will not change your living situation at all."

Ms. Conley-McCall stated that it will change the living situation. "It will change the crawl space."

Mr. Bentley stated that a crawl space is designed to be a "crawl space". That's why it is named a "crawl space". You're asking Jerry if you don't do this it's off. It is a board we vote. Everybody on the board gets a vote. We all have similar views, maybe different views, and we do grant variances. But we try to minimize the number of variances that we do grant. I get handicap accessibility. There's probably nobody more in here that gets it than I do. You've got to be within reason with the zoning laws. And we're asking you just like we do everybody

else that comes before this board to present an alternative plan. We've already adjusted two feet. There could be 2% somewhere that oh we can do this. That's why we are asking for an alternative design. You're asking us are we going to deny it if you don't get to 25%. It is a board. One person does not decide whether we are going to deny it or except it. It's a board vote. You have to understand that we have a job to do. That's what we're trying to do. We're trying to get you to minimize your variances. In some cases there doable. I understand the footprint of handicap accessibility wholeheartedly, but there's other things on here that can change that will minimize your variance for that setback or that area lot coverage.

Mr. Smith stated that "I think ultimately even if we were to design a slightly smaller home we're still going to end up with four variances."

Chairman Hoover stated "so you're saying that you could potentially design a little bit smaller house. You start doing that and you're only four foot away on that rear yard. You got proposed here a 20 x 22 garage. We started the conversation you thought it was a 20 x 20 garage. Is there a possibility of shrinking the garage by two feet that helps your lot coverage it helps potentially slides you back further away from the road. You're looking at minimizing two variances. Potentially if you were to shrink that building a little bit it would appear to me, based on your drawing that you're not necessarily right at the 30' setback line in the front. You if you slide that thing ahead a little bit shrink the garage down we might eliminate that rear yard variance all together. So now we eliminate the height variance, we eliminate the rear yard variance, we're down to three verses five, we're minimizing the lot coverage. The side ones may not be a potential problem at all with the board, but you've potentially eliminated the two and shrunk the third one, that's a substantial change."

Mr. Bentley asked what the distance was between the deck and the 30 foot line.

Mr. Smith stated that it looks like they have a foot or a foot and a half. With the overhang of the roof that the foot print does not show, the overhang goes out to the 30 foot mark.

Mr. Smith stated that if it is ok with the applicants he would like to suggest that they look at the plan again and see where they could revise the plan and then come back to the board.

Chairman Hoover asked if there were any more comments.

Greg Talomie stated that he came to support them. "I didn't have any real problems with their variances per say. The only thing I was concerned about is tree removal. There are some trees that are between our house and their house. From my standpoint if we went ahead with the project I would make a request to Chuck to see if he could save the one tree that is closes to my house."

A letter was received from Kathleen K. Bromley and was read. This will be kept in the file.

Chairman Hoover adjourned the public hearing to be re-opened on September 15, 2016, at 7:30PM in the Gorham Town Hall.

Application #16-094, Kenneth & Sandra Hinett, owners of property at 5006 County Road 11, requests an area variance to build a single family home with attached garage. Proposed structure does not meet North and South side yard setbacks.

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

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

Kenneth & Sandra Hinett, Rocco Venezia, Surveyor & Mark Muller, Architect was present and presented the application to the board.

The applicant presented a new site plan showing the proposed home within the north side setback. Eliminating the request for a variance on the north side. A variance of 3.8' for a setback of 11.2' is being requested on the south side.

Mr. Muller stated that they are removing the existing house, garage and shed and building a new home. The lot coverage will remain at 33.1%. The new home will meet the height requirement.

Chairman Hoover asked if it was going to be two stories.

Mr. Muller stated that it will be a partial two stories. He presented elevations to the board for their review.

Chairman Hoover asked if the new home would have one foot overhangs

Mr. Muller stated that they have cut the overhangs down to 6 inches.

Chairman Hoover asked if there was a possibility of shrinking the home down.

Mr. Muller stated that not to that degree. There are two bedrooms upstairs 14' from the outer wall to the center wall.

Mr. Farrell asked if the proposed home closer to the lake than the existing home.

Mr. Muller stated that the deck on the proposed home is five feet closer than the existing home. The deck will be open.

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

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]:

Mr. Bently made a motion to grant a 3.8 foot variance for a south side setback of 11.2'. Mr. Markell seconded the motion, which carried unanimously.

Mr. Bentley made a motion to adjourn the meeting at 8:34PM. Mr. Markell seconded the motion, which carried unanimously.

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Jerry Hoover, Chairman

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Sue Yarger, Secretary