

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
April 21, 2022

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

EXCUSED: Mrs. Oliver

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mr. Goodwin-Alternate will participate and vote on all applications tonight. Mr. Amato made a motion to approve the March 17, 2022, minutes as presented. Mr. Bishop seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application#22-016, Mark Palumbo, owner of property at 4638 & 4636 Mayflower Rd, request an area variance to build a single family home. Proposed home does not meet the rear yard setback.

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

Logan Rockcastle, Marks Engineering, was present and presented the application to the board.

Chairman Bentley explained that the application was adjourned from last month so that the applicant could provide elevations of the new home showing the height to make sure that it would be in character with the neighborhood.

The height of the new home will be 19.5'.

Mr. Amato questioned the orientation of the house in the way they have it.

Mr. Rockcastle stated that it is to create better yards based on the annexation of the adjacent property to have a better front and side yard.

Chairman Bentley stated that if he recalls from the conservation last month it is also to stay in line with the neighboring houses.

Mr. Rockcastle stated that is correct.

Mr. Amato stated that they could build this home without a variance.

Mr. Rockcastle stated potentially but the front yard would be almost non-existent.

Mr. Amato explained that he feels that there is no need for a variance because they could easily fit this home within the setback requirements.

Chairman Bentley stated that if they came the full 15 feet to the front they would have all driveway in the front.

Chairman Bentley asked if there was anyone from the public that would like to make a comment on this application. Hearing none the public hearing was closed.

After discussing the application and reviewing the questions on the back of the application the following motion [attached hereto] was made: Mr. Bishop made a motion to grant a 16 foot variance for a setback of 9 feet on the rear property line contingent on the two parcels being annexed together. Mr. Coriddi seconded the motion. Roll Call was read with Bishop, Coriddi, Lonsberry, Morris, Goodwin, & Bentley voting AYE. Amato voting NAY. Motion carried 6-1.

Application #22-028, Amy K. Costanzo, owner of property at 4620 Lake Drive, requests an area variance to build a single family home. Proposed home does not meet the front yard setback, the north yard setback and the south yard setback.

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

The application was required to be referred to the Ontario County Planning Board.

The Ontario County Planning Board made 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 this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comments:

1. The referring body 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 Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

CLCSD Comment Plans need to be submitted to this office for review and a renovation permit will be required.

James Fahy, Architect and Anthony Venezia, Surveyor were present and presented the application to the board.

Mr. Fahy stated that the Costanzo's would like to demolish the existing cottage and construct a new cottage along with some site improvements. To accommodate their design they are going to need relief from three of the Town's Zoning requirements. Front yard setback and the north and south side yard setbacks. They did look at renovating the existing home. It sets currently in the flood plain and there is significant water damage to the pier foundation and the first floor of the cottage. On the front there is an unnatural and man made notch into the lakeside of the property. That is reason for the requirement of a variance on the lakeside. The existing cottage is 2.42 feet from the lakeside and the proposed cottage will be 16.67 feet. They are proposing to be in direct alignment with the house to the south. The proposed cottage will be back further than the house to the north. On the northside the existing structure is 7.25' and the proposed cottage will be 8.50'. On the southside the existing structure is 9.08' and the proposed cottage will be 9.50'. The mass of the existing cottage is much greater than what they are proposing for the new cottage. The height of the new home is about the same as the existing cottage at 25.5' to 25.7' above average grade.

Mr. Amato questioned having an attached two car garage with a three car garage across the street.

Mr. Bishop questioned where the extra 1000 square feet is going to be in the proposed home verses the existing home.

Mr. Fahy stated that a big portion of it is the garage. Well over half of it is the garage.

Chairman Bentley asked how big the garage was going to be.

Mr. Fahy stated that the garage is just under 600 square feet.

Mr. Amato questioned the total square footage of the house. He figured that each floor would be about 3700 square feet for a total of about a 7000 square foot home.

Mr. Fahy stated that is not correct. The second floor is considerably less than the first floor.

Chairman Bentley stated that they are asking for a 45% increase in the size of the proposed home from the existing home. He personally doesn't have a problem with the variances that are being asked except for the magnitude of the home. The proposed home is two times the size of the home to the north.

Mr. Fahy stated that the 45% is not just the house. It is also driveway, sidewalk, attached garage and porches.

Mr. Lonsberry questioned the difference in square footage from the existing to the proposed, 2581 square feet verses 3612 square feet.

Chairman Bentley stated that the driveway is going up 500 square feet. So they are asking for 1700 more square feet with the driveway and the house.

Mr. Fahy explained that even with asking for 45% increase in square footage they still are not seeking a lot coverage variance.

Mr. Amato stated that with the size of the home you still are asking for variances.

Mr. Fahy stated that they are in a tough situation to design a home on this property because of the narrowness of the property. This is not a monstrosity of a home. As a designer he is limited from east to west. If he can't receive variance on the north and south he is stuck. He would have to ask for greater variances for the setback to the lake or ask for another variance for the roadside.

Chairman Bentley stated that he believes that the proposed home is larger than any home on the Lake Drive. It is certainly larger than the home to the north and south.

Mr. Lonsberry stated that he agrees with Chairman Bentley. A 3600 square foot house is mammoth.

Mr. Fahy stated that the home is 3400 square feet of living space, which he feel is not out of line.

Chairman Bentley in looking at floor plans noticed a grilling patio on the plans that is not showing on the site plan.

Mr. Fahy stated that grilling patio was removed from the design but was not removed from the schematic.

The fireplace also shows on the floor plan closer to the lot line than what is being proposed.

Mr. Fahy stated that the fireplace is being pulled in to be in line with the overhang.

Mr. Fahy presented to the board support letters from three of their neighbors.

The three letters of support were read and will be kept in the file.

Chairman Bentley asked if there was anyone from the public that would like to make a comment on this application.

Mr. Bishop stated that his opinion even though the footprint is bigger a big portion of that is the garage, which is a good thing to have in this climate so he does not have a problem with what is being requested.

Mr. Amato stated that he feels there is room to decrease the footprint and meet the side yard setbacks. He explained that he does not have a problem with the front yard setback.

Chairman Bentley agreed that a garage is needed in this climate. His concern is that the home is further from the side lot lines but is getting bigger. He explained that he believes there is room to minimize the variances that have been requested.

Mr. Fahy stated that the porches are only east and west they only affect the depth of the house. They do not affect the width. They do not have 10 feet to reduce the house. They would never be able to get this house or get a modicum of closeness to this house and meet the side yard setbacks. They are less than what is there now.

Mr. Fahy stated that he would like to hear from the board members that have not spoken yet.

Mr. Morris stated that he believes that there is room to bring the north and south sides in to minimize the side yard variances that have been requested.

Mr. Goodwin stated that he believes that it is too much house that lot. He believes that the porches are oversized and can be reduced.

Discussion continued between the board and the applicant with the same comments and concerns that were previously stated.

Chairman Bentley made a motion to adjourn the public hearing to be re-opened on May 19, 2022. Mr. Amato seconded the motion, which carried unanimously.

Application #22-029, Merit & Jean Wilkinson, owners of property at 3644 Dewey Cove, requests an area variance to build a small addition on the first floor and add a second story addition. Proposed addition exceeds the lot coverage requirement.

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

Merit & Jean Wilkinson were present and presented their application to the board. Lori Jimenez, Greater Living Architecture was present through zoom.

Chairman Bentley explained that back in 2020 the Wilkinson's removed a concrete patio to build a deck. "Today that concrete patio is back in as pavers. That is lot coverage. So you've increased your lot coverage, which is in violation of the code. In order to move forward that is going to have to come out. You can't have A and B. That portion of those pavers will have to be removed. There can be no moving forward because you're actually in violation of your current permitting that you were given to build a deck."

Mrs. Wilkinson stated "we were told originally by the previous building inspector that we could put all the patio in that we wanted. We had to get a permit for the deck, but we understood that we could have all the patio that we wanted."

Chairman Bentley stated "you didn't have to get a permit prior to do hardscapes. But the opportunity in this case is that you removed concrete and replaced it with concrete that just happens to be pavers. It counts towards your lot coverage. That's why it had to be removed so you could build your deck. You built your deck and removed the concrete and built your deck and then put the pavers right back in."

Mrs. Wilkinson stated that they understood that they could put in all the pavers that they wanted.

Chairman Bentley read into the record an e-mail from Merit Wilkinson to James Morse, Code Enforcement Officer. It read as follows. "I am working with landscaping contractors to finalize plans to remove the existing concrete patio which is between the cottage and the garage. That will decrease the current coverage by 240 square feet and the proposed deck is 224 square feet. Also I am reducing the existing deck by approximately 15 square feet by relocating the steps which currently extend 5' beyond the existing deck."

Mr. Wilkinson stated that they misunderstood they thought pavers did not count towards lot coverage.

Mrs. Wilkinson asked what they have to do to get the variance. "How much patio would have to be removed?"

Chairman Bentley explained how much would have to be removed to move forward with the application.

Chairman Bentley explained that they could ask the board for a variance for lot coverage with what is currently on the lot. Then they could move forward and request another variance. Or the patio has to come out, new lot coverage be calculated and submitted.

Mr. Morris stated that he believes that they will need a variance for a north side yard setback. The 11.6 setback on the survey is to the building not to the overhangs.

Ms. Jimenez stated that the shaded portion on the north is the overhang.

Mr. Morris stated that is 11 square feet of new roof overhang. "We need a solid dimension from a surveyor saying what that dimension is going to be."

Ms. Jimenez stated that the closes dimension to that north side setback is 10.8 feet.

Ms. Jimenez stated that on the western end of the house there is a little bump out which is the existing sunroom. What they are proposing for the new design is to build a second story directly above the existing footprint including the sunroom and then infilling that southwestern portion of the existing first floor. With the addition it will increase the lot coverage about .72%. They had to infill that southwest corner to get the flow of the floor plan right.

The board asked what the dimension would be to the closes point on the northwest corner to the overhang.

Ms. Jimenez stated that the overhang is 1 foot so the setback will be 9.8 feet.

Chairman Bentley question the setback calculation because the home runs at an angle.

Ms. Jimenez stated that she would have to do a calculation for this.

Chairman Bentley stated that they will need that number before they could move forward.

Mr. Morse, Code Enforcement Officer, in looking at the plans brought to the boards attention that he just noticed that the Wilkinson's have added an addition of a smaller deck without a permit. "We need to clarify what size that deck is cause it's going to null and void the permit that they were issued if they added onto it after, cause it encroaches into the setbacks"

The extension to the deck was discussed. Chairman Bentley stated that the portion of the deck that was built without a permit will need to be removed.

Mrs. Wilkinson stated that is where they have their grill.

Chairman Bentley explained that the deck was added to after they received a certificate of compliance and then the patio was also added that is a concern for the board.

Mrs. and Mr. Wilkinson asked what there next step is.

Chairman Bentley stated that they can either remove the patios and the extension on the deck. Or you can ask for a lot coverage variance and a side yard setback variance.

A letter was received from Jen Maas on behalf of her mom, Lauralee Maas expressing their concerns with the application. This letter will be kept in the file.

Chairman Bentley made a motion to adjourn the public hearing to be re-opened on May 19, 2022. Mr. Morris seconded the motion, which carried unanimously.

Mr. Lonsberry made a motion to adjourn the meeting at 8:59PM. Mr. Morris seconded the motion, which carried unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary