

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
August 19, 2021

PRESENT: Chairman Bentley Mr. Coriddi
 Mr. Bishop Mr. Morris
 Mrs. Oliver Mr. Lonsberry
 Mr. Goodwin-Alternate

EXCUSED: Mr. Amato

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mr. Goodwin-Alternate will be voting on all decisions tonight. Mr. Coriddi made a motion to approve the July 15, 2021, minutes as presented. Mrs. Oliver seconded the motion, which carried unanimously.

Miscellaneous:

Application #21-104, Robin Kowal, owner of property at 4523 Lake Drive, requests an area variance to move shed with a prior permit from its current location to a new location. Proposed shed does not meet the side yard setback, the rear yard setback and exceeds lot coverage.

Michael Ballman, Attorney, Robin Kowal & Ray Mincer was present and presented the application to the board.

Mr. Ballman presented a revised plan to the board. The revised plan shows the shed joined to the house with setbacks of 7.6' to the eaves on the north, 9.5' to the eaves on the east and 9.1' to the eaves on the south.

Mr. Ballman explained that Mr. Mincer has consulted with people and is wondering how the two roofs will come together. He feels this will create a big problem with ice damming and water runoff. They went back and forth about other proposals. Mr. Mincer believes that the original proposal is the best proposal as far as a structural standpoint. The two roofs would not come down to the same valley. Mr. Mincer also has talked about moving the shed from the original location a little bit away from the house so that the two structures would not be touching each other and move it south a bit so that there would be a 5' distance between the north boundary line and the shed and also at least 5' between the east boundary line and the shed.

Mr. Ballman presented Mr. Mincer's proposal to the board.

Mr. Ballman stated that Mr. Mincer would like to propose the shed at 5' from the property lines in question and would ask the ZBA if they would accept this proposal.

Chairman Bentley stated that this is an oversized shed on this lot. "Me personally I'm willing to work with you. But to keep a shed of this magnitude on this lot is unacceptable for me. I think there is some room to work with the shed. That's when I said last month that if you turned and positioned it and I understand we're going to cause more concerns with water damming and things of that nature. To the applicants own attesting is that we went much bigger than he originally wanted to go because it was free rein. I understand we want this same shed, but I think the shed size could be reduced. That's why I asked about the eaves the overhangs was very clear last month. I don't think it's the right thing to do for the citizens of Crystal Beach for me to approve a shed of this size which should of never been on the property in any magnitude to begin with without a variance. Not having any conversation of how we got here that being irrelevant where's the happy medium. And to have the same size shed and it's not five feet it's ten feet. I know what we said the conversations were and there's three sides to all stories. And unfortunately I have to go by the town code. Do I think it's a small lot? It's a small cottage. We said it last month every lot down there is non-conforming. Just about every lot in that little pocket is non-conforming. So for me to be fair and equitable, yes I think somethings doable. But what is that? I don't know. If we're going to encroach what's that encroachment look like? That's my concern just to be very candid. I think it's too big for the lot. To have a storage shed is one thing. But to have the extent of a shed of this magnitude is another. I want to fair and amicable to everybody involved."

Mr. Ballman asked the other board members if they had any other different views or agreement.

Mr. Morris and Mr. Goodwin both stated that they agree with Chairman Bentley.

Mrs. Oliver stated that she agrees with Chairman Bentley also. "I agree that the size is very large, but I also agree with your assessment that putting it at the end of the building as proposed here is going to be a nightmare. They're going to have snow and ice damage and all sort of problems with that."

Mr. Lonsberry stated "however the roof could be built from the house to the peak of the shed diverting the water off to the ends not into the valleys. So there are ways of addressing that issue as well."

Mr. Morris stated that he is concerned that all the existing gravel is not shown on the plan or is not listed as being removed on the plan.

Mr. Ballman stated that Mr. Mincer stated that the gravel would be removed.

Mr. Morris stated than that should be added to the plan.

Chairman Bentley asked how far the retaining wall was from the house.

Mr. Mincer stated about 5 feet.

Mr. Coriddi asked how long the shed has been on the property.

Mr. Mincer stated three years. A permit was issued, and the stakes were there with the building permit in the center where he had it all tamped out for 6 months while they had it custom made.

Ms. Kowal stated that they had electricity run to it, which they also got a permit for.

Chairman Bentley asked if the proposed lot coverage listed on the survey was verified as being correct.

Mr. Ballman stated that he brought it up with the surveyor that there was discussion and the ZBA thought it was wrong and Dave Parinello, surveyor assured that the lot coverage was accurate.

Mr. Morris stated that they need verification that it includes all the encroachments from the neighboring lot.

Chairman Bentley stated that all impervious surfaces needs to be on the map.

Chairman Bentley stated that even without the shed the lot is non-conforming. He understands and respects that everyone needs to have a place to store things. But how big does the place have to be.

Mr. Mincer stated that the present shed is 192 square feet. He read that if it is 144 square feet that it can be 5 feet from the property line.

Chairman Bentley stated that is correct.

Mr. Mincer stated that the only proposal he can make is to knock down the size of the shed.

There was continued discussion on reducing the size of the shed.

Chairman Bentley asked if there was anyone in the public that wanted to speak.

Dave Peters stated "Again from day one I had no issue with them putting a shed or what ever they wanted as long as it conformed. I told them that point blank. And the issues that have risen tonight are issues that I have been working with the last two plus years. The shed hasn't been there three years it's been there probably two and a half at this point. But that's been the context of this whole issue. Is that everything that has been discussed and interpreted has been blown out of proportion, exaggerated I'll say. You were discussing where this shed is now, how far back from the driveway located on the adjacent property. You can look right there at the aerial and that shed is literally over the property line. It's not a matter of 6 inches from the existing driveway on the adjacent property. So I just want to make clear that I'm very frustrated with how everything has happened here. And I understand it's a process but at the same time I've been running this down from top to bottom for two years now. I understand how this all was hashed. It's no fault of Ray's, no fault of sorry name slips me. But the thing is if this thing had gone to the Planning Board as it should have initially. There was no site plan review done on this project."

Mr. Morris stated that the lines depicted on the aerial are an overlay of the tax map. They are not accurate.

Mr. Peters stated "Whether it needed a site plan review or not if it were to follow the town zoning laws on the books it would not have been approved as it stood. And it would have had to come obviously in front of the Zoning Board of Appeals. And of course again my frustration is the length of time this has taken. The number of issues that have come up over the past two years. I've been absolutely willing to accept a fudge here or there but not when you're talking extremes when you're supposed to have a 10 foot setback and you're literally at or over the property line of the adjacent property. So again thank you for your consideration. This is not personal. This is about my property value. Before I bought this property I looked at all the town codes. I looked at all the comprehensive planning documents that were published in 2008-2009. Gorham claims to want to preserve the community aspect from an architectural standpoint, from an environmental standpoint and on and on and on. So when I'm thrust into this issue by no choice of my own and no input of my own and to have my property rights offended in the matter is going to leave me one recourse if it comes down to a decision that I feel is aggravation to my property rights."

Chairman Bentley stated that he is intitled to that. He explained that the ZBA makes decisions based off the code and are pretty consistent with that.

Chairman Bentley made a motion to adjourn the decision on the application until September 16, 2021, to allow the applicant to obtain revised plans reducing the size of the shed to meet the 5 foot setback and show the corrected existing lot coverage and the proposed lot coverage. Mr. Morris seconded the motion, which carried unanimously.

Mr. Lonsberry made a motion to adjourn the meeting at 8:45PM. Mr. Bishop seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary