

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
February 21, 2008

PRESENT: Chairman Hoover Mr. Schilbe
 Mr. Ebersol Mr. Johnson

EXCUSED: Mr. Blaker

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Schilbe made a motion to approve the minutes of the January 17, 2008 meeting. Mr. Ebersol seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #08-002, Jeffrey & Elizabeth Fitch, owners of property at 3698 Nibawauka Beach, requests an area variance to build a single family home. Proposed home does not meet the north side yard setback, exceeds lot coverage and cannot exceed 25 feet in height.

The Ontario Planning Board made a recommendation for denial of the application.

Chairman Hoover explained that to override the County's recommendation they must have a majority vote out of 7 members.

With only 4 members present no action will be taken on the application.

Chairman Hoover asked the public if there were any comments on the application. Hearing none, Mr. Johnson made a motion to adjourn the public hearing to be re-opened on March 20, 2008 at 7:30 PM. Mr. Ebersol seconded the motion, which carried unanimously.

Application #08-016, John Swapceinski, owner of property at 4042 State Rt. 364, requests an area variance to build a single family home. Proposed home does not meet the south side yard setback, the rear yard setback and exceeds lot coverage.

Application was required to go to the Ontario County Planning Board. Determined to be a Type II action, which does not require further review under SEQR.

The application was reviewed administratively by Ontario County. The following recommendation was received by Ontario County. **Recommendation for CPB referral 21-08** (rear yard (State Rt. 364) - none **Board Comments:** 1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are also strongly encouraged to involve appropriate agencies as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. 3. Even though there is a garage proposed, the local board is strongly encouraged to required a greater setback from State Rt. 364 to, allow as much as is practical, outdoors parking that's not in the ROW. **Recommendation for application 22-08 (side setback and lot coverage variances):** Denial **Findings:** 1. Protection of water features is a stated goal of the CPB. 2. The Finger Lakes are an indispensable part of the quality of life in Ontario County. 3. Increases in impervious surface lead to increased runoff and pollution. 4. Runoff from lakefront development is more likely to impact water quality. 5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties. 6. Protection of community character, as it relates to tourism, is a goal of the CPB. 7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character. 8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance. **Board Comments:** 1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are also strongly encouraged to involve (insert agency name here) as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

The applicant is requesting a south side yard variance of 2.5 feet for a setback of 12.5 feet, a rear yard variance of 30 feet for a setback of 0 feet and a lot coverage variance of 26%.

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

David Healy, architect, Rob Swapceinski & Dad Swapceinski were present and presented the application to the board.

Mr. Healy stated that the proposal is to demolish the existing cottage and replace it with a new 41' x 24' home. There is a 30 foot sewer easement in the front that can not be encroached upon.

A permit has been issued by the State Department of Transportation for the driveway.

A garage will be part of the first floor with bedrooms above the garage. The home will meet the requirement of 25 feet.

Gordon Freida, Code Enforcement Officer, stated that he has heard from the State Department of Transportation and they may have issued a driveway permit in error. A minimum of 15 feet should be provided between the right of way line and the near edge of a building. Also, in talking with the water department there have been issues with building so close to the right of way. If there is ever a water main break it is very difficult to work with the buildings so close to the right of way.

The board expressed their concerns with the home being built right on the right of way. It was suggested that being as the lot is so small they may want to try to build a smaller home without a garage. It was suggested that they move the home towards the front and redesign the home to minimize the variances and get the 15 feet from the home to the right of way.

Chairman Hoover asked if there were any comments from the public.

Mom Swapceinski stated that because John plans on living here year around the garage is pretty much a necessity. "I understand your ideas that the road might change, but if you look down that roadway it is almost impossible to change it on the lake side because many of the properties there lines are up to the road so that is just a comment that I think is it possible then if you change it the 10 feet that that might be significant enough realizing that most likely if they change that road its not going to go on the lake side. Unless they tear down some structures."

Chairman Hoover stated that that is one of the things that they can not predict in the future what might happen.

Mr. Ebersol asked if there was a reason why they pushed the building out to the road.

Mr. Healy stated that he wanted to eliminate a variance from the front yard. "There is a lot of concern about rain runoff and polluting the lake, so I was trying to respect that concern."

Rob Swapceinski, brother, stated that his brother's main concern is having a footprint of a house that will allow him to be where he can become a permanent resident of this community and raise a family.

With the consent of the applicant Chairman Hoover adjourned the public hearing to be re-opened on March 20, 2008, at 7:30 PM. Mr. Johnson made a motion to adjourn the public hearing for 30 days. Mr. Ebersol seconded the motion, which carried unanimously.

Application #08-017, Roger A Carroll & JoAnne Pedro-Carroll, owners of property at 5100 County Road 11, requests an area variance to build an addition, an attached deck and a lakefront deck. Proposed building and decks do not meet the side yard setbacks and exceeds lot coverage.

Application was required to go to the Ontario County Planning Board. Determined to be a Type II action, which does not require further review under SEQR.

The application was reviewed administratively by Ontario County. The following recommendation was received by Ontario County. **Recommendation for application 20-08 (side setback and lot coverage variances):** Denial. **Findings:** Protection of water features is a stated goal of the CPB. 2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.

3. Increases in impervious surface lead to increased runoff and pollution. 4. Runoff from lakefront development is more likely to impact water quality. 5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties. 6. Protection of community character, as it relates to tourism, is a goal of the CPB. 7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character. 8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance. **Board Comments:** 1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are also strongly encouraged to involve (insert agency name here) as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. 3. It appears that the applicant recently received approval for installation of a foundation and basement under the house and attached porch. There is concern that the request for variances and related reviews are being segmented so that the intent of overall site plan review is in some ways undermined.

The applicant is requesting a 2 foot north variance for setback of 13 foot, a 10 foot south variance for a setback of 5 feet for the lake front deck, a 9 foot north variance for a setback of 6 feet, an 8 foot south variance for a setback of 7 feet for the deck on the house. The proposed 2nd floor will need variances north and south to stay in line with the house. The proposed also exceeds lot coverage of 25% by 5.3% 30.3% (without driveway).

Diane Smith was present representing the applicant and presented the application to the board.

A plan was presented to the board adding an existing deck that had been removed and a proposed walkway leading to the driveway, making the proposed lot coverage 52% from existing 43%.

The height of the proposed second story addition was discussed. The height has not been determined yet and will need to be determined before any variances are granted.

Chairman Hoover stated that he believes that there is a deck with the hot tub on it that is not shown on the plan that also needs to be added.

Chairman Hoover asked if there was going to be raised decks on the front, a deck at ground level or a two story raised deck.

Ms. Smith stated that there will be a patio out of the walk out basement and above that there will be a deck. It is her understanding that there will not be one off the second story addition.

Chairman Hoover stated that he has a real concern when you are doing this much renovation, ending up with 52% lot coverage.

"When we are looking at new construction we really want to try to see that lot coverage decrease versus increasing. I am going to suggest that the lot coverage be cut down as much as possible."

Chairman Hoover stated that his other concern is with the proposed deck on the front of the home blocking the view up the lake for the neighbor on the south.

The proposed decks are going to be bigger than the existing decks were.

Mr. Johnson stated that with putting in a basement making it a little bit higher than it was, and the new zoning states that it can be no higher than 25 feet, they are already at 35 feet so putting additional height onto the building they are just compounding it from where they are now.

Mr. Freida stated that that is why he asked the applicant to provide the town with elevations.

Chairman Hoover stated that before they come back to the board next month he is requesting that the exact mean elevation be calculated by a licensed professional, working with Mr. Freida as to where it needs to be measured from.

Mr. Johnson stated that he also believes that 52% lot coverage is way too much and would like to see it decreased.

Chairman Hoover strongly suggested that they cut the lot coverage down. Ultimately they would like to see it down to 25%, but possibly would look at something between 25% and what it is today at 43%. The board will be looking for the applicant to shrink the lot coverage down from what it is today.

Mr. Freida stated that they also need to know where the high water mark is and the setbacks from the high water mark.

A setback for all the structures needs to be clearly shown on the map.

Chairman Hoover stated that he has a real concern with the front deck and the south neighbor's site distance with a 16 foot deep deck raised that high off of the ground. "In looking at the questions on the back of the variance application this will have a negative impact on the neighboring property."

The required side setbacks for the front proposed patio are 15 feet, and these setbacks should be maintained on the patio.

Chairman Hoover asked if there were any comments from the public.

David Manning, south neighboring property owner, stated that he would like to thank the board, they have done a good job representing what he is concerned about. "My primary concerns are the setbacks on the stairway and proposed deck on the lake side of the house, and the large deck on the lake frontage that is close to the property line. I think some consideration for the privacy to the close proximity needs to be given to existing owners."

Chairman Hoover asked if there were any more comments from the public. Hearing none, the public hearing was adjourned to be re-opened on March 20, 2008, at 7:30 PM.

Mr. Schilbe made a motion to adjourn the public hearing for 30 days. Mr. Johnson seconded the motion, which carried unanimously.

Mr. Ebersol made a motion to adjourn the meeting at 8:51 PM. Mr. Blaker seconded the motion, which carried unanimously.

Chairman Hoover, Chairman

Sue Yarger, Secretary