

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
April 17, 2008

PRESENT: Chairman Hoover Mr. Schilbe
 Mr. Ebersol Mr. Johnson
 Mr. Blaker Mr. Craugh
 Mrs. Fake

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Schilbe made a motion to approve the minutes of the March 20, 2008 meeting. Mr. Blaker seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

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

The public hearing was opened and closed on March 20, 2008.

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

Mr. Healy stated that the new proposal is a 28' x 34' home.

The variances requested are a rear yard variance of 15.95' for a 14.05' setback, a front yard variance of 6.54' for a setback of 23.46', a south side yard variance of 10.8' to the stairs for a setback of 4.2', to the house proper a setback of 6.7'.

The driveway was discussed. There have been discussions with the Planning Board regarding lot coverage and driveways. Chairman Hoover suggested that prior to going to the Planning Board for site plan approval they work with Mr. Freida to make sure they have a surface for the driveway that is considered 100% pervious, to take the full credit towards lot coverage.

Mr. Freida reminded the board and the applicant that the height of the home could be no higher than 25 feet.

Mr. Healy stated that the height is 24' 2".

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Chairman Hoover made a motion to grant a 15.95' variance for a 14.05' setback on the rear yard, a 10.8' south side variance for a 4.2' setback to the edge of the stairs, the house proper must 6.7' off of the property line, a 6.54' front yard variance for a 23.46' setback. The house must be under 25' maximum height. The applicant needs to show Mr. Freida that the surface of the driveway is 100% pervious to get the 100% reduction in lot coverage for the driveway, making the lot coverage at 25%. Mr. Johnson seconded the motion, which carried unanimously.

Application #08-035, James McGhee III, owner of property at 4816 County Rd. 11, requests an area variance to build a 6' x 32.5' addition to front deck. Proposed deck addition does not meet the front and 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 the Ontario County Planning Board. 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 appropriate agencies as early in the review process as

possible to ensure proper design and implementation of storm water and erosion control measures. 3. The Town is asked to verify that all overhangs, steps, walkways, etc are considered as part of the lot coverage calculation. 4. The proposed expansion appears to extend out over Canandaigua Lake and the remainder of the house is almost entirely within the required lakeside setback.

The ZBA is strongly encouraged to consider impacts to the lake views of neighboring residents.

The variances requested is that the proposed deck addition will exceed the Highwater setback by 3.7 feet for a setback of 33.7 feet. A 9.8 foot variance is being requested for the south side and the lot coverage would be increased to 42%.

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

Mr. James McGhee, father of the applicant, was present and presented the application to the board.

Mr. McGhee stated that last year they had the existing deck reinforced with new supports in anticipation of adding on to it. "As a secondary consideration, in order to gain some place where you can sit, have a lounge chair, have a table, this is so narrow that all you can do is sit on it, we would like to start the extension approximately at the center of the property and follow the existing seawall out to the south corner of the property. There would be no overhang on the water and it would give us enough room to have a sitting area."

The board expressed that they were not in favor of allowing a deck to overhang the water.

Chairman Hoover stated that if they were to allow the deck to be extended on the south side he would like to see the extension stay behind the breakwall not out on top of it.

Mr. Schilbe stated that the lot is only designed for a cottage. "It is so cluttered in there now all we are doing is making it worse."

A note from the neighbor to the south was received and read to the board. This note will be kept in the file.

Mr. Johnson expressed that he is torn on allowing the deck to be extended out towards the lake further.

Mr. Blaker stated that he agrees, he believes that they should leave the deck as it is today.

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

Mr. McGhee stated that he does not believe that their counter proposal would be of any visual impairment or environmental impairment. "It would be something that would allow my son, the owner to enjoy the deck. We have the acquiescence of the next door neighbor. I don't see the problem here with doing this alternative extension. It is within the seawall and so I don't see what the big deal is. I think it is a very fair compromise, that isn't going to impact anybody and isn't going to be a visual impairment, and is going to be significantly better for the owners. My son has put a lot of money into this place to make a nice place, which is important in Gorham, rather than a shack when he bought it. So I don't think this thing should be turned down.

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

Mr. McGhee stated that he has been on Canandaigua Lake since 1934. "I have been brought up on the lake and my children have been brought up on the lake. A lot of the importance and nice thing about being on the lake is being able to sit on whether it is a front porch or a front deck and look at the sun set or look at the boats going by. That is a very important part of having a cottage on the lake. The alternative that we have presented I think is a very very reasonable one. It doesn't impact anybody. It doesn't disfigure the property. I don't see why it should be rejected."

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Mr. Schilbe made a motion that the application be denied. Mr. Blaker seconded the motion, which carried unanimously.

Application #08-039, Roger A Carroll & JoAnne Pedro-Carroll, owners of property 5100 County Rd 11, requests an area variance to build an addition, an attached deck and a lakefront

deck. Proposed project exceeds the granted variance of 26% for lot coverage, requesting 41%.

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

The variance requested is 41% lot coverage.

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

Mr. Carroll was present and presented the application to the board.

Mr. Carroll stated that nothing has changed with the structures since the last application.

The Planning Board at there last meeting had a discussion that even though the driveway was going to be a hallow core block it still only would get a 30% reduction in lot coverage. Chairman Hoover stated that he has had a conversation with Tom Harvey, Chairman of the Planning Board on this. There is going to be a request for a meeting with the Planning Board, the Town Board and the Zoning Board of Appeals. The way that Chairman Hoover reads the zoning is he does not necessarily see where some of the products that they have seen fall under the paver block category. They are more of a product that will allow you to drive on grass.

Chairman Hoover asked what the lot coverage calculation would be if they were to give 100% credit for the driveway.

The lot coverage was calculated to be at 30.9% giving 100% reduction for the driveway.

Mr. Carroll asked if he could get approval for a driveway that is 90% pervious.

The lot coverage was calculated to be 32% with giving credit for a 90% pervious driveway. Mr. Freida ultimately is the one that will make the decision on what is pervious and not pervious and what constitutes lot coverage.

Mr. Schilbe stated that he has gone down to the property and did not like what he saw. "It looks to me like a three story building. I did some fast calculations last night and I came up with to the top roof line of 27 feet, without the roof."

Mr. Freida stated that Hager Engineering has guaranteed that the height is going to be 24'5" from the mean average elevation.

Mr. Freida explained how the height is calculated from the mean average elevation.

Mr. Schilbe stated that he would like to see the lot coverage reduced to 25%.

Mr. Ebersol stated that he feels that the lot coverage is way too much.

Mr. Carroll stated that he has cleaned up the lot considerably and can show pictures of how it looked before.

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

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Mr. Blaker made a motion to grant a variance of a maximum of 32% lot coverage. The applicant needs to show Mr. Freida that the surface of the driveway is 90% pervious to get the 90% reduction in lot coverage for the driveway. Mr. Johnson seconded the motion. Roll Call was read with Blaker, Johnson, Hoover Craugh & Fake voting yes and Ebersol and Schilbe voting no. (5-2).

Mr. Johnson made a motion to adjourn the meeting at 8:50 PM. Mr. Blaker seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary