

TOWN OF GORHAM
CONSERVATION BOARD
MINUTES
December 2, 2008

The Town of Gorham Conservation Board met on Monday, December 2, 2008 at 7:00 PM at the Gorham Town Hall. Present were, Gene Hermenet, Bob Brancato, John Foust, Steve Horrocks, Andrew Hoover, Fred Lightfoote, Bill Johnson, Jerry Hoover and Nancy Hollenbeck

The minutes of the November 3, 2008 meeting were approved by a motion from Bob Brancato, seconded by John Foust.

John Foust recently talked to Maria Rudzinski regarding the status of mapping. We still need to get Bruce Gilman involved to look at the map of natural resources to be sure that it is scored the way that it should be for the Town of Gorham. What was used before was Natural Heritage scoring which is area wide rather than specific to our community. Once that is done Maria will be able to work with that information as well as the view shed work that has been done. John Foust will follow up with Maria.

Bill Johnson prepared a map of the Town titled Lakeview Tour. The tour highlights some of the scenic vistas. When driving the tour Bill noticed that there is no place to pull off the road to look at the views. Talked about the possibility of the town putting in pull offs, maybe with some signage about the viewshed. It was suggested that the Highway Superintendent be contacted to discuss this possibility.

The wide angle camera that we have been using for the view shed photos belongs to John Frank. He has indicated that he would like to donate the camera to this Board or the Town. The camera can be kept at the Town Hall or Bill can keep it at his home.

Gene informed the Board about a proposed project for a camp ground on County Road 18, near State Route 247. This is in the very early stages. There is no formal application at this time. Maps of the parcel were reviewed and briefly discussed. This area is an archeologically sensitive area that will need to be studied before any project can begin. There will also be requirements from the NYS Department of Health for septic system, etc., as well as DEC requirements. Gene just brought this proposal to the Board's attention for your information. We will be kept informed if the project progresses.

Gene stated that he recently met with Betsy Landre and a Town of Gorham property owner who may be interested in some type of land preservation. When appropriate, this will be brought before this Board.

Jerry Hoover, Chairman of the Town of Gorham Zoning Board of Appeals was introduced. Jerry explained that the ZBA is a court of appeals. They are solely an appellate jurisdiction. An applicant has to meet with Gordy and the Planning Board and

must be denied something before they are referred to the ZBA. The ZBA also hears interpretations and makes a determination. When an application goes to the ZBA, the applicant has been told that they can not do something, set backs, height, size, lot coverage, etc. They are looking for relief . Most of the variances that we see are area variances. A house is too large for a lot or cannot meet setbacks or the applicant is requesting something higher than allowed. The other thing people come in for is an interpretation. We had one recently that went through the court system regarding the Docks and Moorings Law. The applicant disagreed with Gordy's interpretation, went to the ZBA, disagreed with our interpretation then continued with the legal route through the courts. In the end Gordy and the ZBA's decision was upheld. The third thing that the ZBA does is Use Variances. Zoning may allow a use in a certain area and not in another. An applicant may come to the ZBA to ask for a use that is not allowed in a particular area by zoning. That is by far the most stringent request. By law there are five criteria that must be reviewed. If any one of them is answered in a negative, by law they must deny the use variance. We have not had a use variance request in the last ten years. Most of the variance requests are on lake front property. It is incumbent on the Board to balance competing interests. We have to weigh the benefit to the applicant if we give them a variance, not necessarily what they ask for, but if we give them a variance, against the detriment to the nearby properties, the neighborhood or the community in general. They do not have to prove a hardship, and that makes it more difficult for the board. You would think an appeals board would be very factual, but it is not, it is very subjective. On the back of the variance application are five questions. These questions must be answered. The ZBA must discuss the applications and show some reasonable level of thought process as to why a requested variance would be a detriment to nearby properties. When looking at variance requests we have to think about the questions. Another question is whether or not the request is substantial. It may be to some, but not to others. Again discussion must take place and reasons given for approval, denial or modification. We have to take all of the factors regarding the property, the proposal and the variance request questions in consideration and balance them. By State statute the ZBA is supposed to grant the minimum variance they feel is necessary to achieve what the applicant is requesting.

Mr. Hoover stated that we have had four Article 78's filed against us since he has been on the ZBA (lawsuits to try to overturn our decisions) and all four have been upheld. The courts found that our decisions were based on rational discussions, viewpoints and were upheld.

A current application to the ZBA was briefly discussed.

Mr. Hermenet will be away most of the winter. We will not meet in January, but may meet the first Tuesday in February. John Frank will take over chairing the CB.

The meeting was adjourned at 9:05 PM

Nancy Hollenbeck
Secretary