

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
April 16, 2009

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

EXCUSED: Mr. Craugh

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Johnson made a motion to approve the minutes of the January 15, 2009, meeting. Mr. Blaker seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #09-025, Donovan & Frances Holder, owners of property at 4318 Deep Run Cove, requests an area variance to build a porch on the lakeside. Proposed porch does not meet the south side yard setback.

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 SEQR.

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

Robert Cornell, representing the applicant was present and presented the application to the board.

Mr. Cornell stated that the deck will be a second floor open deck.

Nothing will be done under the deck. There will be just a set of steps out from the siding doors out onto the lawn.

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. Schilbe made a motion to grant a south side yard variance of 1.2' for a setback of 13.8' for an 8 x 12 porch. Mrs. Fake seconded the motion, which carried unanimously.

Application #09-024, Denise McKenzie, owner of property at 4202 State Rt. 364, requests an area variance to build a single family home & garage. Proposed single family home does not meet the side yard setbacks, rear yard setback and exceeds the height

of 25 feet. The garage does not meet the side yard setbacks and the rear yard setback. Proposed lot coverage exceeds 25%.

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

The Ontario County Planning Board made the following findings for the side yard setbacks (garage & house) and lot coverage variances for a lakefront residential teardown and rebuild.

Findings:

1. Protection of water features is a stated goal of the County Planning Board.
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 County Planning Board.
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.

Final recommendation from the County Planning Board, which applies to the lot coverage and side setback variance requests for both the house and garage: **Denial**

Recommendation from the County Planning Board, which applies to the building height and right-of-way setback variance requests for both the house and garage: **None**

Ontario County Planning 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 strongly encourage to address, as early in the review process as possible, the proper design and implementation of storm water and erosion control measures.

William McKenzie, Marty Frederickson & Matthew Rischpater were present and presented the application to the board.

Chairman Hoover stated that in the lot coverage calculation he does not see any calculation for sidewalks, landings and driveway.

Mr. Frederickson stated that the concept is that they would just grass it and drive over the grass.

Chairman Hoover asked if they have considered the fact that in the summer if we were to get two inches of rain they will probably be driving through mud to get to the garage.

Mr. McKenzie stated that they have been doing that for over the last twenty years that they have been there. "That is an issue but obviously the lot coverage is an issue also."

Chairman Hoover asked if there was going to be any sidewalks going to the porches.

Mr. Frederickson stated that there are no sidewalks being proposed.

Mr. McKenzie stated that he thought that the sidewalk from the access road to the entrance facing east was staying.

Mr. Rischpater stated that the last time they spoke, because of the lot coverage issues they were going to have that area grass.

Mr. Ebersol asked if the walkways that are there now would be coming out.

Mr. Frederickson stated that all of them will come out because with the new structure the main level will be even with the driveway.

Chairman Hoover stated that one thing they have to look at is if there is going to be any adverse changes in the character of the neighborhood. "I was down there this evening and for the most part cottages either way especially to the north of you all appear to be a single story, what I would consider to be a single story cottage. Some are a story and a half. Given the elevations that we are looking at it looks like it is going to be from the lake side a three story that is 28 foot in the air.

I have a concern about changing the character of the neighborhood. That particular area is all pretty much single or a story and a half seasonal cottages, and all of a sudden we are going to put what looks to be a 4500 square foot plus three story year around house right in the middle of single story cottages. I'm concerned about that being a drastic change in the character of the neighborhood."

Mr. McKenzie stated that except all the structures to the south are two stories or more. "Viewed from the road it is a two story with a basement."

The height of the proposed home was discussed. It was calculated that the mean height is being proposed at 29.4 feet. The height from the lake will exceed well over 30 feet.

Chairman Hoover asked how much buildable area is within the setback lines. "I estimated about 1300 square feet of buildable area to be completely in the setbacks."

Mr. Frederickson stated that they did not calculate the square footage of that, but they did outline the town required setbacks on the plan.

Chairman Hoover asked Mr. McKenzie if he has given any consideration at all to trying to fit a structure that is going to fit within the bulk of the setbacks verses one that exceeds the bulk of the setbacks.

Mr. McKenzie stated that they have. "We have tried to come up with different options. We have tried to be generally respectful of the lake setback and I thought fairly respectful of side setbacks. We are at a disadvantage geographically because of the pie shape of the lot."

Chairman Hoover stated his concern with taking a single story cottage and essentially putting a three story year around home. "Another concern is as you folks are sitting here proposing the fact that there is not going to be any driveway or sidewalks around here, I am not convinced that in the very near future, with that garage being almost 25 feet off of the pavement, I am not convinced that when you start using it year around that you are not going to want some sort of a hard impervious surface going to that garage."

Mr. Ebersol asked if the overhangs were included in the square footage calculation.

Mr. Frederickson stated that the overhangs are included.

Mr. Schilbe asked what the lot coverage calculation was on the lake side only.

Mr. Rischpater stated that that was not calculated.

Mr. Frederickson presented to the board impervious calculations with several options in addressing the lot coverage issues. This will be kept in the file.

Mr. Rischpater explained to the board the options they calculated to address the lot coverage issues.

The lot coverage issues and a driveway were discussed.

The board also discussed the building height. Many of the board members had a concern with the building height.

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

William McCoy introduced his wife Lynn and stated that they live three cottages north of the McKenzie's lot. "The two lots between the McKenzie's and ours are very old summer seasonal cottages that are not occupied very much. Our main interest in coming here is to observe the project, because these other two lots may someday be rebuilt also, and to get educated. We came over and Sue Yarger on Saturday laid out the drawings for us. I have to say that just from our perspective just looking at the drawings of what was in front of us for a half hour or so, I personally did not have any objections to what I saw. I do respect and appreciate the effort that you're doing with all the zoning regulations and conducting hearings such as this. I just wanted to note our appearance and interest"

Fred Kless stated that he lives 4 houses down southward. "I own a year around home and Talomie's own a year around home there and the one north of that is Shears and that is at least a two story house. It's not that this would be the only large house in the area." He had no objections to the application as presented.

A letter from Sheldon and Diane Shear opposing the application was read for the record and will be kept in the file.

Mr. Frederickson presented a revised plan to the board moving the home parallel to the property line, which would eliminate one side variance.

Mr. Johnson suggested that they do away with the deck on the front and slide the house toward the lake, which would almost eliminate the rear variance.

Chairman Hoover asked if they have given any consideration to scaling down the overall size of the house to decrease the height and decrease the setback variances.

Mr. Frederickson stated that they have talked about some things, but they haven't got into them to see the practicality of them.

It was suggested that they scale the project down to fit within the 25 foot height limit and scale down all the other variances needed. The board would also like to see a driveway to the garage be figured into the lot coverage, keep the lot coverage close to 25%. It was also suggested that they scale down the size of the garage to decrease the setback variances.

Mr. Johnson questioned if the overhead utilities above the proposed garage was private or on easement from the electric company.

The overhead utility line will need to be addressed before any variances are granted for the garage.

Chairman Hoover adjourned the public hearing to be reopened either May 21, 2009, or June 18, 2009, at 7:30PM, depending on when the applicant can submit a new proposal.

The meeting was adjourned at 8:24PM.

Jerry Hoover, Chairman

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Sue Yarger, Secretary