

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
December 16, 2021

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

Chairman Bentley called the meeting to order at 6:58 PM and explained the process. Mr. Amato made a motion to approve the October 21, 2021, minutes as presented. Mr. Bishop seconded the motion, which carried unanimously.

MISCELLANEOUS:

Robin Kowal, owner of property at 4523 Lake Drive was present with Ray Mincer and Michael Ballman, Attorney to ask for an extension on the time frame to bring her existing shed in compliance with the variance that was granted on September 16, 2021.

Mr. Ballman stated that there was an issue with finishing what was ordered to be done by the Zoning Board of Appeals. He has talked to James Morse, Code Enforcement Officer and his clients and there are different stories on each side. He thinks at this point that a deadline be set for moving and redoing the shed. There are two things involved in this. One is Ray completing the cutting down of the shed and moving it and the other is ordering the survey to be done after the shed is moved. Ray is looking for a month to do his part and then order a survey at that point.

Chairman Bentley stated at the September meeting he asked the applicant to work with James Morse, Code Enforcement Officer on the deadline and asked Ms. Kowal and Mr. Mincer if Jim gave them a deadline.

Ms. Kowal and Mr. Mincer both stated that he did not.

Chairman Bentley asked what has been done to the shed at this point to come into the criteria of the specifications.

Mr. Mincer stated that they didn't have any paperwork so he is not going to start it until he has signed paperwork to go ahead.

Chairman Bentley stated that he is not buying that.

Mr. Ballman asked Ms. Kowal and Mr. Mincer if they have bought some of the materials.

Ms. Kowal and Mr. Mincer stated yes they have.

Ms. Kowal stated that Ray has bought the materials and has laid out a plan and knows what he wants to do.

Chairman Bentley made a motion that by January 15, 2022, that the specifications that were laid out on September 16, 2021, are met with the shed. If it is not completed that the variances that were granted will be revoked and immediate removal of the shed from Ms. Kowal and Mr. Mincer.

Mr. Mincer asked if he could have this in writing.

Chairman Bentley stated no it will be in the minutes.

Ms. Kowal asked if James Morse could come out a few days before to see if they are going to do something that is not to his liking.

James Morse stated that it is in the motion that was made in September that the finished movement of the shed had to be on a survey.

Chairman Bentley finished his motion that the shed must be done by the 15th and in compliance of a survey that is scheduled to be completed by February the first.

Mr. Ballman stated that he will order the survey from the surveyor to come out on January 16, 2022, or as close as possible to that date. He can't guarantee that the surveyor will have it done by February 1, 2022.

Ms. Kowal asked if Jim could come out a couple of days before the 15th and tell them if they have made a mistake.

Chairman Bentley stated yes.

Mr. Ballman stated that he will order the survey tomorrow for the surveyor to come out after January 15 but with winter and snow he can't guarantee when the survey will be done.

Mr. Amato stated that he would recommend that the survey be done by March 1, 2022.

Chairman Bentley stated that he withdraws his previous made motion.

Chairman Bentley made a motion that the work on the shed must be completed by January 15, 2022, and the survey must be ordered by December 20, 2021, to get on the surveyor's schedule. The survey must be completed within 60 days from December 20, 2021. If this is not completed the variances that have been granted will be revoked and it will be at the applicant's expense to remove the shed. Mr. Amato seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #21-179, Amy Costanzo, owner of property at 4620 Lake Drive, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard setbacks, the front yard setback, and exceeds the height of 26 feet. Public Hearing 7:00PM to 7:15PM.

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

The application was submitted to the Ontario County Planning Board. At this time we have not received any comments from the County.

The applicant has asked that the hearing on the application be adjourned until next month.

Chairman Bentley asked if there were any comments from the public on this application. Hearing none, Chairman Bentley made a motion to adjourn the public hearing to be re-opened on January 20, 2022, at 7:00PM. Mr. Coriddi seconded the motion, which carried unanimously.

Application #21-190, Sandhya Khurana, owner of property at 4124 Torrey Bch, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard setbacks, the rear yard setback, exceeds lot coverage, and exceeds the height of 22 feet. Public Hearing 7:20PM to 7:35PM.

Paul Morabito, Architect, was present and presented the application to the board.

Mr. Morabito stated that what they are looking to do is a demolition and reconstruction of the existing non-conforming structure. On the south side on the roadside the current setback is 3.7 feet. They would like to maintain the exact footprint of 722 square feet and jog the wall to give them a 5 foot setback on that corner. He said that he went down and inspected the house and the foundation is bad, sinking floors, the highest point on the second floor is 6'6" and then slopes down from there. They talked about building a second floor on the existing first floor and he could not recommend building on the existing foundation. The first floor will be 9 feet in height and the second floor will be 8 feet. To get the height to the 22 foot requirement the pitch becomes about 2.9, which is not good for shingles and doesn't look good. They are hoping to

get some relief if they jog the wall to get to five feet and keep the rest of the home on the exact same footprint and a

little boost in height for help with the architectural design. The neighboring house is about 15 feet higher. The proposed home will not look out of scale with the neighborhood to be a couple of feet higher than the 22 feet.

Chairman Bentley asked if they are going to address the deck that is on the property line and asked if that was going to be brought in from the property line at least 5 feet.

Chairman Bentley questioned what the setback was on the northwest corner of the house. He suggested that they get an updated survey showing the exact setbacks of the proposed home. He also questioned where the high water mark is on the property. He believes the deck sits onto of the wall at the water so does not believe that the deck is 30 feet from the high water mark. He explained that the board is going to need a lot more detail on the map to make any kind of approvals.

Mr. Morabito stated if the existing home were 5 feet instead of 3.5 feet from the property line and all the other pre-existing non-conforming issues were present as they are by the code they would be able to re-build the home on the same footprint.

James Morse, Code Enforcement Officer stated that there is a provision in the code that talks about if it is built within the same footprint 5 feet from the property lines. "That's about the most difficult thing if you keep reading eventually you are back at coming to the ZBA."

Chairman Bentley stated that they just went through this with another application on the water with the similar situation and if you build more than 50% you have to be in compliance with the code.

Mr. Morabito stated that he does know about the 50% although this chapter does read that anything on site was given a variance they can all stay as long as the footprint doesn't get larger.

Mr. Amato asked why they are asking for 26 feet in height when the elevation of the proposed home states 24.6'.

Mr. Morabito stated that the design is preliminary and they would like a little wiggle room.

Mr. Amato stated that he feels they are asking for a lot of variances and the boards job is to grant the least amount.

Chairman Bentley asked what the current height of the existing home is.

Mr. Morabito stated that he shot it with a laser but it was tough to tell. His estimate is about 20 feet tall.

Mr. Lonsberry asked if the deck was going to stay as it is now.

Mr. Morabito stated that the intention was to leave everything that was pre-existing non-conforming as is. Ultimately the house needs to be livable and the investor wants to be smart. If the board is going to insist on some changes then they will have to discuss that and look at this seriously.

Mr. Amato asked if the lot coverage figures were done by O'Neill-Rodak surveyors.

Mr. Morabito stated yes he just overlaid his footprint on their survey. All the calculations are O'Neill-Rodak's numbers.

Chairman Bentley stated that they will also need a lot coverage variance for the lake side because it is 62.5%, which is over the 50% lot coverage that is allowed on the lake side.

Chairman Bentley stated that he is uncomfortable voting on this application because there are lot of things that are missing and unclear. He would like to see a current survey with a proposed house. He needs to know exactly what they are asking for. The board needs to know the exact height that is needed. They will not grant a variance on speculation. They need the facts. He feels the deck needs to be minimized to come into compliance with the rest of the house. Which will minimize the lot coverage as well.

Mr. Amato stated if all that is on the site today going to stay the same on the proposed plan.

Mr. Morabito stated that the proposed was to have everything on the site stay the same except rebuild the house.

Chairman Bentley stated that in the lot coverage calculations there is a 39 sq ft patio and he does not see a patio on the plan.

Mr. Morabito stated that the survey that is being used was created for the currant owners to purchase the property.

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

Greg Herbison, 4129 Torrey Bch-"My main purpose for coming here was to save people a lot of time and money. Anna who was there before built a permanent dock that had to be removed. It cost a lot of money. The Kruchtens were in that spot before they spent a lot of money trying to do all this before. That property is very very small and I strongly oppose doing anything to it because it will obstruct my view at 4129 looking out to the water. So raising it moving it or doing anything like that

would be detrimental to me. But my main thing is that property is already I think the back side of that barn is on my property. And then 4126, right next to it part of that dock and stuff is on that property as well. So you start opening up pandora's box

here and we're going to have to do a lot of things other than just build a new house. That's going to be a problem I think for everybody. So I would strongly oppose. I've been in that house, the house is livable, I'm not sure about the foundation because I'm not an engineer. But the house you can't walk up the stairs if over 6 feet that's a problem. But the house is livable and I don't think it's unsafe because I've been in there it's not like its falling apart or it's been unkept where its not livable. So that's my two cents. Thanks for listening."

Mrs. Madara, 4122 Torrey Beach,—"We just came to see. We have not had a chance to see the plans. We only got a letter from the town. We would just ask to be able to see any plans that come before the board. Obviously, we've been through this before with the Kruchtens. We understand all the limitations of that property. We've been through it ourselves when we built the house. We know what variances we asked for and what we were given. So we are very familiar with the process here. So we just want to be educated."

Carol Steron, 4126 Torrey Bch,—"I to just want to make sure that we are doing what's best for the neighborhood. And I would like to see what the plans are. Obviously, I'm impacted a lot because I'm not sure what this corner was or what we're talking about but I'm definitely a visual learner. I'd like to be able to see what is actually proposed."

Chairman Bentley stated that he believes that they will share the plans with her. That is what most neighbors do. If not we will have them on file here at the town hall that you can come in and take a look at them. At this point the town has no plans other than they want to build it back the way it is moving it 5 feet.

Mr. Madara, "My only comment is we came into see you without any information at all so what we are learning here tonight is all we know about the process."

Sandy Khurana, "I'm the new owner of the place. We purchased it for enjoyment my husband Vivek Kaul. I was there when the inspection was completed and as Mr. Morabito mentioned there's I think that the way it is right now it's certainly unusable it's not livable especially upstairs. My concern was that there is the house is not serviceable either. The crawl

space is really small and upstairs there is no heating ducts or cooling going upstairs. It's really challenging to make it energy efficient and keep it safe so that's the reason we wanted to have it structurally sound and the upstairs usable so that we can enjoy it for the reason that we purchased it.

The intent is certainly not to create any visual difficulty for anyone. It's really for our family to be able to enjoy to the fullest extent. It's really the reason we're here."

Chairman Bentley asked if they are planning on putting a basement or a crawl space.

Mr. Morabito stated that they are planning on a crawl space just high enough to get mechanicals in there.

Chairman Bentley explained that when designing the proposed home he would like to see them try to minimize the requested variances.

Vivek Kaul—"I have reviewed the last two years of PDF's at length. What Paul has presented tonight or what we will present in more concrete fashion is not no where near what the Kruchten's were proposing to you two years ago. This is a very minor jog that he's requesting to bring the property into conformity with the code. The height I think 24.6 is your plan. The only reason your asking for 26 is because when you start building if you go 6 inches up or down you have the approval of the board and at the last minute you're not running back. That's the only reason. To reassure the neighbors, we have had the occasion and pleasure in meeting them a few times, we are very happy to meet them and very happy to be in that space. This is the first second home for our entire family and all generations. It is exactly intended for that legacy. It is not intended for commercialization. I probably could write it to you on a hundred thousand dollar bill that as built it will not obstruct your vision, your view or your view. That was the proposal tonight I just wanted to make sure that the facts that you've requested are reasonable and I think that we should be able to get that to you. Having said that the survey was done at time of purchase September 2021, which is only barely two months from now. But we will re-survey it. There is some cost involved in that. We may have to come back with an engineer or whoever but I'm not opposed to all that. But I just want to make sure that the intent of the family is to build a safe livable place. It's not right now it really isn't. Just wanted to make sure that we communicated that very clearly and openly. I've been in upstate for a quarter of a century and I travel all over the world this

is the best place and we want to be here. And we'll be good neighbors."

Chairman Bentley explained what is presented is not votable because they don't know the specifics. What is asked for is what will be voted on. Not a speculation of more.

Chairman Bentley made a motion to adjourn the public hearing to be re-opened January 20, 2022, at 7:20PM. Mr. Lonsberry seconded the motion, which carried unanimously.

Mr. Amato made a motion to adjourn the meeting at 7:53PM. Mr. Morris seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary