

**MINUTES
SPECIAL MEETING
GORHAM TOWN BOARD
MARCH 7, 2018**

The Gorham Town Board held a Special Meeting on Wednesday March 7, 2018 at 6:00 PM at the Gorham Town Hall. Present were Supervisor Fred Lightfoote, Councilmembers; William Glitch, Brian S. Case and Richard Malcolm. Water/Wastewater Chief Operator Greg Coston and Town Clerk Darby Perrotte.

Other guests in attendance; Kevin Stape, Eric and Nancy Geoca

1. Call to Order/Pledge to the Flag
2. Privilege of the Floor: none requested.
3. Business:

a. Water/Wastewater Plant Operator Trainee.

With careful consideration the Water/Wastewater Plant Chief Operator Coston and Supervisor Lightfoote decided Mr. Kevin Stape, with his background and experience, was the most qualified applicant to fill the position of Water/Wastewater Operator Trainee.

Mr. Stape has extensive experience operating and maintaining equipment, installing water lines, water mains, valves, hydrants, utilities, etc.

Mr. Stape is familiar with many aspects of operating Water/Wastewater Plants.

On the motion by Councilmember Glitch, seconded by Councilmember Malcolm, to hire Kevin Stape for the Water/Wastewater Plant Operator Trainee position. Effective immediately. Motion carried unanimously. (4-0)

027-2018

On the motion by Councilmember Malcolm, seconded by Councilmember Case, to hire Mr. Stape at ninety percent of pay rate. Motion carried unanimously. (4-0)

028-2018

b. Old East Lake Road Variance Application

Eric Geoca, and his Mother Nancy Geoca, addressed the Board regarding tearing down an existing structure and rebuilding on the site. Current zoning would not allow this because of an issue with the road right of way. They are seeking a variance from the Town Zoning Board of Appeals.

Councilmember Glitch asked "What is the building currently that you're talking about tearing down?"

Mr. Geoca said "We call it the carriage house, it's got a bedroom in there, it's got a bathroom in there, it's nice, we have a big family, a lot of times my mom is in that building. When we bought the property we didn't have any kids. I bought it with my three siblings and now I have three kids, my sister has three, my brother has three and my other sister has two. So eleven kids that come down. The house was good size when we bought it but it's not anymore. What we want to do is put a bunk house there. Basically keep the one bathroom, you can see in the structure there is going to be bunk beds for twelve. It's a pretty decrepit building. I'm a builder by trade, that's what I do I build homes. We've owned the property since '97, we've been there a good long time. The roof's no good it leaks it's an old tin roof. The joists are substandard sized, we can't change the roof without changing the framing so we thought if we're going to do all that lets stay on the existing foundation, the foundation is good, let's put something that's more usable there."

Supervisor Lightfoote said "The reason Eric is before this Board is because the building was probably there before the road right of way was established, my gut feeling is the building was probably there before there was such a thing as a road right of way."

Mr. Geoca said "The house and carriage house were built in 1900. Sixty-five to seventy percent of the main home and approximately the same percentage of the carriage house are in the, quote unquote, right of way. I don't know what the standards and practices were in 1900. They didn't have sixty or a forty-five or a forty-nine foot right of way for roads back then, obviously, none of the houses on this road would have ever been built with current standards."

Supervisor Lightfoote said "At that time the road was County owned. In 1935, I believe, is when the County built the existing County Road 11 and they abandoned this section along with several other sections in Town. To use polite wording it's just kind of "Here we don't need this anymore you guys take care of it", the Town of Gorham, so it's our responsibility. We have other issues here, in addition to what Eric's is, Gordy brought that to my attention just before he left today. So just today we are finding out there are several neighbors in the same situation as Eric."

Mr. Geoca said "My neighbor to the south, Marty Muehe, tore his house down, tore the foundation out and rebuilt everything. He is less than a foot off the edge of the road. I'm ten feet from the edge of the road. I have a much bigger buffer on mine."

Supervisor Lightfoote said "Code Enforcement Officer Gordy Freida looked back to when Muehe's application came in, which pre-dated Gordy, the survey that was provided did not have the road right of way identified on it and no one ever caught that or give it any importance when they went ahead with the approval."

Mr. Geoca said "I have one comment to that. I did talk to Marty. I said Marty how'd you get it done? He said well the whole Planning Board came out, they stood on the corner of my house and they said, yup, it's less than a foot from the road, OK, every house on the street's approximately... they are where they are so

we're gonna let you do it. So, the Town was aware definitely if you go back in your meeting minutes the Town was aware and the Planning Board was aware. The Planning Board went out in group fashion and it was reviewed."

Supervisor Lightfoote said "Whether that was right or wrong, according to our attorney, whatever occurred here has no bearing whatsoever on the current project that you have going on. Plus that is a couple of zoning changes ago."

Mrs. Geoca said "what about Grandfathered in places that exist? We've been going through this process and talking with Gordy for a year. Before, we thought about it earlier, we would have been able to expand the size of the house and then this time when we met with him he said we had to stay within the existing foundation and we said ok, then we went ahead and got the plan done and it just doesn't make sense that everybody else is in this situation and then all of a sudden we have something there, you'd rather our kids live in a place that's substandard than put something decent there? It just doesn't make sense to me."

Supervisor Lightfoote said "What we're trying to do though is trying to work the problem and figure out how to go about this to help you get close to what you want."

Mr. Geoca asked "What is the problem? I don't understand the issue. The foundation is there."

Supervisor Lightfoote said "State Law. State Law is the problem because it's not actually Town Law. Our attorney is looking into this to a greater degree."

Mrs. Geoca said "This is not a State road."

Mr. Geoca said "The State has no jurisdiction over a non-State road."

Supervisor Lightfoote said "yes they do. They do have the ability to say there are regulations within Town Laws that Towns have to obey. It is Town Law but there are certain things we can't do. However, what I've done is called our attorney to have more discussion about it. He said he's never heard of it and he's been doing this for well over twenty years. He's going to check with people at the State and see if there is some way that regulations that refer to buildings within the right of way. Whether there can be a waiver of some sort the Town could have to waive those rules to do exactly what it sounds like the Planning Board must have done with Muehe's."

Mrs. Geoca said "This is very confusing for me, how did the right of way get set up? Who would set up a right of way where there's houses existing?"

Supervisor Lightfoote said "It's because with a certain grade or class of road here's what the right of way shall be. That's how the State sets it up."

Mrs. Geoca said "The State regulates every road in the entire State?"

Supervisor Lightfoote said "Not necessarily, no, but the regulations that we are supposed to follow to a degree from what I understand this is one of those, if you have a road whatever class that is this is what the right of way will be on that road."

Mr. Geoca said "The State Law, the minimum regulate for a state road in New York State is forty-nine and a half which is what's drawn on this. I don't even know if in 1935 the Town filed property easements to exercise the right of way I kind of doubt it because in 1935 there was a forty-nine and a half foot right of way."

Supervisor Lightfoote said "I've got the Attorney working on this to see what we possibly can do and stay legal. Gordy said he refuses to just say, OK, and ignore it because everyone else has done whatever. In my opinion what we've got here is a road that is never going to be a through road again. There is minimum traffic on it, everybody is within the right of way already and like I said there was no right of way and easements that went along with securing the right of way whenever it was that that was put together. I've heard nothing from the lawyer before tonight's meeting. I had hoped we would hear something so we could act on it tonight. What the process would be is you would have to appear before the Zoning Board of Appeals for an easement, if such an easement is possible. With the State of New York it's up to the Town Board if an easement would be possible. Because it's within the right of way it's up to the Town Board to give the go ahead to the ZBA to allow you or at least to consider an easement. That's where we are right now is working through our attorney with the State to try and figure this out. Gordy tried a couple of different offices at the State level to get an opinion from them, they wouldn't even weigh in on it."

Mr. Geoca said "They don't want anything to do with this. This is what I do for a living. In the City of Rochester, ninety percent of homes and buildings are in the right of way. They're all grandfathered in, that's how it continues to work."

Supervisor Lightfoote said "But, if these weren't grandfathered in, not that we would ever do it, we could go out there, take the section of house that's there and just tear it down."

Mr. Geoca said "Eminent Domain, give us a million bucks and take it!"

Supervisor Lightfoote said "I understand your concerns, I understand your frustrations with it. We have the same wants, Gordy and I. I wanted the Board to be aware of this because not only do we have two or more applications right on this one stretch, we've got another stretch with the same issue. This is one of those things where there doesn't appear to be any fix to it. It's all a one size fits all unless our attorney finds that there is a way for us to waive that regulation."

Mr. Geoca said "What I don't understand is when you talk about code changes, again this is what I do for a living, I've been doing it for a long time, there's no code changes that have affected the right of way of the roads. Everybody has been allowed to do what we are asking to do with no hindrance."

Supervisor Lightfoote said "That doesn't matter. Because anything that happened before, whether it was because of a mistake or whatever the application was at the time, it doesn't matter."

Councilmember Glitch asked "Your goal is to rebuild in the same footprint is that correct?"

Mr. Geoca said yes.

Supervisor Lightfoote added that they also want to build a two story instead of the existing one story structure.

Councilmember Glitch said "Because you're going higher it makes it more non-conforming. It does affect it, I wanted to do something similar to a house that I own and I was told no, it does affect it, it doesn't seem like it would, common sense says no but it does."

Mr. Geoca asked "If the structure burnt down would the Town issue a permit rebuild?"

Supervisor Lightfoote said "At the current time we would have to go through the same thing we are going through now because of the right of way." We're trying very hard to work with you. Help you get close to what you want but still work within the law to do it. We have found out the hard way, we are currently involved in litigation. We cannot stray outside the law without putting ourselves at peril even though it might make sense for both the applicant and the Town."

Mr. Geoca said "I agree with that but we feel because Gordy told me in December 'your application is fine there are no issues we'll get this right in' and then he stalled me in January, he stalled me in February and now in March. I met with you last week that's three months of absolute stall, why so much stalling?" Supervisor Lightfoote said it took two or three times to get exactly what I needed as far as the survey.

Mr. Geoca said "He made us go re-survey when we already had the survey if there was an issue with the right of way why didn't he say something about it?"

Supervisor Lightfoote asked if the right of way was marked on the survey.

Mr. Geoca said yes it is, he had a copy for the Board to look at.

Supervisor Lightfoote said "What I had hoped to be able to do was get that from our attorney tonight, then we could approve this, but then to see to it that it got moved up even though a deadline would have passed already to get to the Zoning Board of Appeals, but I can't do that just yet because of the fact that we don't have that and maybe we won't get any kind of opinion that helps us at all. I don't really know. You're not the only one stuck in this position. You brought it to our attention and I appreciate the fact that you're being held up."

Mr. Geoca said "We've basically lost a season now we were going to start construction the end of January and try to be done by April."

Councilmember Glitch asked "what's the possibility of just going with a single story on the same footprint?"

Mr. Geoca said "it doesn't help me."

Councilmember Glitch said "It wouldn't have a leaky roof or a bad floor. I was trying to think of solutions to the problem."

Mrs. Goeca said "I hear what you're saying but we really would like it to accommodate our family."

Supervisor Lightfoote said that would be one of the things once this is taken care of, having to go before the ZBA would be another one because of all of the things that Gordy has brought to your attention."

Mrs. Geoca said "Our neighbor has a two story house."

Supervisor Lightfoote said "It doesn't matter."

Mrs. Geoca said "Is it apples to apples? I'm not trying to be facetious. I just don't understand."

Supervisor Lightfoote said "I don't know the dimensions of their lot but the height you're allowed to go to does vary by the width of your lot."

Mrs. Geoca said "We have one hundred fifty feet."

Supervisor Lightfoote said "You probably have enough to go as high as you want as long as the height isn't above whatever it is in that district, I can't remember what that figure is."

Mr. Geoca said "You were out there, you know that the carriage house has a very high pitched roof, so the height of it is already very high and really there is nobody that is going to have an impeded view from that."

Supervisor Lightfoote said "We understand that is part of the conversation here and it does all go together but that's entirely up to the ZBA once we get that far. If I'm not mistaken, both these buildings are on the same parcel, there might be a question is that allowed. With the current zoning once you tear down that second building you may have to get an easement in order to put it up again."

Mrs. Geoca said "Our neighbor has two buildings on each of his."

Supervisor Lightfoote said "It doesn't matter. I don't know what the history is with those."

Mr. Geoca said "It is recent history so it's probably easy to look up. I don't understand why precedence doesn't matter. Is there any zoning changes with reference with having two dwellings on one property?"

Supervisor Lightfoote said he doesn't remember when that zoning change took place.

Mr. Geoca asked "Are they all on line?"

Supervisor Lightfoote said "Minutes are back a ways on line. The regulations are on line, go to the Town website, you'll find it under Chapter 31 in the Town Zoning Code. I don't think we are getting any farther tonight. I want the Board to understand better what your concerns are. Do you have any other concerns?"

Mr. Geoca said "I know what the precedence has been, I know what the recent history has been, what Gordy told us in December then what he told us in January and what he told us in February."

Mrs. Geoca said "We thought he understood the zoning."

Supervisor Lightfoote said "I wish Gordy was here this survey wasn't sufficient. The recent one is sufficient, it became apparent once this one showed up the date on this is the fourteenth of February."

Mr. Geoca said "Right, because in December he told me it was sufficient and then in January he changed his mind."

Supervisor Lightfoote said he would have to check with Gordy on that.

Mr. Geoca said "It doesn't matter, none of this matters actually. The only thing that matters is if you were to set the precedence in this meeting that says if you're within the right of way, not just on the Lake but in the Town in other places, if you're in the right of way you cannot improve your property."

Supervisor Lightfoote said "I disagree with you. But that's for another time. What we need to do now is move on. I can guarantee you that we are working on this to come up with some kind of opportunity for you to be able to do what you want to do here. We'll keep in touch with you. I would hope our attorney will get back to me within a day or two and we'll go from there depending on what his opinion is."

Mr. Geoca asked if the attorney is employed by the Town.

Supervisor Lightfoote said "He is the attorney for the Town."

Mr. Geoca said "What about the fact that the house on the hill was not built to the site plan that was approved. It has created a hardship on my house, my house flooded for the first time ever, based on the water that's coming off of that hill. They removed the culvert, they didn't put a pipe underground like they were supposed to, to maintain the culvert and all the water from County Road 11 all the way down there is no way to inhibit that flow onto my property."

Supervisor Lightfoote said I understand the grate that's there, according to Gordy, is the grate that is supposed to be there it's just covered with stone."

Mr. Geoca said "No it's not. If you look at the site plan there is supposed to be a culvert there. It shows it very clearly on the site plan."

Supervisor Lightfoote said "OK, either way the ditch has to be maintained there also, on the road, not on the parcel itself. That's something we can discuss with you at another time, that's not really for this Board."

Thank you for coming in. It helped the Board understand the situation better and I can guarantee we'll do everything possible for you."

c. Bookkeeper Position.

Supervisor Lightfoote said he has quotes from Tina DeNigro, from EFPR Solutions, LLC. The company proposed to do the Town's bookkeeping services for \$3,800.00. They furnished an hourly rate as well for other items that may need to be done.

Supervisor Lightfoote said "Mrs. DeNigro doesn't feel comfortable providing a proposal as far as for an ongoing basis. EFPR Solutions, LLC would do the bookkeeping and we would have the ability to not replace Marilyn. Bring Brenda on full time, instead of the part time she is on now, to handle secretarial duties for both Greg and I."

Councilmember Glitch said "We went from Barb by herself, to bookkeeper and helper, now we're talking about another full time not bookkeeper/secretary and sending our bookkeeper services out."

Supervisor Lightfoote said "We would have no bookkeeper, it would be contracted out. The initial thing is to get us caught up, buy us a little time in the search for our bookkeeper person. We could use them until we decide if we need someone or who we want. I don't have a problem doing something like this at least short term."

Councilmember Glitch said "If you're going to bring Brenda on full time, I don't know that that's a full time position. I'm thinking back to what Barb did by herself. Now most of the bookkeeping is going out and we have another fulltime position?"

Councilmember Malcolm asked who is doing the water/sewer billing.

Supervisor Lightfoote said Brenda and Darby are doing it.

Supervisor Lightfoote said "Right now with the bookkeeper position Water/Sewer billing is identified as part of the bookkeeper's duties."

Chief Operator Coston said "Is that part of it that's farmed out? I didn't think Brenda wanted to do the billing."

Supervisor Lightfoote said "That's not what I understood today when I talked to her. Anyways, unless you're thinking absolutely not, we need a bookkeeper in house, this is the route that I suggest we go, get her in here (EFPR Solutions, LLC). That also lets us see what kind of a job she does."

Supervisor Lightfoote asked Chief Operator Coston his opinion.

Mr. Coston said "I agree, we need to do this so we don't keep falling behind."

On the motion by Councilmember Malcolm, seconded by Councilmember Glitch, to accept the proposal from EFPR Solutions, LLC not to exceed \$3,800.00 without written approval, to get the bookkeeping caught up from December 2017 through February 2018. Motion carried unanimously. (4-0)

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3. Adjournment On the motion by Councilmember Glitch, seconded by Councilmember Malcolm, the meeting was adjourned at 7:02pm

Respectfully Submitted,

Darby L. Perrotte
Town Clerk