

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

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

EXCUSED: Mr. Blaker                 Mr. Ebersol

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Schilbe made a motion to approve the minutes of the June 18, 2009, meeting. Mrs. Fake seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #09-098, Susan Lom, owner of property at 4794 County Rd. 11, requests an area variance to build an 8 x 10 shed. Proposed shed does not meet the front yard setback, north side yard setback and exceeds lot coverage.

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

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's recommendation for the application was denial with the following findings and comments:

**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.

**Board Comments:**

1. The ZBA is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.

2. The applicant and referring agency are 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. In an effort to preserve lake views for neighbors and others, storage building should not be on the lakeside.

4. Even in its' previous location the shed may have blocked the lake views of the residence to the east (upland). Any additional structures on this lot should be located with an awareness of how they might impact views from all nearby lots not just those along the shoreline.

Charles Lom was present and presented the application to the board.

Chairman Hoover questioned where the location of the underground propane tank was located on the survey.

Mr. Lom pointed out on the survey where he believed the location of the tank is.

Chairman Hoover stated that previously the ZBA granted a variance for a shed in the area near the propane tank.

Mr. Lom stated that he did not believe the propane tank was there at the time the previous variance was granted. It is there intent not to build anything over or near the propane tank.

Chairman Hoover stated that the applicant's representative spoke to the ZBA that evening back in January 2007, stating that the underground propane tank was in place there on the left side.

Mr. Lom stated that he is unsure when the tank was put in. It was put there during the remodeling of the cottage.

Chairman Hoover stated that the outcome on the last application was that an 8' x 10' shed would fit up against the retaining wall away from the buried propane tank.

Mr. Lom stated that that area has the propane tank in it and did not want to put anything in that area. "The only area that we have to put a shed is in the tree line. We have a trailer there now. We want to replace the trailer with a shed. We are willing to take up the concrete that is there."

Mr. Lom presented the board with some calculations of square footage of concrete that they are willing to remove to lower the lot coverage percent.

Chairman Hoover expressed his concern with putting an accessory structure ahead of the front line of the house and a foot off of the property line and ahead of the neighboring house.

Mr. Johnson agreed that he also had a concern with putting the accessory structure ahead of the house.

Mr. Lom stated that the shed will be used for what is in the trailer now, which is basically shovels, lawnmowers & storage for outdoor gardening.

Mr. Schilbe expressed his concern with the storage of lawnmowers and gas that close to the lake.

Mr. Schilbe asked if the shed could be moved back away from the lake.

Mr. Lom stated that they do not want to move it into the driveway area. They could move it so that it is about 15 to 25 feet from the lake.

There was a little confusion on what size was being asked for. Mr. Lom thought they asked for a 10' x 20' and the application and survey stated an 8' x 10'.

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

Jon Lewis, neighboring property owner, presented pictures of his property and the applicant's property to the board.

Mr. Lewis expressed his concerns with the shed being put in the front on the side property line. He had concerns with the view from his property. He was also concerned with the safety of his home incase of a fire with the storage of gasoline in the shed.

Vicky Lewis expressed her concerns with the shed on the property line.

Gregg Quick, applicant's son, stated that he understands what the Lewis's are saying about the view of the lake. He believes that the shed will be the same distance from the lake as Jon's shed is. He believes that there is space to move the shed back farther than the trailer is now.

Chairman Hoover adjourned the public hearing to allow the applicant to place the shed on a new survey showing where they are willing to move it back from the lake and the side property line. The new survey must show the location of the underground propane tank and calculation of the lot coverage after the removal of the concrete the applicant is willing to remove. The public hearing will be re-opened on August 20, 2009, as long as a new survey is presented to the Town of Gorham Zoning Office 5 days in advance.

Application #09-108, John Snider, owner of property at 5247 Twitchell Rd, requests an area variance to use an RV as a single family home. Proposed park model RV does not meet the minimum square footage of 950 sq ft for a single family home.

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

John Snider was present and presented his application to the board.

Mr. Snider stated that the unit that is there now is a replacement for a 1970's RV. It was replaced around the year 2000.

Chairman Hoover asked if a building permit was issued at that time to replace the RV.

Gordon Freida, Code Enforcement Officer stated no there was no building permit issued.

Chairman Hoover stated that once the old RV was removed you lose the preexisting non-conforming status and you need to conform to today's zoning.

Chairman Hoover asked Mr. Snider how long he lives in the RV during the year.

Mr. Snider stated "It varies by the year. I'm up to a hunting camp half of the time. I'm down with buddies on the lake part of the time. I try to keep it somewhere near around a 6 months interval because that is what I thought I was entitled too. Sometimes it has been more and other times it has been way less."

Mr. Johnson asked if he had any plans of building a permanent house on the lot.

Mr. Snider stated no. "I am buying some property down in Florida and will be spending most of my time down there. I just need someplace that I can stay for three months up here when I do come back."

The zoning was read from the Zoning Local Law of the Town of Gorham on recreations trailers. Recreational trailers shall not be occupied, outside of commercial campgrounds, either intermittently or permanently as a residence for more than three (3) weeks in any R district, or more than six (6) weeks in all other zoning districts, within any six (6) month period.

Mr. Snider stated that the RV has steel skirting and is backed up with insulation. "You're never going to match up the screw holes to move it off and put it back on. Everything is underground; the water, septic, electric and telephone. It's got hurricane things driven in the ground with the straps holding it down. I would have to put the tongue back on it. It would be a lot of work to move it and it would never come back right."

Chairman Hoover read the definition of a recreation trailer out of the Zoning Local Law.

The definition of a recreation trailer in the Zoning Local Law is a vacation trailer, travel trailer, fifth wheeler, "porch home," or camper of any description, either towed or self-contained, motorized or non-motorized, intended to be used or occupied as a vacation vehicle or trailer, and not intended to be located with permanent sewer, water and electric hookups.

Chairman Hoover stated that since it is hooked up to sewer, water, electric and the tongue removed it is no longer a recreational trailer.

Mr. Snider stated that under New York State it is registered as a recreation trailer. "I bought it as a recreation trailer"

Chairman Hoover stated that under the Town of Gorham Zoning being hooked up to permanent septic, water and electric; it's not being used as a recreational trailer.

Mr. Johnson asked if he was planning on using it year a round, then why would you sign this agreement to remove it within six months after you sold the land.

Mr. Snider stated that because he had a sale for his property that he had been working on two years and would lose it in the length of time it would take to come in front of the board for a variance.

Mr. Johnson stated but you knew you weren't going to move the RV anyway.

Mr. Snider stated well I don't want to move it no.

The Local Law of the Town of Gorham for recreational trailers was discussed and it was decided by the board that a recreational trailer can be occupied for 6 weeks within any 6 month period. This would not allow him to stay for 12 weeks. It does not allow for two consecutive 6 month periods.

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

Barbara Christmas stated that she is not as prepared as she would have liked to have been. She believes that after reading the affidavit the application seems irrelevant because he has made an agreement with the Town.

Mr. Johnson stated number 6 on the agreement states that the Town of Gorham may grant a variance for the RV to remain on the property.

Donald Christmas stated that the way he was reading it is that the only way he got the subdivision is the fact that he agreed to remove the RV.

Chairman Hoover asked if there were any more 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]: Mrs. Fake made a motion to deny the application for an undersized single family home. Mr. Johnson seconded the motion, which carried unanimously.

Application #09-109, Brian & Mary - Martha Harvey, owners of property at 4046 State Rt. 364, requests an area variance to

install a permanent dock and boat hoist. Proposed dock does not meet 10 foot water rights setback on the south side.

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

Brian & Mary-Martha Harvey and Phil Greene, Worden Hill, Inc. were present and presented the application to the board.

Mr. Craugh recused himself and took a seat with the public.

Mr. Greene gave the board a brief introduction of himself and his company.

Mr. Greene presented the board with a letter from Mr. Jerold Rackel, neighboring property owner to the south, stating that he did not have an issue with the proposed application. The letter will be kept in the file.

Mr. Greene went over the survey map showing lake right lines with the board.

Chairman Hoover asked if it is conceivable to build a dock that is six foot and then tapered down to a four foot.

Mr. Greene stated that it depends on the boat. "I have to design the structure for all styles of boats."

Mr. Greene stated that they are asking for a 2 foot variance at the very end of the dock. They are not infringing on the neighbors water rights. They are just reducing the buffer space. They are reducing the buffer space from 20 feet to 18 feet.

Mr. Freida stated that Phil Greene is the dock builder consultant for the committee that has worked on the writing of the Canandaigua Lake Docks and Moorings Law and is now on the committee doing an update to the Canandaigua Lake Docks and Moorings Law. "He has been a great asset to the Docks and Moorings committee."

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. Johnson made a motion to grant a variance of 2 feet for a setback of 8 feet on the south side for a permanent dock.

Mr. Schilbe seconded the motion. Roll Call was read with Johnson, Schilbe, Hoover, Fake voting yes. Craugh abstained. Motion carried.

A motion was made by Mr. Johnson to adjourn the meeting at 9:02PM. Mrs. Fake seconded the motion, which carried unanimously.

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Jerry Hoover, Chairman

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Sue Yarger, Secretary