

Town of Gorham

4736 South Street
Gorham, New York 1461

ZONING BOARD OF APPEALS

Thursday, July 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*
Alan Bishop
Steve Coriddi
Charles Goodwin
Tom Amato
Mary Ellen Oliver

Board Members Excused: Victor Lonsberry

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

Applicant Present:
Michael & Lisa Cross 4096 NYS Route 364
Brennan Marks, Marks Engineering
Matthew Rischpater
Neil & Sandra Hellman, 4244 NYS Route 364

Others Present:
Kathie Walker-Millar, 4054 NYS Route 364
Lawrence Millar, 4054 NYS Route 364
Jerold & Rebecca Rackel, 4048 NYS Route 364
Ed Kaiser, 4938 County Road 11
Dale Stell, 4395 Co Rd 1
Sheldon & Diane Shear, 4204 NYS Route 364
Gregory Talomie, 4246 NYS Route 364
Kathy Bromley, 4246 NYS Route 364

Via Zoom:

None

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 July 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 Charlie Goodwin, Alan Bishop, Steve Coriddi, Mary Ellen Oliver, and Tom Amato.

2. APPROVAL OF MINUTES OF JUNE 20, 2024

■ A motion was made by MS. OLIVER, seconded by MR. CORIDDI, that the minutes of the JUNE 20, 2024, meeting be approved.

Motion carried by voice vote with all present voting aye.

3. LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Gorham on the 18th day of July 2024 commencing at 7:00 p.m., Eastern Daylight Savings Time, at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following application:

ZBA #51-2024: MATTHEW RISCHPATER, 17 LYON STREET, NAPLES, NEW YORK, 14512: 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 49%. Also requesting an area variance for the north westside setback of 8.4 feet from the deck, a northside setback of 5 feet from the bay window, and 6.8 feet from the northeast corner of the house where fifteen (15) feet is required. Also requesting a south westside setback of 3.6 feet where fifteen (15) feet is required and a front setback of 26.6 feet where thirty

(30) feet is required. The variances are to allow the construction of a single family residence. The property is located at 4244 State Route 364 and is zoned LFO Lake Front Overlay and R-1 Residential.

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

Michael Bentley, Chairperson
Zoning Board of Appeals

5. CONTINUED PUBLIC HEARING

ZBA #50-2024: MICHAEL & LISA CROSS 16 MEADOW COVE ROAD, PITTSFORD, NEW YORK, 14534:

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 43.2% and is also requesting area variances for two side setbacks of 5.2 feet where fifteen (15) feet is required for both sides and a rear setback of 27.8 feet where thirty (30) feet is required. The variance is to allow the construction of a single family residence. The property is located at 4046 State Route 364 and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Bentley said we asked you to go back and make some changes and I see some changes have been made. Please fill us in on those changes.

Mr. Marks said we heard some feedback from the Board about the south side setback as well as the shape of the building. We have moved the building north so the south side setback is now 10.2 feet off the property line.

Mr. Bentley said Brennan where is the north side property line? Is the property line the hedge row to the north? Is that on your property where the access to water is with all the makeshift boards down? Where is your property line?

Ms. Cross said we believe the line is the fence line and the hedge row is on our side.

Mr. Bentley said there is two different hedge rows.

Mr. Marks said on the north side of the property there a right of way or a narrow strip that goes to the lake so other neighbors have access to the lake. So the lighter line north of our property line is the other side of that right of way line.

Mr. Bentley said who per say owns the right of way? I know with all the jargon with right of ways but it is encompassed with someone else's property.

Ms. Cross said it is John Swapceinski's. He owns the property across the street which has this right of way.

Mr. Bentley said so there is a hedge row here then the right of way and then another hedge row. There is a fence in the middle of this hedge row, so your property line stops at that fence.

Mr. Marks said correct. To that point, we are five feet off the north property line, but there is no structures in that right of way or access area to the lake. Aesthetically, or how it appears, we would have a bigger setback because there is no houses there. There is a bigger gap between the houses. We feel this is the lesser of the two property lines to ask for a setback variance for because there is no house immediately encroaching on it to the north. We heard feedback on the south line that we would like to have that more conforming so we are asking for that to be ten feet. To maintain the house size, the three bedrooms, we are encroaching on the 364 right of way. We made the house longer or deeper so we are asking for a variance off of the Route 364 right of way line.

Mr. Bentley said so you are asking for four variances.

Mr. Marks said three setback variances and lot coverage.

Mr. Bentley said for clarity you are already at 39% and you are staying at 39%.

Mr. Marks said the current lot coverage is 32% and we are asking for 40%.

Mr. Bishop said is there still a 10x14 patio on the lakeside?

Mr. Cross said we decreased it. When we came in June we were asking for about 43% and we decreased it to just about 40%. That patio was 12x15 and now we reduced it to 10x14.

Mr. Marks said so they can have some patio furniture to enjoy the lake like the rest of the residents.

Mr. Bentley said Brennan, am I reading this right that the driveway is thirty nine feet wide?

Mr. Marks said it is twenty feet wide and the reason we are asking for a twenty foot wide driveway is so we can park two cars side by side.

Ms. Cross said we had really researched that diagonal parking and it wouldn't work. We tried it many different ways.

Mr. Bentley said so you are asking for an increase in the house size. Right now you are at 1361 square feet with everything, the driveway, the patio and you are increasing to 1693 square feet of total lot coverage.

Mr. Marks said yes the existing coverage is 1361 and we are asking for 1693.

Mr. Amato said did you just say the house is 900 square feet?

Mr. Bentley said yes 974 square feet.

Mr. Marks said and that is including the overhangs.

Mr. Bentley then asks if there are any further questions from the Board. Hearing none he then asks for comments from the public.

Mr. Rackel said we purchased our house 44 years ago and then our family started to grow. The two bedroom started to not be big enough. I visited this building more than once through the years and we were always told that we would have to center it with fifteen feet on each side, thirty feet from the lake, thirty feet from the road and 25% coverage. That's what we were told every time and that influenced our decisions and we were lucky enough to purchase next-door. That alleviated our problem because it is a three bedroom so our family can come in the summer and everything is solved. Our concern is that the variances are put in place for a reason and every time a variance is offered it erodes it and pretty soon they are meaningless. They are put there for a purpose if a fire-truck comes down the side possibly or emergency vehicles so we are adamant about fifteen feet to their south.

Mr. Stell said I live about a mile away and drive past that lot at least twice a day. I was interested in that lot when it came up for sale and realized that the southernmost part of the house is currently on the lot line. Honestly I thought their request last month was more than fair by moving it in five feet so I am in favor of what they are trying to do with the lot. It will be a great improvement to that lot.

Mr. Bentley asked for any further questions. Hearing none he closes the public hearing. He then asks for comments from the Board.

Mr. Coriddi said I like the changes that they have made. I think that it's a difficult lot altogether. If you had fifteen feet on either side it would be pretty small. It's small now, actually.

Mr. Bishop said I thought that the original proposal was fine but this one is better. I am still concerned about the paver patio on the lakeside. I remember Jim said last time that may be an issue.

Mr. Morse said they will need to get approval in writing because it is in the sewer easement. They will need to get a waiver stating that is okay.

Ms. Oliver said but they would be pavers, correct, so if there had to be work done on that piece of the property they could move those pavers.

Mr. Morse said generally they say that is removed at your cost. Is usually how they handle it.

Mr. Marks said just to add something to this, a previous application to the north, the Ketchum's, and we had a similar situation. We did reach out to the County DPW about the sewer easement and they said as long as it is not a permanent structure and can be removed in the case that they have to work on the sanitary easement. They will remove it or ask the owner to remove it.

Ms. Oliver said that's what I thought. I definitely agree with that location it nice to have a place where at least your table doesn't sink into the grass.

Mr. Bentley said for me with this being a paver patio that's purposed versus a permanent patio, again I don't get into the Planning Board's realm of expertise, I believe that patio paver can be moved forward about three feet and still be outside the sanitary main and that would capture three more feet on the backside of the property. We will leave that open for possibility.

Mr. Bishop said it looks like fifteen feet on either side of that line.

Mr. Marks said one thing I'd like to add to that, Mike, is the steps will be framed steps and will run to the easement line.

Mr. Bishop said so it sits solidly in the easement.

Mr. Bentley said I understand. It makes sense. Anyone else?

Mr. Goodwin said it is a very challenging lot. It's small and also the access off of Route 364 is tight. This is a step in the right direction. You are still asking a lot but I think you've done the best you can with what you are working with.

Mr. Bentley said so really you have decreased the house from twenty eight and a half feet to the overhangs to twenty three and a half. Which you are not going to get much of a house with twenty three feet. You did make it longer. Now you are at forty feet and originally you were at thirty four, it's the same size house. I applaud what you have done. I would like to address a couple things that you have said. Our goal and the reason that the Zoning Board is created, and I don't know the information you've been given and I'm not going to challenge the information you were given over the years because as people come and go they are given different information and I appreciate you speaking up. For me sitting as one individual and I'm not the homeowner is that it is improving your property from my vantage point because you are moving it ten feet because they are a little bit over your property line today. They are actually moving it ten feet away to give you more space on your property. I will tell you today that I have seen one piece of property that has a setback, the way this one is currently today, that was actually one foot because it is an existing structure. There was a plethora or requirements that went along with it.

It is actually right down from you. I don't know if you have seen the new plans and if you haven't I can show them to you, but it is moving ten feet away from your property. It is a constrained lot. Both of your lots are. I was there today. That is my two sense and I am only one person but it is coming off of your property to give you more space.

Mr. Rackel said we knew based on what this Board has told us that they could only have a ten foot wide house and that is like a shipping container house. They make very nice houses out of them, I've seen them. But we didn't want to have a shipping container house because we knew that was the only thing that was going to be authorized for that property. That is why we feel strongly about this because we were only allowed a twenty foot wide building on a fifty foot wide property. They are initially allowed to have a thirty foot wide building on a forty foot wide property. It just doesn't seem fair to us. I know other neighbors wanted to have wider houses and this Board has rejected it and made them stay with the zoning regulations. The other thing is our side yard is being used by everybody.

Mr. Bentley said which side.

Mr. Rackel said the north side. We are paying roughly \$4000 a year roughly for that side yard and it's being used by other people more than we use it. The only time we get to use it is to mow.

Mr. Bentley said I'm sorry but I cannot address that.

Mr. Rackel said I know but every time someone is walking dogs or dragging a kayak across the side yard to go to the crossover. I never want to trespass but if I have to I hug the house or something. Lake property is precious. You don't have a very big lot so every bit is precious and you pay the taxes on it. There's just certain things park in your own driveway and park in front of your own house unless you ask for permission.

Ms. Millar said we live next door to the Ketchum's. How far are they from us?

Mr. Marks said I did the site plan for the Ketchum's and they have five foot variances on those. They were allowed five foot setbacks on the property.

Ms. Millar said we are 4054 and I would guess they are 4056.

Mr. Marks said there is a five foot setback from the north line to the house.

Ms. Millar said I am just going to say it is really close. For us since we have the old structure and they have the new and we don't have central air and heat and we have to have window fans, there are some issues. I'm just going to say that because you can't grow trees up between you because they all got cut down when they built. It used to be a one story house next to us and now it's two story.

Mr. Bentley said were you at those meetings.

Ms. Millar said no we live in Texas.

Mr. Marks said we spent a lot of time on that.

Mr. Bentley said I think that one we actually moved the house forward for safety purposes of backing up. That house, if I recall correctly and I could be wrong, we look at each individual property as its own entity. We don't compare to one we did six months ago or six years ago. I do remember that one now because it was a tear down. We actually moved the house and the house came off of the property line if I recall correctly.

Ms. Millar said about five feet but it is still close because it is now two stories. It's just a concern when you are building that close. There is that privacy thing when you don't have central air and heat and you have to have your window fan. It's just a concern.

Mr. Bentley said understood, thank you.

Ms. Cross said right now the existing property is a foot and a half over their property so an increase of moving it over and away ten feet gives more space. We try to be good neighbors and I think this is a vast improvement from what it was. We are just trying to make the neighborhood nicer and build our retirement home so we can have what you guys have with your extended family. I'm just trying to say it's an increased space so emergency vehicles can go by, for our privacy. The existing house would not block any of your views. Obviously everyone is there to look at the lake and enjoy the lake.

Mr. Bentley said does anyone have any further comments. Hearing none he closes the public hearing.

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 / 2 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 -

6 NO / 0 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 –

4 NO / 2 YES

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

1 NO / 5 YES

Mr. Bentley said this application did go to the County and it was denied, so we have to have a majority plus one which means we need five.

Mr. Bentley made a motion to grant a 15% lot coverage variance to allow a lot coverage of 40%, a south side setback variance of 4.8 feet to allow a setback of 10.2 feet, a north side setback variance of 9.8 feet to allow a setback of 5.2 feet, and a rear setback variance of 9 feet to allow a setback of 21 feet. That motion was seconded by Ms. Oliver and the motion was carried with 5 voting Aye and 1 voting Nay.

6. NEW PUBLIC HEARING

ZBA #51-2024: MATTHEW RISCHPATER, 17 LYON STREET, NAPLES, NEW YORK, 14512:

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 49%. Also requesting an area variance for the north westside setback of 8.4 feet from the deck, a northside setback of 5 feet from the bay window, and 6.8 feet from the northeast corner of the house where fifteen (15) feet is required. Also requesting a south westside setback of 3.6 feet where fifteen (15) feet is required and a front setback of 26.6 feet where thirty (30) feet is required. The variances are to allow the construction of a single family residence. The property is located at 4244 State Route 364 and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Rischpater said I am here on behalf of Neil and Sandra Hellman who have occupied this home since 1984. It is an existing two story residence and two story garage. The garage is off of what's labelled Old East Lake Road and is very very close to the building itself. It is a large two story structure that sits a little higher up. The house sits a little further down and the entire house and lot is slight lower than the adjacent properties. The primary goal was to get that garage out of the existing setbacks, integrate it within the house so a one story garage and just to expand slightly on the existing size of the residence. In 1985 they received a letter noting that there is a sewer easement that runs and nearly bisects the lot. The existing easement for it was modified for it probably from what it originally was because the garage sat over the easement. Likely the sewer was there then the garage got put in and when they realized the sewer was there they modified the setbacks. Right now the existing house and the proposed house share the same southeast corner. If you go to the property now and you look at the southeast corner lot, where the house sits now that is where the proposed house will sit also. The idea now is there won't be a two story garage in front. The house will sit back and the front of the house will be one story initially and the two story portion will be recessed back. This will make the house and garage not be overpowering to the adjacent neighbors. The existing point of the existing house is right where the new house is and that will be the garage. The entry of the two story portion sits here. The existing line if the new house aligns exactly

with the existing residence. The idea initially with the design was we are trying to minimize the impact of the most adjacent neighbor. If you go along and see the house now you can just imagine that new house sitting there where the front of it is one story and the two story is back a little bit, so that pushes the house back towards the lake. Additionally because of the size of the lot, this is another case of just over a fifty foot lot, fifteen foot setbacks on either side limits the house to a not reasonable width if we don't take variances into account. Currently the house is designed to be two rooms wide. There is barely a two car garage and kitchen, bedrooms and a living room. This means we are encroaching on the north setback and adjacent to the north setback there is a neighboring home but there is also an easement that runs as access to the lake. There would never be another home built directly to the north of the property. On the survey, directly north of the property, there is an easement there. We are encroaching into the fifteen foot setback but there is an easement there also.

Mr. Bentley said and how wide is that?

Mr. Rischpater said that is ten feet and then it taper to be another fifteen to twenty feet.

Mr. Bentley said to Diane Shear so you are the grey cottage to the north?

Ms. Shear said yes.

Mr. Bentley said by what you just said, and I am making as assumption here, if that's ten feet then you might be twelve feet away from the property line. Does that sound about right?

Ms. Shear said the house structure, no. The easement is ours. We own that. They have ingress, egress and regress. We own that easement.

Mr. Rischpater said so you can build on that easement?

Ms. Shear said that we never questioned but probably not because they have ingress, egress, and regress.

Mr. Bentley said I'm going to say probably not. Neither here nor there, my question is even if they are twenty but I was there today and I don't think there is twenty feet between the fence and their house, I could be wrong.

Ms. Shear said there isn't twenty feet.

Mr. Rischpater said the way the house currently sits it is overlapping the setback now. The existing house and the existing garage are noncompliant in every single direction except from the lake and in height. We are going to maintain that height. The only other work done to the existing house was shoring up the foundation. With the hardship of the sewer easement that is there and wanting to give a more formal frontage the goal is to remove the existing two story structure that is in front of the property and allocate some of

that space to the proposed residence. The existing residence and the new residence square footage is almost identical. If you take the existing two story residence and the existing two story garage the proposed residence square footage is less.

Mr. Bentley said so you are asking for a 3000 square foot house on this lot. You have 8624 square feet of lot coverage times 34½% is 3000 square feet for a house. I want to make sure I am understanding you correctly.

Mr. Rischpater said that includes the deck and patios.

Mr. Bentley said ok that makes me feel better.

Mr. Rischpater said that's the back deck the front patio and the garage.

Mr. Amato said I ask again though because I can't figure anything out though based on the numbers on this, what is the actual width of the house and what is the actual length of the house?

Mr. Rischpater said the house is thirty four feet wide.

Ms. Oliver said is that to the house or to the eaves?

Mr. Rischpater said that is to the house.

Ms. Oliver said my measurements are off then because I have thirty seven.

Mr. Rischpater said the foundation is thirty four feet and then there are overhangs. The areas I gave are all to the overhangs.

Mr. Amato said how wide are your overhangs?

Mr. Rischpater said currently they are eighteen inch overhangs.

Mr. Bentley said and you are a fifty one foot wide lot.

Mr. Rischpater said yes.

Mr. Amato said I didn't catch the length.

Mr. Rischpater said the foundation for the house is sixty four feet to the outermost side on either side.

Mr. Amato said with eighteen inch overhangs and we have no elevations, so we don't know what this is going to look like.

Mr. Rischpater said we have been looking at preliminary elevations but I didn't know they would be required here.

Mr. Bentley said I am going to interject here, and we can continue this conversation, we are going to need the lot coverage and the setback requests to the eaves not to just the house.

Mr. Rischpater said I have provided that to the eaves. I was asked to provide a clarification of it and gives all the setbacks to the eaves. We developed the existing documentation to the building with the survey and then reading the Town's code and the master plans concept with the larger overhangs our overhangs are lesser than what I would ideally like for this style house. Unfortunately I think we have to make exceptions to that to accommodate.

Mr. Bishop said if I counted correctly you are asking for six variances. Is that correct?

Mr. Rischpater said we have five variances.

Ms. Oliver said you have three variances just on the north side of the house.

Mr. Bishop said what keeps you from getting rid of the problem on the lakeside?

Mr. Rischpater said that is going to have to be cut back. The deck is as narrow as it can be in front of the living area ****inaudible****.

Mr. Bishop said and the bay window seems to be very close to the lot line.

Mr. Rischpater said that's a cantilever piece and can be removed if it needs to be.

Mr. Bishop said I'm not making suggestions. Our number one goal is to reduce the number of variances and if variances are considered that those are the minimum that we deem necessary. When we see six variances it makes our heads spin.

Mr. Rischpater said I guess I was assuming on the north side; the worst case scenario was the variance being requested. The bay is the worst case scenario and that is bumped out from the house and the deck is within that but I organized them separately.

Ms. Oliver said it still gives you the three variances because you are 6.8' at one end of the house and 8.4' on the other end of the house and then 5' at the bay window, so that's three variances just on that one side.

Mr. Amato said and 3.6 on the south side.

Mr. Morse said what is the setback to the neighbor's house to the south.

Mr. Rischpater said there is not a current survey on record.

Mr. Morse said it would have to be ten feet no matter what regardless of a variances it has to be ten feet.

Mr. Bentley said I was there tonight and I walked it all. The neighbor to the south has timber framed flowerboxes, about thirty inches wide from what I could see, so it's maybe twelve to thirteen feet there Jim.

Mr. Rischpater said to address that the initial thought was maintaining the existing face of the way the residence is right now. Again that is the same face that we are proposing for the new building, it goes out a little bit further but it still doesn't affect the clearness of their view. Then rotating the house and trying to keep a house that is at least two rooms wide then we were pushing to the north side. I think we have discussed justification of why things are where they are. Certainly we have no trouble reducing the size of the back deck because of the angle of the setback a small portion of the deck went within the thirty feet. With the bay window, as I mentioned, we were trying not to have a large flat surface we were trying to get some depth to the façade. The last thing to comment on, as we learned from this previous discussion, is with this sewer easement there is a driveway that is being proposed. We haven't worked with the utility company yet; I suppose pavers were the initial or gravel drive would allow that sewer to be accessed.

Mr. Amato said that would increase your lot coverage.

Mr. Rischpater said it is already included in the total lot coverage.

Ms. Oliver said is the existing concrete pad in the front already included in the lot coverage?

Mr. Rischpater said on the lakeside, yes.

Mr. Bentley said I'm going to just speak up. This house is extremely too large for this lot. You just heard the folks before you and they reduced enormously. You are asking a lot from us. For me tonight, and I am just being very transparent, it would be an automatic denial. That's me and I am only one person of six. I think you can eliminate a lot of variances by 1. the north side and 2. the front deck. I'm not sure, unless I'm reading this incorrectly and I am going to rely on you, is that you really wouldn't be able to build the deck you want to build because it's a twenty foot deck, twenty feet from the house out. From what I see here is you would be able to build a deck and be compliant. The opportunity presents itself that if we were to grant a 3.4' variance then you could take that 3.4' all the way across. I think there is some work to be done with the deck. I don't think you need a twenty foot deck on the property and that would eliminate another variance. Hopefully you understand where I am coming from when I say this, you can have a very nice deck there but I think there are other avenues. I'm not going to tell you what to do I am only offering you suggestions. I personally think there is a lot of work that needs to be done with this house to get it more conforming. From what I see and I could be

wrong is the east side also needs a variance because it's not the same as the west side. It's not the same distance.

Mr. Rischpater said do you want to see the setback on every corner?

Mr. Bentley said absolutely.

Mr. Rischpater said I thought you approved the plan as is.

Mr. Bentley said I don't know what I am approving. If you tell me that it's 5.8' and that's not what I'm seeing then per say you can take 5.8' all the way down the property line. It looks like this property is somewhat cattycorner. I like as much detail as possible that way you as the homeowner can't say I have approval for this as the plan calls for and we have no numbers on the plan. That's the kind of detail for me personally that I want to see. We often ask a lot of questions. It's not to give you a hard time it's to understand what is the best for the community and for the homeowner. I personally think there is a lot of work to be done. I will applaud you by getting rid of the garage because you can't see to get in and out so for me that is a hazard as well. I think you can downsize the house though, just to be quit frank.

Mr. Hellman said the coverage that we have now is not much different than the coverage that we have in this proposal. It goes from 44.2 to 49. We made compromises in our design because knew there would be a concern and yes there were two things with the ugly garage that you have seen. The access to the house is difficult plus if you wanted to get emergency vehicles it's probably a little tight.

Mr. Bentley said your fence would be coming down for emergency vehicles.

Mr. Hellman said all of those things went into our discussions and we thought they were good compromises. The thing that you said that I was a little unsure of was the variances that you are talking about on this side, they already exist. The structure as it must have those problems already. That is again another discussion we had and we thought we are not going to change that even if we wanted to because we knew you'd give us a hard time. That was also in our thought process. Are you saying that you will not allow us to keep the house on that side?

Mr. Bentley said no sir, that is not what I said. Let me clarify, I need to know what the current situation is of the house.

Mr. Hellman said so we need to provide you with exact dimensions.

Mr. Bentley said correct.

inaudible conversation

Mr. Bentley said but it's two variances. If you give it to me as both then it is as planned. I don't know what as planned is. It's one variance but in essence it's two but it is as planned. You can't go 5.8 and 5.8 if it's 5.8 and 6.2, so that is a concern for me. The deck is a concern for me. The northside is a concern for me. You can eliminate two of your variances on the northside and you can eliminate the thirty foot setback if you were to move your stairs and you will get more space. You are going to accomplish the same thing because if your stairs are three foot wide and you put them in a space that is four foot wide they are going to be able to go down.

Mr. Bishop said one other thing that I would like to see is how you figured out the lot coverage by each item.

Mr. Amato said I'd like to see elevations especially with a 3.6' setback on the southwest corner. If you build that two stories tall, that's a wall right there on the property line. I want to know about that. That affects me more than a one story would there is you were site compromised. Honestly you aren't site compromised here so to me that seems like a big ask.

Mr. Hellman said I'm not sure what it is that you are concerned with. You know the height of the house next to me so it's not like I'm taking anything away from them. So what is your concern?

Mr. Amato said because I don't want to build an urban jungle on the lake.

Mr. Bentley said to his point because you already specified that the second floor is starting halfway back. In the past we have had proposals where you have a cottage like you had before that was very small like next door to you that was five feet away and then they try to exceed the height limit and everything else. Those elevations help us make an educated decision.

Mr. Hellman said we did talk about all of this stuff. We originally wanted the two stories all the way across but Matt thought that would be a little questionable and that was one of the reasons we cut that back.

Mr. Amato said we don't know if you did. We don't have anything showing that.

Mr. Hellman said we didn't have the plans drawn that way because in our discussions we felt that would be much more problematic. We didn't know we needed to bring the elevations today.

Mr. Bentley said we like to see the elevations so we know what it is going to look like when it is said and done. A lot of the neighbors like to review it as well.

Mr. Rischpater said we had some hesitations too is we haven't finished all the trim we haven't finished all the detailing on it.

Mr. Bentley said that's fine, understood. Is there anything else from the Board?

Mr. Goodwin said that one wall that Mike was asking about specifically that you had documentation on that was approved before and you are going to build on that same line? That should be grandfathered?

Mr. Rischpater said basically yes we are trying to maintain the existing façade.

Mr. Bentley said when was the house built?

Mr. Hellman said I don't know that. I bought it in 1984.

Mr. Bentley said who is on the south side and when was your house built?

Ms. Bromley said 1999.

Mr. Bentley said so if it has a variance and it probably doesn't back when the code came into effect it probably doesn't. If it doesn't have a variance it is not grandfathered. It is a nonconforming lot. We have had one nonconforming lot that we had three months ago that had a grandfathered variance that goes with it.

Mr. Hellman said Tom, you do know, and I think you came there tonight, in the front of the house now there are two stories and what we did in these plans is reverse that. We took the two stories away in the front of the house and put them in the back of the house.

Mr. Amato said not that I would or wouldn't like it I just don't know from this here.

Mr. Hellman said you will get those plans.

Mr. Amato said like Mike said the house was built and it is a nonconforming lot and you don't have a variance there for the 3.6 or 5.8 feet. Technically you are supposed to go with fifteen feet. You are asking for a twelve foot variance. You are seeing it as I want to just keep what I have but I'm seeing it as you are asking for a twelve foot variance on a brand new piece of property. Once you take the house away it's a brand new piece of property. That's how I see it.

Mr. Bentley said in essence from what I see it is about 7 ½ feet wider or ten feet? Does that sound about right?

Mr. Rischpater said (while pointing to the site plan) the grey area here that width is about 5 ½ - 6 feet so we extended that part of the house by six feet.

Mr. Bentley said the bay window is another three feet.

Mr. Hellman said that's going. We heard you.

Mr. Rischpater said then what was the space that was made up by the garage was reallocated. One of the things I have been challenged with in the different jurisdictions were setbacks to overhangs and looking at design guidelines and recommendations. Because of the width of our lot our height is reduced from what would be the maximum height so that brings the slope down a little bit. Naturally when the slopes get a little bit less the overhangs look better as they get larger with the lower slopes. For the aesthetic nature and to get the best looking for what is available would mean to potentially go to larger overhangs. Then when you look at the numbers maybe the house is ten feet away and you want 2 foot 6 overhangs.

Mr. Bentley said that would be the larger overhang I have ever seen.

Mr. Rischpater said there are some done by Frank Lloyd Wright that are four foot and six foot overhangs. With the way the guidelines are shown it's recommending larger overhangs.

Mr. Bentley said I don't think I've seen a handful of 18" overhangs. We mostly see six and twelve inch. Don't take this the wrong way, you are asking for a lot and then we want to ask for more. That's where my job is to minimize the variances that you are asking for. I can approve this application tonight the way I want to approve it and you wouldn't like it.

Mr. Rischpater said overhangs are mostly for the aesthetics.

Mr. Bentley said I understand that but it is part of our code. Most people are doing six and twelve. Six inch might be too small on this house but eighteen might be over the top but I'm not an architect. I don't think any of your neighbors have an eighteen inch overhang, so that's the thing the character of the neighborhood. Those are the questions that we have to answer. I think eighteen inches would be a bit much in this neighborhood. Me personally, I think you could downsize the size of the house. I think you have some room there. You said you heard us loud and clear that the bay window is causing you a lot of headache. I think you can do something with the deck to eliminate that. That's my opinion. Anybody else?

Mr. Coriddi said just to reiterate having things listed out individually makes it a lot easier for us.

Mr. Bentley said for the sake of the public I normally wouldn't open the public hearing but I'm going to. Once again if you have something you would like to say please raise your hand and state your relevance to the property.

Ms. Millar said if somebody is allowed to build five feet from the property line and they would like an addition and they have to come back, what are the chances they could get that within five feet also?

Mr. Bentley said so slim to none. I can't answer that because as I stated earlier each property is viewed as it's own property. There are state laws that you cannot build within ten feet of another structure. When it happens there's fire codes and there are many other extra things that have to happen. Historically of this Board we are not egregious. We are pretty focused on making the right decision for the community and that's everybody in it's totality. You may say well I don't like the decision you made about this house and I'm in the community and then I will say I apologize. We try to be fair and equitable to everyone in a consist fashion. There are people that have been approved and there are people that have been denied because we are pretty thorough in what we ask for, what we review, what we give the applicant and the benefit of the applicants and the community. I can't tell you a yes or no answer to that because it depends if somebody builds we try not to get worse than what it is today. We try to look at the neighboring properties like the last application. It was a big discussion because they are over their property line currently. Is it a benefit to the community to move that house and in my opinion as you heard in that case it was a benefit not only to them but to the people who's property they were on. Would anyone else like to make a comment? Hearing none, I am going to leave the public hearing open based off the conversation.

Mr. Hellman said what is it that you would like us to come back specifically with? The elevation drawings and some of the changes to get rid of some of the variances. What else?

Mr. Bentley said the deck and the bay window.

Ms. Oliver said I personally feel that this is a very large home for this piece of property.

Mr. Hellman said as I spoke about before it has the same lot coverage pretty much.

Mr. Bentley said but it doesn't. So you are taking a garage and you have a garage here. But you are 35% so you are combining the two, in my opinion.

Mr. Hellman said we are.

Mr. Bentley said so you are combining the two and asking for a 3000 square foot house. How big is this garage?

Mr. Rischpater said it is twenty feet by twenty two feet deep.

Mr. Bentley said so that is 440 square feet, your deck is 500 square feet so there is 1000 square feet right there. I don't mean to step on your toes and I'm not going to tell you what to do.

Ms. Oliver said nor was I. That was just my opinion for that piece of property.

Mr. Hellman said the other thing I am a little confused on is I thought when we made the plans we were closer to 2300 square feet for the house. That doesn't include the deck. The garage is part of that space, so you are including all of that for the 3000.

Mr. Bentley said 2975 to be exact.

Mr. Amato said and that is only one story you have a second story.

Mr. Bentley said you can't factor that in and I will say it 1000 times you can't factor that in. I'm not going to read the questions. I will make a motion to adjourn this application for a maximum of 62 days. If you want to be on next month you have to have your updates in by August 6th for the August meeting, if it's after that you will be on in September. The motion was seconded by Mr. Bishop and the motion carried with all present voting aye.

7. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, August 15, 2024 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

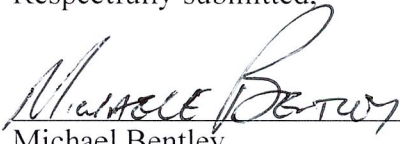
8. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 8:27 p.m.

Respectfully submitted,



Michael Bentley
Chairperson of the Zoning Board of Appeals

L.S.