

Town of Gorham

4736 South Street
Gorham, New York 1461

ZONING BOARD OF APPEALS

Thursday, August 15, 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
Charles Goodwin
Tom Amato
Mary Ellen Oliver

Board Members Excused: Victor Lonsberry
Steve Coriddi

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

Applicant Present:
Matthew Rischpater
Neil & Sandra Hellman, 4244 NYS Route 364
Leon Newswanger
Andrew Thomann
Mark Thomann

Others Present:
Ed Kaiser, 4938 County Road 11
Gregory Talomie, 4246 NYS Route 364
Kathy Bromley, 4246 NYS Route 364
James Doyle, 4635 Fair Oaks
Victoria Tucker, 4547 Lake Drive
Stu Tucker, 4547 Lake Drive
Curvin Shirk, 4585 Middle Road
Thomas Whipple, 4595 County Road 1

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 August 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, Mary Ellen Oliver, and Tom Amato.

2. APPROVAL OF MINUTES OF JULY 18, 2024

■ A motion was made by MS. OLIVER, seconded by MR. GOODWIN, that the minutes of the JULY 18, 2024, meeting be approved.

Motion carried by voice vote with all present voting aye.

3. LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Gorham on the 15th day of August 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 applications:

ZBA #52-2024: LEON NEWSWANGER 4112 LAKE TO LAKE ROAD, CANANDAIGUA, NEW YORK, 14424: Requests a variance in accordance to Article IV Section 31.4.1 of the Town of Gorham Zoning Local Law. The applicant is requesting a variance to construct a second allowable use, a 1260 square foot private schoolhouse, on the same tax parcel as their single family home. The property is located at 4112 Lake to Lake Road and is zoned FP Farmland Preferred/Farmland Priority.

ZBA #53-2024: JOHN THOMANN 4290 FIRESIDE DRIVE, WILLIAMSVILLE, NEW YORK, 14221: 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 33.7%. The property is located at 4546 Lake Drive 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 #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. Bentley said you were before us last month. We asked you to go back to the drawing board and I see that you have made some changes. Just for reference I was there tonight and I am going to bring up some facts of things that I asked you for last month that are still not on the drawing. Tell us what you did differently.

Mr. Rischpater said referencing the plan we can start on the lakeside, the front, we reorganized the front a bit and we no longer need a variance on the lakeside. We also no longer need a variance from the lane side, which before I don't think we did. We reduced the house by several feet including removing the bay window that was there and reduced the overhangs from two feet to eighteen inches now. In addition, in the upper lefthand corner of the drawing I provided some schematic elevations to give you a sense of where the building steps up and steps down. Otherwise the area calculations were revised ever so slightly. Previously I was using numbers off the survey's. Each survey was just slight different in its area, so I went off of what is noted everywhere in acres and converted it to square footage. Our footprint also reduced in square footage as did our lot coverage and impervious surface. I can list those off if you'd like. Previously our impervious surface was 45.2% and we are now at 43.8%. Greenspace was 54% and we are now 56%. The rooms have been reduced to a size that are twelve feet maximum in any particular room.

So if a room is more than twelve feet the other is less than twelve feet, so basically two rooms wide.

Mr. Bentley said I was almost positive that the overhangs were eighteen inches last time.

Mr. Rischpater said they were two feet last time.

Mr. Bentley said I think we had a very detailed conversation about getting those down.

Mr. Rischpater said, actually, I think they were a little over two feet. I've been teaching architectural history at FLCC for ten years and have designed for fifteen and the lower the slope of the roof the greater the overhang. If you look across the street there is a building next door that has 3.4-3.6 overhangs and it just looks better. As it goes down and deeper the overhangs get less not only for solar gain just aesthetically.

Mr. Bentley said I will not debate you in that fact because I do not have the education that you do when it comes to aesthetics. I respect that and hopefully you respect my position that you are asking for variances and because of those eaves you are asking for more of a variance. It's my job to minimize those variances.

Mr. Rischpater said I will say that we did make them smaller than ideal so we can have appropriate overhangs for the aesthetics of the building. I'm sure the Hellman's would say that it would be nice to have an extra width in the size of the rooms but we took that away so the overhangs would look more appropriate.

Mr. Bentley said what I recall is that you did remove the variance at the front, which I appreciate that, and minimized the deck there as well. I want to make sure I was clear, because I was out there measuring tonight, because I had asked the question last month what is the distance from house to house today and nobody knew that answer. For the Board's reference it is seventeen feet today from house to house.

Mr. Amato said which house?

Mr. Bentley said the house to the south. The one that it is closest too. If I recall correctly he was 3.6 feet from that property line to the southeast corner of the house.

Mr. Rischpater said that was what we were originally requesting.

Mr. Bentley said correct and so it looks like you have increased that to about five feet.

Mr. Amato said it was 3.6 now it's 6.

Mr. Bentley said I see what you are saying but I'm going to the building just for clarity. So let's just call it two and a half feet that you improved that. What I need clarity on was it was 8.4 feet to this corner here, right?

Mr. Rischpater said correct.

Mr. Bentley said and now you went 9.1 to the deck or the corner of the house?

Mr. Rischpater said that is to the overhang.

Mr. Bentley said so by what I understood you to say is that was a two foot overhang and now we have decreased it by six inches so really we haven't done anything to this side of the house we left it as is.

Mr. Rischpater said no the entire house is jogged now too. The house jogs in so we made the garage one foot smaller in width north to south and the overall building we took about two feet out north to south in everything else besides the garage.

Mr. Bentley said the two feet that you are talking about is all the south side.

Mr. Rischpater said yes all on the south side.

Mr. Bishop said so you are asking for a total of seven variances, is that correct?

Mr. Rischpater said we have lot coverage and three on each side.

Mr. Bentley said it would be as written then or as proposed and it is one variance.

Mr. Bishop said what is the width of the house.

Mr. Rischpater said it varies in two different places but it is about twenty three feet. The bedroom is twelve feet the living room is ten feet and there is a five foot closet added on to the bedroom so about twenty eight feet maximum.

Mr. Amato said how actually wide is the lot?

Mr. Rischpater said it's about forty seven feet.

Mr. Bentley said they have 50.51 of lake frontage and the average is 48.9.

Mr. Rischpater said and the average width of the house is thirty four feet.

Mr. Bentley said what is this area here?

Mr. Rischpater said that is parking. That is the drive.

Mr. Bentley said it's only a ten foot drive.

Mr. Rischpater said yes.

Mr. Goodwin said what is the square footage of the house?

Mr. Bentley said you are currently at 2170 with the back garage and you are at 2532 with the garage and the deck. You are going from 45% down to 43.8%. Correct me if I'm wrong, but the proposal of the house is the same as that of the house and garage today the difference is the front deck and covered porch in the back. What is the size of the garage 24x20?

Mr. Rischpater said it's about 23x20.

Mr. Amato said are there any rooms off of that such as mechanical rooms?

Mr. Rischpater said no. There is a utility space but the mechanicals will be in the basement.

Mr. Bentley said on the original drawing is the driveway and the parking on there too, because I don't see it?

Mr. Rischpater said on the original site plan.

Mr. Bentley said is that included in the lot coverage?

Mr. Rischpater said it is included in the lot coverage but beyond what is shown on the survey, when you are out there you will see there is compacted gravel here also and here.

Mr. Bentley said that is why I am asking. Is that included?

Mr. Rischpater said that is included now. I went out there and field verified.

Mr. Bentley said this right here is included?

Mr. Rischpater said yes a portion of it because it doesn't go that far. If you look at this existing conditions plan it's all shaded where I actually site verified where I saw gravel and compacted area.

Mr. Bentley said any further questions? I believe I left this public hearing open so if anyone would like to speak on behalf of this application please state your name and relevant location and you may speak.

Ms. Bromley said we live on the south side and we are in favor of this.

Mr. Talomie said I second that. We are in favor of what they are doing. They are good neighbors and we don't want to lose them.

Mr. Bentley said anyone else? Hearing none, I will close the public hearing. Something that is not going to fly with me is approximate for the height, so what is the height?

Mr. Rischpater said it will be less than twenty six feet. It was about three inches under so I rounded it up and it will not be requiring a variance.

Mr. Bentley said three inches under twenty six feet or three inches under twenty four feet?

Mr. Rischpater said three inches under what is required, which I thought was twenty six.

Mr. Bentley said the existing house is twenty four and the existing garage says twenty four which I find difficult to believe on that garage outback.

Mr. Rischpater said I shot the laser level in there and it came up twenty four feet.

Mr. Bentley said it's much higher than the house.

Mr. Hellman said but you are coming downhill.

Mr. Bentley said understood but when you are in that cave there it is much higher than the house.

Mr. Rischpater said we will not require a variance. Right now the way it's designed it's about eight inches less but we are playing with the window heights.

Mr. Bentley said you are playing with fire.

Mr. Rischpater said we will not go over the height, we promise.

Mr. Bentley said the public hearing is closed. Now Board discussions.

Mr. Amato said for that size lot it is a lot of house.

Mr. Bentley said ok. Anybody else?

Mr. Goodwin said I agree. I think it is a lot of house and I think it is a lot of variances.

Mr. Bishop said I think we could asked for it to be squeezed down but we would probably get six inches there and three inches here. It's splitting hairs in my opinion.

Mr. Hellman said so when we looked at the lot coverage, we talked about this a little bit the last time, and in reference to your comment just now, we were less lot coverage doing this. We always knew that it would be something you had a concern about. When we put this together we did go over the initial request when we came here last month. We have scaled it back to be less lot coverage than exists today. I understand that you may think that it is too big but what's there already is too big is what you are saying.

Mr. Amato said yeah but we can't change that. The way I see it our codes are 25% and if we all look at what was done half hazardedly in the past that doesn't help us moving forward.

Mr. Hellman said if you go back in history when I bought this house, I did come to the Town for approval to take a pretty decrepit structure and improve it and they gave me whatever I needed. I don't remember if there were variances. They knew that it was on cinderblocks and they were very happy to see improvements. The garage was left because I wasn't allowed to put a nice apartment there because, like you just spoke about with the schoolhouse, you don't want more residence so we never did it. But again the lot coverage we are asking for is less than we have now.

Mr. Amato said it's almost 70% more than 25%.

Mr. Hellman said yes.

Mr. Amato said that's to me a huge jump. If you are asking me particularly the way I see it that's a lot for this size property. I see what you are saying and we have different opinions.

Mr. Hellman said the coverage already is bigger than what we are asking to replace it with. One of the things I think you have all agreed and I will agree with you is that garage is ugly and we would all like it to go away. This was part of making it go away by putting that garage into the new structure. It was a compromise to accomplish a couple of things. That is one of the things that Matt and I spoke about when we put this together is we know they are going to want this gone. I don't have a problem getting rid of it either and how do we accomplish that.

Mr. Amato said I don't want to get into an argument but the way I see it is you are taking away that eyesore and putting it into the house and because you are doing that you're asking us well we are taking this away because it's ugly and we are going to put it into the house and make the house so much nicer and therefore give us 70% more than what we should have on that property.

Mr. Hellman said when you say should have it's what we already have.

Mr. Bentley said I am going to interject and this is my opinion. If you were to take the garage down, because the garage is not usable from a safety perspective from my vantage point and it is an eyesore.

Mr. Hellman said nobody disagrees.

Mr. Bentley said we never approve for you to do away with impervious surface and build house and that isn't the case in this application. You have gone down in lot coverage and I am not a fan of the eighteen inch eaves. That has to be a part of the discussion and I'm just not a fan of them. No disrespect to your credentials but that would minimize the lot

coverage. It's minimal but my job is to reduce the lot coverage. If you were to take that garage down and then make it the usable attached garage and you did the same size garage then you would have the same lot coverage as you do today, which is more than you are asking for. What you are doing is you are taking the garage and you are shrinking the garage and you are getting more livable space from that garage. It's a building. It's not like you are taking out 2000 square feet of pavers and I'm going to make my house 2000 square feet. That's my vantage point. You are not asking for more. We had this conversation last month; it looks like you are asking for a bigger structure but in fact you are not asking for a bigger structure you are asking to combine those two structures together. Your structure piece comes in with the access off the front deck. That is my viewpoint. That is where I stand.

Mr. Rischpater said I would like to add just one thing too that we haven't talked much about. The other hardship is we have swath going through the middle of the property we can't use because there is a sewer there. If we had access to that property to build on we could certainly make the house narrower and longer but we just can't.

Mr. Bentley said it's a sewer main, right?

Mr. Rischpater said yes, so it's not that we are just asking for all this extra usable space because we literally have to compress the building to what it is to get the house similar to what is there now.

Mr. Bentley said you could come back four more feet because you have to be fifteen feet out of the sewer main.

Mr. Morse said there is an easement there. Usually they are thirty feet with fifteen feet on each side and they are right on the line.

Mr. Rischpater said it's a diagonal line and we are right on the line.

Mr. Bentley said any further questions?

Mr. Morse said I just want to remind you that this went to the county because it is more than one variance and also because of its location and as they usually do it was a denial on the lake. So the vote has to be a majority plus one. With two people missing those are automatically "no's".

Mr. Bentley said repeat that.

Mr. Morse said the people that are not present those are automatically a no. Tom Harvey clarified that at the last Planning Board meeting.

Ms. Oliver said so it would have to be a unanimous vote here tonight is what you are saying, correct?

Mr. Morse said the majority plus one is five. I just wanted to state that.

Ms. Oliver said can I ask a question, and I know nothing about architecture from your standpoint, but aside from aesthetics what is the benefit of the eighteen inch overhangs?

Mr. Rischpater said you see it in warmer climates a lot of times. It helps to reduce the sun and lower the energy going into the building with larger overhangs during the sun and during the winter months as the sun goes down lower it lets the sun in. It helps to make the carbon footprint of the building smaller and less energy gets into the house because the overhangs are larger. When you see houses with lots of big windows they are just soaking up energy and running air conditioning and things so the bigger overhangs help to reduce the energy.

Ms. Oliver said does it make any difference as far as drainage? You would still have the same size eave trough?

Mr. Rischpater said yes we would still have that. Do you have storm drains or does everything go down to splash blocks now?

Mr. Hellman said yes.

Mr. Rischpater said so it would be the same basic principle of what is there.

Mr. Bentley said anything else? Ok, so I think in fairness to you I would like a full Board here to vote. I think that is only fair to you. We have 62 days from the close of the public hearing, today, to make a decision. I would be glad to vote tonight but I think in fairness to you because it is an investment of time and money that you have put in that you need a full Board to vote. That is what I am going to propose that we carry this over until September 19th and even at that date we won't be over the 62 days from even the first meeting.

Mr. Hellman said I don't understand the 62 days.

Mr. Bentley said you have 62 days from when a vote must happen or it's an automatic denial from when the public hearing was closed and I closed the public hearing tonight.

Mr. Rischpater said on the 19th should I present as I did today?

Mr. Bentley said I will ask you to represent to the Board members that are not here.

Mr. Bishop seconded Mr. Bentley's motion to continue to the September 19, 2024 meeting and the motion was carried with all present voting aye.

6. NEW PUBLIC HEARING

ZBA #52-2024: LEON NEWSWANGER 4112 LAKE TO LAKE ROAD, CANANDAIGUA, NEW YORK, 14424:

Requests a variance in accordance to Article IV Section 31.4.1 of the Town of Gorham Zoning Local Law. The applicant is requesting a variance to construct a second allowable use, a 1260 square foot private schoolhouse, on the same tax parcel as their single family home. The property is located at 4112 Lake to Lake Road and is zoned FP Farmland Preferred/Farmland Priority.

Mr. Newswanger said the intent is that it is needed in the area for a classroom. The community got together and it was voted for that area. Now or intent is to construct a single classroom schoolhouse on the corner of my property under a 99 year lease agreement.

Mr. Morse said we have a notarized copy of the agreement already.

Mr. Bentley said just a few questions because it's pretty cut and dry. Who will own this schoolhouse?

Mr. Newswanger said the school itself will.

Mr. Bentley said you do understand that if this is approved that parcel cannot be subdivided and it has to remain on the parcel that it is on.

Mr. Newswanger said yes.

Mr. Bentley said and if you choose to do so in the future, Jim correct me if I'm wrong, then you would have to apply and I don't know how much road frontage you have on your property.

Mr. Morse said he has plenty of frontage if it ever did come to that. They could do that without ruining any farmland.

Mr. Bishop said I am curious why you are not subdividing the property as opposed to maybe doing it in the future.

Mr. Newswanger said to subdivide then the school would have to own the property and then would the school have to pay the taxes then? How will that work?

Mr. Bishop said I would think that you can still own the property if it were subdivided but I can't answer that question.

Mr. Morse said it does put somewhat of a different twist on it to because you are only allowed so many subdivisions in the Farming Preferred. We have talked about it and he agreed to it. This is more of a formality for the secondary use.

Mr. Amato said what happens with the lease if let's say twenty years down the line you folks find that you don't need the schoolhouse anymore and the school still has that 99 years and it cannot be broken?

Mr. Newswanger said it is all written in the lease. If the school would discontinue for three years the building would either automatically be mine, if I would want it, or then the school would have to remove the building.

Mr. Amato said ok but you would get the building, so you would get another house per say.

Mr. Morse said no it would be for agricultural use. It would not be an apartment or anything like that. We already talked onsite about that.

Mr. Newswanger said there wouldn't be a septic system.

Mr. Amato said there isn't going to be any water or septic or anything in there. I thought there would be that in there.

Mr. Morse said we have met with Kevin Olvany and everyone involved with it. Like I said, we couldn't just send them to Planning Board because it is a secondary use.

Mr. Bentley said I'm going to open this to the public and there is nobody on zoom, so if anybody would like to speak please say you name and relevance to the property.

Hearing none, he closed 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 – **5 NO / 0 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 - **5 NO / 0 YES**

(3) whether the requested variance is substantial – **5 NO / 0 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 made a motion to approve ZBA #52-2024 with the stipulation of the lease being intact with the Town and that this building can never be turned into a livable residence unless it is approved by the Town's ZBA and Planning Board in the future. That motion was seconded by Ms. Oliver and the motion was carried with all present voting Aye.

ZBA #53-2024: JOHN THOMANN 4290 FIRESIDE DRIVE, WILLIAMSVILLE, NEW YORK, 14221:

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 33.7%. The property is located at 4546 Lake Drive and is zoned LFO Lake Front Overlay and R-1 Residential.

Mark Thomann and Andrew Thomann presented the application.

Mark Thomann said my family uses the house currently. We bought the house in 2015 and since that time we have been getting use out of it but it is in dire need of repairs. The house was kind of cobbled together over its lifetime before we purchased it. Since that time we have realized that renovating the house would be extremely costly and would not suit the purpose after renovating anyways. Even currently we are patching ceiling, fixing columns on the porch and trying to make sure the house stays up. The last time we were here we were looking to keep the current garage in its place of where it is now and expand that which had a number of variances for height, setbacks and lot coverage. We have redesigned. We eliminated all the setback variances, the height variances, the lakeside variances and currently coming to you to consider lot coverage. For lot coverage we are reducing from 41% to 33%.

Ms. Mitchell said the Town engineer did the lot coverage calcs and found the lot coverage to be 34.3%.

Mr. Bentley said currently the lot coverage is 41.3% and it is going to 34.3%.

Mr. Bishop said is the garage two story or one?

Mark Thomann said the current garage is one and the proposed garage is two but it is connected to the house.

Mr. Amato said we have no elevations to work off, nothing, we don't know what this is going to look like?

Mark Thomann said we are in process with that so we can submit those.

Mr. Bentley said how tall is this garage?

Mark Thomann said thirty four. The current house is thirty five and this house will be the same.

Mr. Bentley said this is LFO, right?

Ms. Mitchell said yes.

Mr. Bentley said the highest it can be is thirty.

Mark Thomann said then I apologize we are not going higher than the maximum building height. The current house has a third story, or loft, and we aren't doing that upstairs loft.

Mr. Bentley said I am going to make some proposals. Me personally, I think this is a great deal of an improvement from the prior three or four years ago. I would like to see the elevation especially of this garage because we will not make a decision without them. That is going to be a huge piece especially if it has water or if it has plumbing because that is going to be a whole different conversation because at that point we are setting it up for a second potential residence on the property. So we are going to need to see what that looks like. I want to know how tall the house is. We don't have to have the elevations but we want to know how tall it is. Who did these?

Mark Thomann said Scott Harter.

Mr. Bentley said if Scott could separate this on the proposed like existing says house with steps and eaves. The existing is correct and the proposed is not correct. He has 1761 and 2046 and if I add those two together you get 3900 and you have 940 feet of asphalt which I don't know where we are getting that from.

Mark Thomann said I believe it's counting this and then there is a drive.

Mr. Bentley said that's what I'm not understanding because that asphalt is still on here but it doesn't show it.

Mark Thomann said the strip, he is removing it.

Mr. Amato said that's 940 feet of asphalt?

Mark Thomann said we are actually not doing the asphalt driveway either. My mother likes the lawn because there is a number of houses down East Lake Drive that have lawns.

Mr. Amato said so no driveway into the garage.

Mark Thomann said no asphalt driveway into the garage. They may park in the garage in the winter sometimes but currently the house isn't winterized.

Mr. Bishop said so the lot coverage would go down if that was figured in there.

Mark Thomann said it would go down. We are constantly discussing this as a family but that is something she is adamant about, no driveway. We do have elevations and I can send these. The house is below thirty feet.

Mr. Bishop said and the garage is what height?

Mark Thomann said the garage is about four feet lower than the house.

Mr. Bentley said so you are looking at about twenty six feet. So this is really part of the residence then.

Mark Thomann said because it is connected.

Mr. Bentley said it's part of the residence. It has sliding doors on the outside, is that right?

Mark Thomann said yes.

Mr. Bentley said I wouldn't say that is necessarily a garage because it mirrors the whole back end of it. I don't know how it is going to be a garage because it is eighteen feet deep. I don't know what car today is going to fit in that garage and it's thirty feet long. If it is intended to be part of the house just say that because you are going to be further along. I don't think you are going to fit many cars in that.

Mark Thomann said the way my mother uses the garage is a garage unfinished. She uses the floor when they have family over for the holidays. They open the doors and they put the tables in and it becomes like a playroom or game room for the kids. When it's not it's storage like a garage.

Mr. Bentley said that's fine but let's label it as it is versus it being a garage lets label it as it is because it's eighteen feet deep. Let's get elevations, in my opinion, and how tall things are. I think this is a much better plan than what you presented three years ago. The garage still concerns me, just to be very transparent, because that was our concern last time was it being a two story garage. Is it going to have plumbing? Is it going to have water? We are going to need to know those things. I'm not telling you, for me, that I wouldn't approve it being connected because I'm very familiar with one of these. This actually looks very good. It's not a garage but it is a garage but it's a mancave. It's actually very elegant like you said you watch TV and it's for flow over space and things of that nature. I don't feel comfortable even attempting to vote on this tonight because I don't know what I'm voting for. So if we could get the size of the house, the elevations and what it is going to look like. I think it is going to look better than what it was before. And how much impervious surface you are removing to add garage space because you are increasing the size of the house and you are increasing the size of the garage so what does that look like.

Mark Thomann said and I think the biggest change from last time was not putting the garage here and following the zoning code which you have to put it within the setbacks. That was the reason the garage was moved into that location.

Mr. Bentley said any further questions? I am going to open the public hearing so if you have any comments.

James Doyle said I have the property on the corner of Lake Drive and Fair Oaks. I have a little white cottage. Ms. Tucker is here with me too. She is my next door neighbor. I would like her to go first and I will go second. I just spoke up because I wanted to be sure to get our position on the record.

Ms. Tucker said I was born and raised in Canandaigua and my husband and I had our careers in New York City. It was our desire and dream to come back and buy a house across from the lake. This is our view from our deck. My concern is with the garage where it presently is it's going to block our view. I'm concerned about our property values going down. As you can see from this picture there is an RV on the property. I don't object to the garage but however I was wondering if you could possibly go into a disposition of being attached here so it would keep the integrity and respect of our view from across the lake. These are the pictures I took today so it will look completely different with the garage moved.

Mr. Bentley said I was there today as well.

Ms. Tucker said when we bought the house they said you're not buying the house you're buying the view which we value a great deal. We had a conversation with Jim Leggett, he's an appraiser, and he is working with us because I was told if I had documentation it would be a little be of a stronger case in terms of my property value and how that would negatively impact us. Of course we would like to keep our beautiful view and possibly have the garage in a different spot.

Mr. Bentley said ok, duly heard. Mr. Doyle?

Mr. Doyle said I'm next door to Vicki and she is farther along in this process than I am so I would just support her position. The view that we have through that open space that currently exists is a sharper angle. My wife and I are a long way from doing something with the property we bought a couple years ago. The view was a major reason to get involved with that property to start with. I haven't talked to an appraiser. I don't if the view would effect the value of the property one way or the other. I am recognizing and hearing this evening that I was here before because I remember when you were talking about the garage and the underground and them coming in and out. They have changed it around. Vicki and I are not here to land on no you can't do it don't stop. If the neighbor wants to do something and he is going to make an improvement then that's ok. I'm also learning from your inquiries and your discussions tonight, Mr. Bentley, that this really isn't a garage. Is it a mancave? Is it a party room? Is it something to open up for a big

family that I understand is associated with these people here? Fine it's Canandaigua Lake come and have a good time. The view is important. With the questions that were asked earlier, and I am putting the cart before the horse, undesirable change detrimental to nearby properties we are right across the street. We are about a nearby as you can unless you are on either side but either side wouldn't have the view problem that is being impacted here. I won't go negative, it's being impacted. We aren't sure. Your inquiries pointed out what about the height and what about the width. As I understand it we are going to get more numbers and we are going to get more information. They are going to redo the redo, which is perfectly acceptable to stay on top of it and see where we are going to go there. Could the benefits be achieved by any other method?

****Mr. Doyle then approached the Board and the applicant and reviewed some different suggestions to redesign his project based on the presented site plan.****

Mr. Doyle said we are not here to put our golf shoes on and run over somebody backwards. That's not why we are here but it is a big change. I have been here since 1975 and my wife's family goes back to 1955 and we didn't have the view back then. Now that we have the little white cottage we do have a view.

Mr. Bentley said thank you for the input.

Mark Thomann said for the record when we were here last time we looked to put the garage in the locations that he is speaking about and we were rejected because of the number of variances and a number of issues. The second part of that is the view that he is speaking about over here is actually going to improve from it's current condition because we are going to comply and cut part of the house off.

****Mr. Thomann then showed Mr. Doyle on the drawing what he was referring to.****

Mark Thomann said we are putting the garage here, not because that is where we necessarily wanted to, it was to comply with the zoning code as written. The last thing is it will be a garage. We will dimension it and show you that it is going to double purpose when we pull the cars out and it will be used as a garage like anyone uses a garage.

Mr. Bentley said and that's perfectly fine. To be very transparent with you, we get into muddy waters with the second floor. You can say whatever you want and I can think whatever I like and that is when I connect the garage in this fashion and put two stories on it then it becomes very dicey because now it is a separate structure because it has a breezeway. Then technically it is an attached garage but in fact detached garage because it has that breezeway. I am not going to put us in the position where the Board approves this and says you are good to go and the Thomann's sell this in five years and oh I got an AirBNB here and nobody can do anything about it. We have to get guidelines in place there. We have to protect ourselves to the letter of the law to make sure we are not approving something of that nature. Hopefully you understand and respect that. To dig a little deeper, and we are not going to go into the weeds of it, I'm not sure 100% accurate

that the garage was over here because as I recall the garage was still connected back in the day.

Mark Thomann said it wasn't connected in the last round but the last question I have is what if there wasn't a breezeway and the garage was attached?

Mr. Bentley said then it has it's own entrance and it is going to be harder to rent out as an AirBNB.

Mark Thomann said but there is no issue with that otherwise.

Mr. Bentley said if we take that garage off today you are almost at lot coverage. There is no issue. If you rebuild this garage here, to what you are saying you would like to do and propose the house that you are proposing I would say from my vantage point you wouldn't have any issues. But you are rebuilding a garage, and in my opinion I can't say for certain that it is a garage, I don't know the height of it, because we both know if that garage is not attached as you are saying then it is fourteen feet. Then it is a totally different story.

Mark Thomann said right, that's why we attached it.

Mr. Bentley said I am well aware. I just want us all to be looking at the same thing. I think the history of this Board is we try to do what is best for the applicant, the Town, and the community that they are in. It's not thrilling to have people continue to come back but when I don't have anything to vote off of I have to. We have to have specifics.

Mr. Amato said I will tell you, from my perspective and with the folks here, what I see here with the numbers that you are basically blocking off eighty five feet of your property as tall as you can go. There are other ways to do that where you are not impacting all of your neighbors. To me that is a big negative. Like Mike said you can leave the garage where it is or you can take it and put it alongside the house. There are a lot of things you can do there that doesn't impact everybody as much as you are doing here. It almost seems like there was a concerted effort to build a wall.

Mark Thomann said there was a concerted effort to not build a wall.

Mr. Bentley said I am going to say this and all due respect to you all as well, their house does sit lower than yours. I don't want to jump to conclusions because I am in the same situation you are in. I look through two houses for a lake view and my lake view has just been destroyed by people putting trees up intentionally so we don't have a view. It is their property so I can't say anything to them but it is not an erected structure. But that is why I want to see the elevations because if in fact it is a fourteen foot garage it is not going to impact your view because your elevation is higher. I listen to what you say when we make the decisions that we make but if it's a twenty two foot then it's a different story because how high does your house sit elevation wise to their property. That is what I want to see and not that it is the determining factor if you lose your view. I can't control

that but I want to see the elevations so I can make an educated decision and I can't make an educated decision today.

Andrew Thomann said we ran the house this way because it was intended to keep the side yard and help with the view as well. Otherwise we would have turned it and then it would have been a wall and we weren't trying to do that.

Mr. Bentley said I want to see the elevations because there are many things you can do with that garage to minimize the impact.

Mark Thomann said we were trying to avoid the setback at all costs.

Andrew Thomann said that's why we were moving it over.

Mr. Bentley said and I appreciate that.

Mark Thomann said we will provide the elevations and the drawings. We have to decide as a family what works and what we want to pursue.

Mr. Bentley said let me tell you what you can't do. If you took down 50% of the structure and rebuilt 50% of it, because right now you are nonconforming, so that is the good piece about this plan because you are getting out of nonconforming by taking down this garage. I will tell you that if you come back and say you want to keep this garage and you want to add fifteen feet more onto it, that is not going to fly because you are nonconforming on someone else's property.

****Mr. Bentley then reviewed some potential suggestions on the drawing with the applicant.****

Mr. Bentley said is you are asking me my personal opinion if you bring a fourteen foot garage by thirty feet deep and twenty foot wide that you are going to use as a fellowship hall, game room, garage, etc. my perspective if you are five feet into here you are going to have a better chance for mw to approve that than what you have proposed.

Mark Thomann said there is eight kids. It's not a fellowship or an AirBNB. I'm just trying to understand.

Mr. Bentley said you can't have it as a garage if you have it at twenty two feet. For me, if you come back and say this is the house that I want and we are trying to do good by everybody in the neighborhood and we turned it vertical verses horizontal and we are going to have a detached garage here twenty two feet but I'm going to need a five foot variance, for me I would be more aped to vote for that. There is another one on East Lake Road that is like this.

Mark Thomann said I understand what you are saying. I understand the community comments. Last thing for the record, when we started this process it was simply to rebuild a

house that is literally falling apart and make it nice and to maintain the views. Last time I think there were other variances that we were testing and I understand those were the issues. We thought this was an absolute no go which is why we put the garage there. We are not married to putting the garage there, so we will work with that in mind. We understand the parameters and we want to keep the view open.

Mr. Bentley then makes a motion to table this to the September meeting. The motion was seconded by Ms. Oliver. The motion carried with everyone present voting aye.

7. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, September 19, 2024 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

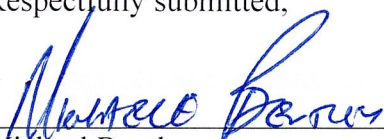
8. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 8:23 p.m.

Respectfully submitted,


_____ L.S.
Michael Bentley
Chairperson of the Zoning Board of Appeals