

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
June 17, 2010

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

EXCUSED: Mrs. Fake ABSENT: Mr. Blaker

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Schilbe made a motion to approve the minutes of the May 20, 2010, meeting. Mr. Ebersol seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #10-061, Michael & Deborah Horst, owners of property at 4196 State Rt. 364, requests an area variance build a single family home. Proposed home does not meet the rear yard setback and the north & south side yard setbacks.

The application was required to be referred to the Ontario County Planning board. The Ontario County Planning Board had the following 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 the Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance. Final Recommendation: Denial.

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

Michael & Deborah Horst were present and presented the application to the board.

Mr. Horst stated that the ridge height of the proposed house is 22'6".

Mr. & Mrs. Horst presented the board with a picture of the proposed new home and pictures of current structure issues on the existing home. These will be kept in the file.

Mr. Horst explained to the board all the current structure issues with water damage, mold and the ants eating away at the wood. Advice from his contractor was to tear down and rebuild, which would be more energy efficient and less costly.

Mr. Horst explained that the design of the new home has a small footprint that looks like a cottage. It promotes and preserves that cottage feel and charm.

Chairman Hoover stated that he sees that there is a small stoop at the main entrance door and asked if they plan on putting that on. "It is not currently on the site plan."

Mr. & Mrs. Horst stated that they do plan on building the stoop.

Chairman Hoover asked if they would consider making the front porch an 8' x 22' instead of a 10' x 22' porch to get a couple more feet from the road.

Mr. & Mrs. Horst agreed that they could cut two feet off of the porch making it an 8' x 22' porch.

Mr. Johnson stated that the eaves on the home appear to be about a foot. These will need to be considered when discussing the side setbacks.

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

Will McCoy, neighboring property owner, expressed that he and his wife have no objections with the setbacks that have been presented in the application. "From what I have heard of the discussions tonight I do not have any objections to setbacks that you are talking about, including the stoop and locating the stoop on the north side. From our point of view we're very pleased that he's kept the setback from the lake. As our main view is out the southwest side our cottage. And that has been preserved. I think the house itself is very well situated on the lot. I think he has done a good job with that. I also think it is a modest size house suitable for that kind of geometry of a lot. In addition I appreciate the architectural details that are included in the design. It is not a box by any stretch of the imagination. I think that ought to be viewed favorably. As a matter of personal opinion, I don't know to what extent this is a standardize design, it looks like it came off of a computer somehow. I would be inclined to give them the freedom to set the eaves at whatever seems appropriate for that design and

focus on the setback at the ground level. And the reason I say that is about a half mile north of us there's that sort of whiskey carton looking house, and apparently to meet setbacks or something they cut the roof back so it has virtually no eaves. I think part of the charm of a cottage is the eave effects that you see on many of the older cottages, and from my looking at the drawing that seems to be the case there. So the bottom line is that we

support what he has applied for. The things that you have discussed so far in your discussion my wife Lynn and I would not have any objections to."

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]: Mr. Ebersol made a motion to grant a 3.3' variance for a setback of 11.7' on the south side, a 6.5' variance for 8.5' setback on the north side for a 4' x 4' stoop only, a 13' variance on the rear for a 17' setback. The proposed front porch will be reduced to an 8' x 22' porch. The construction must be started within a year. Mr. Schilbe seconded the motion, which carried unanimously.

Chairman Hoover stated that a response is to be sent to the County that the Town of Gorham Zoning Board overturned the County Planning Board decision based on the fact that the proposed home would make the parcel more conforming and less developed than what exists today. The proposed home will be no bigger than the existing one and the existing garage will be eliminated. The proposed home will be moved back further from the lake to meet the front yard setback.

Application #10-066, David & Kathleen Buschner, owners of property at 3976 State Rt. 364, requests an area variance to erect a 6 foot fence. Proposed fence does not meet the maximum height of 4 feet.

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

David & Kathleen Buschner were present and presented the application to the board.

Mr. Buschner stated that he believes the six foot fence would be an enhancement for the property. "A four foot fence would be kind of a stubby four foot fence. We are trying around the house to plant gardens and so forth and I think that would be a nice back ground for that. And with the top portion of it

being a lattice. It is that height that you can see through for the neighbor if that was a concern. I didn't know it was a concern at the time. I wasn't thinking about that, but never the less it would serve to allow them to see through and not block, which I understand is a concern on the Lake Front Overlay."

Mr. Ebersol asked why not plant trees there like you did by the lake.

Mr. Buschner stated that it is a very shady area and the soil is not terrific. "I think this will be a more attractive appearance."

Mr. Johnson asked if this was for a division line or for privacy.

Mr. Buschner stated that it defines the property.

Mrs. Buschner stated that she cannot sit at her dining room table without looking right into the neighbor's window.

Mr. Schilbe asked Mr. Freida, Code Enforcement Officer if there were any other fences over four foot on the lake.

Mr. Freida stated that there are several existing.

Mr. Johnson stated that he has a hard time with the fence height down the lake.

Chairman Hoover asked if the fence was going to extend beyond the front of the house out towards the lake.

Mr. & Mrs. Buschner stated that it will be just to the front corner of the house.

Chairman Hoover stated that the way the ground steps down; "to me it is going to virtually have zero impact from the road.

The only impact that it is going to have at all would be between you and your neighbor to the north. And apparently he does not have an issue. From seeing the lake from anything else other than privacy to that cottage, I am not seeing any impact what so ever."

Chairman Hoover stated that something the board needs to consider, is the fence is only the length of the house.

Chairman Hoover stated that he would like to see the top 2 feet of lattice to be maintained at 50% open.

Mr. Schilbe stated that he would rather see some bushes or trees planted there.

Mr. Craugh suggested planting some forsythia, which grows very well down in through there.

Mr. Ebersol agreed. He would also like to see either trees or bushes planted.

Mr. Schilbe stated that he believes they would be opening up Pandora's Box by starting this.

Chairman Hoover stated that he would look at the opposing point of that. "Looking at what you see down there Jack I would rather see a six foot fence than have a bush that could get ten foot high, and get over grown and out of control and then we have absolutely no say in it. That could be more of a mess than a six foot fence."

Mr. Buschner stated that it would also encroach on his neighbor. "A fence is on my side but a bush would move onto his property pretty good if it would grow."

Chairman Hoover stated "Jack Schilbe I would agree. I don't typically look real favorably about a six foot high fence.

That's why we take them on a case by case bases and treat everything very individually. To me it is little or no impact in this particular case."

Mr. Ebersol stated that the question is not looking at it from the road it is looking at it from the north neighbor. Even though he states he has no issues with the application there could be a new north neighbor there a year from now.

Chairman Hoover stated that they would buy it knowing that the fence was there.

Mrs. Buschner stated that the neighbor looked out windows before they gave us the ok and they said we were not blocking any view.

A letter was received from the north neighbor Terrence Neary, stating his approval of the application for a fence. The letter will be kept in the file.

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

Chairman Hoover stated that he generally is not in favor of 6 foot high fences in the lakefront district. "I think in this particular case it is not going to block a view shed. The only thing this is going to do is block the views strictly between the two houses. This will not obstruct the view to the lake at all even from the road. I really believe it has almost no impact on anyone other than these two neighbors."

The fence that is being proposed is 5 foot of solid and 1 foot lattice.

Mr. Johnson stated that he would rather see 4 foot of solid with 2 feet of lattice.

Mr. Ebersol stated that he feels it should be a 4 foot at maximum.

Mr. Craugh stated that he agrees, it should be a maximum of 4 feet.

Chairman Hoover asked Mr. & Mrs. Buschner if they would consider dropping the solid to 4 foot and lattice to 2 feet.

The Buschners agreed that they could drop the solid to 4 feet and the lattice to 2 feet.

In discussing the questions on the back of the application the following was decided: 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. Mr. Schilbe stated yes, they are only allowed a 48" fence and they want to put up a 6 foot fence. "It is just out of place." Mr. Ebersol stated that he feels the same way. Chairman Hoover stated that in this particular case with the fence if it is kept in line with the front and the rear lines of the house, he doesn't believe that an undesirable change will be produced. He does not think that a detriment will be created to the near by properties. "The only change that it is going to make is to the property directly north of that. I don't think that is necessarily a detriment."

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance. The board all agreed yes, a 4 foot fence could be erected or plantings could be put in that area.

3. Whether the requested variance is substantial. Mr. Schilbe stated that he believes yes. "They are allowed a 4 foot fence and they want to go to a 6. We are not zoned for it." Chairman Hoover stated that if the portion that is considered for a variance is kept 50% open he does not necessarily think that is substantial in this particular case given the lay of the land.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district. The board agreed there would be no effect on the environmental conditions. Mr. Schilbe believed it would have an impact on the physical conditions for the same reason as he stated in question 1.

5. Whether the alleged difficulty was self-created. The board all agreed that the alleged difficulty is self-created.

After discussing and reviewing the questions on the back of the application the following motion was made: Mr. Schilbe made a motion that the application be denied. Mr. Ebersol seconded the motion. Roll call was read. Schilbe, Ebersol & Craugh

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voted yes. Hoover and Johnson voted no. Motion did not carry.
The application will be held over for discussion at the next
Zoning Board of Appeals meeting on July 15, 2010.

Mr. Schilbe made a motion to adjourn the meeting at 8:31PM.
Mr. Ebersol seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary