

Town of Gorham

4736 South Street
Gorham, New York 1461

ZONING BOARD OF APPEALS

Thursday, March 21, 2024 7:00 p.m.

MINUTES—APPROVED

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.

Board Members Present:

Mike Bentley, *Chairperson*
Tom Amato
Steve Coriddi
Charles Goodwin
Victor Lonsberry
Alan Bishop
Robert Morris
Mary Ellen Oliver, *Alternate*

Staff Present:

James Morse, Town of Gorham Code Enforcement Officer

Applicant Present:

Dan Graham, 4940 County Road 11
Lucas Graham, 4940 County Road 11
Rosemary Graham, 4940 County Road 11
David Hanlon,
Doug Templeton,
Logan Rockcastle, Marks Engineering

Others Present:

Joe Fallone, 4942 County Road 11
Bernice Fallone, 4942 County Road 11

Via Zoom:

Edward Kaiser, 4938 County Road 11
*Two additional unidentified people

1. MEETING OPENING

The meeting was called to order at 6:56 p.m. by Mr. Bentley.

Mr. Bentley stated I am the Chairperson for the Zoning Board of Appeals for the Town of Gorham. This is the meeting for the month of March. Town Law 267 B says that we can affirm, modify reverse, or move on any decision that the Zoning Officer has made as part of the process. We will go over the five questions that you answered during the process for your application and we will go over each one of those before we take the vote. In the event that you come back with all five yes's, then the motion will be made to the deny the application and put that in place and seconded and move forward. Tonight we have Steve Coriddi, Vick Lonsberry, Robert Morris, Charlie Goodwin, Tom Amato, Alan Bishop and this is the first time in probably four years an alternate present as well, Mary Ellen Oliver. The votes and the meeting minutes are recorded and each vote is recorded as such according to the state law. In the event you are asking for an area variance, if an area variance is granted, the minimal area variance that we deem necessary to complete your project will be granted if a variance is granted.

2. APPROVAL OF MINUTES OF FEBRUARY 22, 2024

■ A motion was made by MR. BENTLEY, seconded by MR. LONSBERRY, that the minutes of the FEBRUARY 22, 2024, meeting be approved.

Motion carried by voice vote with four abstentions by MR. AMATO, MR. CORIDDI, MR. BISHOP, and MR. MORRIS.

3. LEGAL NOTICE

The following Legal Notice was published in the Finger Lakes Times newspaper on Thursday, March 14, 2024:

Please take notice that the Town of Gorham Zoning Board of Appeals will hold a public hearing on the following applications. Said hearing will be held in the Town Hall, Gorham, New York on Thursday March 21, 2024, at 7:00PM

Application #ZBA 47-2024, Daniel & Rosemary Graham, owner of property with Tax Map # 141.17-1-9.000 at 4940 Co. Rd. 11 requests an area variance to demo old and add a new single family home. Area variance applying for:

- 1-Side setback is lesser than the minimum required for the home.
- 2-Exceeds the maximum allowed height
- 3-Exceeds the maximum allowed lot coverage for this zone.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Mike Bentley
ZBA Chairman
Zoning Board of Appeals

4. NEW PUBLIC HEARING

ZBA #47-2024 Daniel & Rosemary Graham 4940 County Road 11, Rushville, New York 14544

The applicant is requesting area variances to demo old and add a new single family home. Area variances applying for:

- 1-Side setback is lesser than the minimum required for the home.
- 2-Exceeds the maximum allowed height
- 3-Exceeds the maximum allowed lot coverage for this zone.

Mr. Bentley opened the Public Hearing on this application.

Mr. Bentley read the following determination from County Planning into the minutes: the final recommendation from the County is denial. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. The applicant and referring agency are strongly encouraged to involve Canandaigua Lake Watershed Manager as early in the review possible to ensure proper design and implementation of storm-water and erosion control measures. For the side setback for the primary structure the setback is going proposed from 2.4 to four feet. Is an area variance required when the nonconformance is being reduced? That's a question to you and I would still say yes. Demolition debris should be recycled if feasible or disposed of properly. The driveway entrance modifications will require highway work permit from the applicant so their contractor can work with the County highway right of way. Do we have a representative from the Graham Family? For those of you that are on Zoom, if you would so kindly mute yourself. I will allow you the opportunity to speak when I open to the public and for everyone here if you choose to speak or ask your question during the public session all I would ask you to do is to state your name, your relevance to the location and your address.

David Hanlon and Doug Tempueton are the architects for the Graham's and presented the project.

Mr. Hanlon said we are here tonight to represent the Graham's and to answer questions as need be and to offer any contents that might be helpful. They have owned the property since 1991, so they have been there for quite a while. They have used the place exclusively for themselves and their family. They are looking now to update the property in the fashion we are showing today. I'm here because I have met with you before and for a little bit on continuity. Doug has actually prepared the application and is more familiar with the details of the design.

Mr. Tempueton said so just as a recap we are asking for couple different variances. We are constructing a larger footprint house, so we are removing the existing structures and then we are close to the lot line on the one side. The existing house has a close setback to the lot line and we are actually trying to move that little bit going from two feet to four feet. We are also increasing the lot coverage but in an effort to mitigate that a little bit we are reducing the size of the driveway, we have reduced the size of the garage, which is a preexisting non-conforming garage. We are also using some permeable pavement, some pavers, which although they still count as lot coverage, it will give more of the appearance of more green, more open space. It is not the same as a blacktop driveway. We have also asked for a height variance. With the sloping of the site we have a walkout condition on the one side so we tried to tuck it as much as we could without spreading out the footprint. Trying to keep relatively to ourselves, not on top of the neighbors and put together a nice project that kind of fits well with the character of the neighborhood. So while the lot coverage is going up in the height of the building is going up, it's kind of similar to what you see in the neighboring properties. So we have one exhibit prepared by BME that just informally shows lot coverage calculations for the adjacent parcels in a similar scope of what we are proposing to do here. We are working with what we've got and we are trying to reduce some of those existing ***inaudible*** a little bit and get away from the lot line and reduce some of those areas to not so much impact the lot coverage.

Mr. Hanlon said I don't know if you guys saw that there was that exhibit in the packet from BME that showed the properties to the north and south so that you get a feel for how this is in line with the typical lot coverages to the north and south.

Mr. Bentley said so I don't know which you are referring to. This is probably the biggest packet I have ever received.

Mr. Hanlon said we were just trying to be complete and get you as much information as we could.

Mr. Tempueton said the address is 4940, so that is labeled as nine on that exhibit.

Mr. Bentley said and it's the smallest lot.

Mr. Hanlon said we have made great strides to try narrowing of the building that we could and tuck the 2nd floor under the eaves. The floor to floors on the lower level and the main level are not what we call modest. We got like 7 foot 6 ceiling heights on lower level and 8 foot six on the next level. So we are doing as much as we can to keep the height down and then on the 2nd floor, we are just putting bedrooms under the roof, under the gable.

Mr. Bentley said I am somewhat confused, if I must say. If I am reading this correctly, because you have got a lot of things on this on these pieces of paper. We are currently at 38% , if I'm reading this correctly, right?

Mr. Tempueton said correct.

Mr. Bentley said anytime I speak out of line, please correct me. So we're #9 on here, correct?

Mr. Tempueton said correct.

Mr. Bentley said so I guess I need some clarity. When we say that the proposed lot coverage is in line with the other ones, but on this it says 40% is your proposed and on this it says 43%, so which one is accurate?

Mr. Tempueton said 43%.

Mr. Bishop asked what is the current square footage of the cottage?

Mr. Tempueton said it is about 500 square feet.

Mr. Amato said one other question I'm seeing here is you are having peak of the roof at twenty five [feet] three [inches] and again these plans show 29 and a 1/4.

Mr. Tempueton said twenty five [feet] three is the accurate.

Mr. Amato said so this 29 and a quarter is not accurate?

Mr. Tempueton said correct.

Mr. Hanlon asked is that the number on BME's drawing?

Mr. Amato said yes.

Mr. Tempueton said twenty five [feet] three [inches] is what we are asking for.

Mr. Bishop asked what would have to happen to get that down to twenty two?

Mr. Hanlon said it makes the second floor very difficult to layout because that three feet coming down, like I said, we have already compressed floor to floors. When you are building a house like this, 8 foot 6 ceilings are kind of like the minimum you would like to have. Then the second floor we are tucking that under the eave we are penalized because of the walkout basement. That's where it's driving getting to twenty two feet so difficult the measurement to the lower basement.

Mr. Amato said if you did without the walkout basement, you wouldn't have a problem. You wouldn't have a three story house.

Mr. Hanlon said yes.

Mr. Amato said what is the ceiling height in the walkout basement?

Mr. Tempueton said seven feet.

Mr. Amato said and you are saying 8 1/2 on what you are calling the second story?

Mr. Hanlon said first floor, second level up, I apologize for that. That's the second floor, correct. That is the bedroom level that's under the eave. That is under the rafters so the ceiling slopes.

Mr. Amato said alright, I'm sorry, so the first floor then is 8 foot 6?

Mr. Hanlon said correct.

Mr. Amato said and then 8 foot in the areas that are un-slopped on the second story?

Mr. Tempueton said yeah, in the center.

Mr. Bentley said how big are the eaves on this? Six inches?

Mr. Tempueton said a foot overhang, which is where we are pulling our setbacks from.

Mr. Bentley said so it's a foot, right? There is a lot of, in my opinion, confusion for me and I'm not the smartest person so it's easy to confuse me. We are not asking for a variance on the south side for the setback, correct? If I am reading this correct it says that the side you are at fifteen feet. The only variance that you are requesting is on the north side, correct? From fifteen feet to four feet for an eleven foot variance, is that correct?

Mr. Tempueton said it would be on both sides.

Mr. Bentley said oh, ok, I see my apologies.

Mr. Tempueton said from the north side where the existing building is closer to the lot line than the proposed building, so we're pulling away a little bit, but expanding a little bit towards the south side.

Mr. Bentley said so in essence you are asking for an eleven foot on the north side and a ten and a half foot on the south side, is that correct?

Mr. Tempueton said correct.

Mr. Lonsberry said can you clarify the plus or minus on the south side setback. Plus or minus what, one foot, two foot, three inches?

Mr. Tempueton said I don't know why they have a plus or minus on the plan.

Mr. Hanlon said BME put a plus or minus on there. We don't need a plus or minus the number is the number. We don't know why they put a plus or minus on it.

Mr. Bishop said so what else has been considered to reduce the lot coverage?

Mr. Hanlon said we reduced the width of the driveway. We have reduced the garage that's there now. It was like twenty now it's down to twelve. So we reduced the size of the garage. We reduce some paving area around the house, so we have taken as much hardscape away as we can. They still need some storage space and that's why the garage still there. We felt that given the condition of the other properties in the area that 43% placed this in what was a reasonable ask especially given the thirty five foot lot that we have to deal with here. Mitigating with the permeable surfaces, even though that counts as lot coverage, we are trying to create it as permeable.

Mr. Bentley said I'm going to ask because I don't know, but is the magnitude of these porches, I mean that could be reduced, in my opinion, it's twelve feet. As you all know, it's increasing lot coverage and removing hardscapes, increase the size of the building is and then coupled with a height variance is just really not in my wheelhouse to move forward with personally. I think it is a land constrained lot. I think we would all agree with that and I'm not opposed to entertaining things, but when we are asking for the magnitude of the variances that we are asking for and then going up in lot coverage, that's where I struggle.

Mr. Hanlon said I think the lot coverage is the tougher of the two to come backwards on because the living space is very important. The height is important, but of the two I mean height might be something that we can see.

Mr. Bentley said I mean, the way that lot is designed, it's going to be merely impossible to get it down three feet. If you take six inches off the main floor, you get 6 inches, right? The peak of the roof could you trim a foot off of that? I don't know what peak; it looks like it's pretty steep. What could you do with that and I presume that's a bedroom there. I'm looking at everything, so I don't know what that looks like. I mean, because you are probably going to have, if your bedrooms are under the eaves, they are probably going to be somewhat slanted, right? So unless you're a child, it's really not going to be feasible to walk in and it's not going to be livable so at that point it's a different conversation.

Mr. Amato said unless you do without the walkout downstairs second family room and fourth bedroom. That's a lot for this small piece of property, in my opinion, to shove four bedrooms and all that in there.

Mr. Hanlon said yeah, it's called the bedroom but it's really a guest room on the lower level without much accommodation, so it's a title on the page. It's really a three bedroom house.

Mr. Tempueton said and also the grading on the site slopes down towards the water.

Mr. Bentley said you can't have a crawl space there unless you brought in a ton of fill which would be merely impossible.

Mr. Tempueton said I mean, we are kind of pinned in at the front of the house. We can't lower that without significant regrading and then you can raise the grade on the back of the house without shedding water to the neighbors.

Mr. Bentley said have we looked at the dig depth here, Jim, is it below the water table?

Mr. Morse said oh no this one definitely sits up. It is definitely high enough.

Mr. Amato said what is the reason they have to have a walkout basement?

Mr. Bentley said it's the kind of the grading that's there. That is a very steep grade. Either way if you don't have a walkout basement, you are going to have to have nine feet of ****inaudible****.

Mr. Hanlon said the first floor comes in at the high point, so if we push it down we can't get into the house.

Mr. Amato said I know what you're saying, but we've done that before. We've got houses that the front door back of the house, in this case, is below grade. I don't really see an issue with that.

Mr. Bentley then asked for question from anybody else?

Mr. Hanlon said we haven't been before you guys very much so I'm not sure because different Towns work differently as far as procedurally as far as dialogue on all the variances all at once or one at a time?

Mr. Bentley said you can ask us anything.

Mr. Hanlon said the goal is to build something that this site deserves. Right now, there's a 500 square foot box they've been in for 30 years that needs to be replaced. The site has value, so you want to build something that has appropriate value to it. The height is something that, in my mind knowing how we could design it, we can probably work that easier than trying to squeeze the footprint. I didn't know if there was a level of priorities in the variances that have been talked about today. The height, the setback, or the coverage.

Mr. Coriddi said very rarely do we give a height variance.

Mr. Lonsberry said I have been on this Board for seven years and we have only given one for height variance and that was only a foot.

Mr. Bentley said and then they didn't use it. For me, I personally don't disagree, at twenty two feet in the lakefront overlay there, some are twenty five some are thirty, whatever the case may be. For me, because you have to take each lot specific and judge it specifically. You can't compare your lot to your neighbors lot. That's where people always and it's my favorite thing when we bring these in and they got 41% and I'm asking for 43% really

doesn't matter to me. Just being very respectful to you because I look at what you're trying to do on the lot you're trying to do because it's a non-conforming lot already. In essence, to build this house, I think it's twenty four and half feet wide, in order to build a house on this lot, you would have to have a ten foot shed in order for it to be conforming, which is really not feasible. You don't want a ten foot shed, but I do think that there's some work you could do on the height. If you're coming to us asking us to give you a variance, but then you want an eight and a half foot ceiling, I would expect that to be at eight feet. When you are minimizing everything, you can minimize before you ask for that, that's in my opinion. I think you have some room to minimize the lot coverage. Are you going to get down to 25, no. You're not at 25 now, you're at 38, but if you put it closer to that 38, in my opinion, then I think you're in a better position. But since we compared ourselves to our neighbors, then you're asking for a bigger lot coverage than they have. Which to stay in line with the neighborhood, is 50 the right number, I don't know. I think you have some room and where I would look is the front porch and the back porch? Do you need a 12 foot porch, I don't know. I mean, if it's a sitting porch on the back and it's 12 feet, do you really need 12 feet? It's hard to have a deck on the lake and have it at 8 feet because it's really almost impassible with a table there to enjoy dinner, or whatever. So I think for me, there's a little bit of work that can be done that I would feel more comfortable with. You are improving the 2 1/2 foot setback you have now, which is a plus because you are at 2 and a 1/2 feet, you're going to four and you're 2 feet, you're going to four. Could you do 6 foot eaves verses a foot eave? Those are the kinds of things that I look at to minimize that variance. Does that make sense? So that's for me, all three of the variances you're asking for in one I think you have some room to work with to make me feel more comfortable.

Mr. Morris said I just have a couple of questions. Is the garage going to have eaves because you aren't showing any? I mean, for the lot coverage we like to see a breakdown of what everything is being how many square footage in the driveway, how much square footage in the proposed garage with the eaves. Everything that is not the same needs to be spelled out. That's what we like to see.

Mr. Goodwin said so the front porch roadside has living area over it?

Mr. Hanlon said correct.

Mr. Goodwin said and the lakeside does not, from the pictures I've seen.

Mr. Hanlon said there is a little bit of living area over it.

Mr. Bentley said can I ask a question? So, actually you are asking for six or seven variances. I just went off the plan. Obviously the reason that you have, and tell me if I'm incorrect, is the reason you have this so close to the road is to minimize lot coverage? Am I presuming that correct?

Mr. Hanlon said no that is just where the garage is today.

Mr. Bentley said but you are tearing it down.

Mr. Hanlon said yes.

Mr. Bentley said and this is for overflow parking, correct?

Mr. Hanlon said to answer your question, yes we are reducing lot coverage by reducing the size of the garage.

Mr. Bentley said understood, but it's there it's not to minimize lot coverage by being further down. That's the way that I was thinking.

Mr. Hanlon said if we pulled it back then there would be more pavement to get to it.

Mr. Bentley said I don't know the answer to this, maybe it's for the Graham's, you are asking for a variance on the back right to the road. You are asking for a variance here, so it's six from what I can see, it's not the three that are on here.

Mr. Hanlon said typically from what I've seen we are not needed to ask for a variance on the garage because it's already there.

Mr. Bentley said but it's not going back on the same footprint and you are tearing down more than 50% of it, correct?

Mr. Hanlon said not more than 50% of it, but we are sticking to the setback of where it is today. So if you guys interpret that as new variance.

Mr. Bentley said it is a new variance because you are tearing it completely down.

Mr. Hanlon said yeah.

Mr. Bentley said and you are not trying to exacerbate it and get a bigger variance than it currently is. So they would require a variance. It would require a variance there and to the road. So there is two more. Which in my opinion, those are already there and you are not asking for four feet and then going to two feet. I think we have been pretty streamlined with that when somebody has that. But my question is, is this overflow parking right? Am I understanding that correctly?

Mr. Hanlon said yes, well it is the parking for the Graham's.

Mr. Bentley said could you, and I don't know, could you, since you are having to tear this down anyways, it's not having running water or anything like that nature, right? Could you move that to the end of this and put the parking beside it, therefore you don't require variance? I don't know, I'm asking. So is that something that you could look at doing and then that way that goes right out the side door but it minimizes the variances that you are asking for. It's not the end of the world. You are still going to have to require a variance over there on that side but just to minimize at least one variance. Any other questions? So at this time I am going to open the public forum one person at a time. Those of you that are on

Zoom if you would like to speak, you can, I'll actually go to you first, so we don't have people talking over one another. So is there anyone that is on Zoom, if you would just raise your hand and I will call on you.

Edward Kaiser currently of 4938 County Road 11, which is the property directly on the north side said I have multiple questions. My first question is a question and a statement. The engineer, the architecture, whoever was speaking, and I apologize, said this was exclusively going to be used by the Graham's. It currently has not been used exclusively by the Graham's. It has been rented more than occupied by the Graham's. If you count the days, I don't know number, I don't keep track it doesn't matter to me. I'm just bringing it up. Then the term overflow parking came up and the architect stated the overflow parking was for the Graham's. The term overflow parking concerns me if it's in a rental situation. How many renters are going to be in this? I will say that, to date, we have never had a problem with rentals because it's only a 500 square foot house. You can only have so many people in their rental. Nowhere during this meeting have I heard how many square feet they are proposing to build, but I'm concerned that the number of renters could possibly go up if they continue to do this. How do we prevent them from renting if they say they are not going to rent. What are the checks and balances for that?

Mr. Bently said do you want me to answer that?

Mr. Kaiser said I want some sort of indication from somebody on what the ****inaudible****.

Mr. Morse said I can answer that. If anybody rents in the Town of Gorham, there is a local law that says they have to get a short term rental permit. If it's less than thirty days at a time, they should have a permit if they are renting it. That is regulated by us. We limit the number of people based on square footage of the house and bedrooms, so that's how it's regulated. If they are operating one on any of the sixty three VRBO's, Airbnb's, and they're listing it through those companies and renting it out on a short term basis, they are breaking the law. That's how we regulate it. So if they were going to build this and then have short term rentals there, it would eventually come to our attention. They are slowly trickling in cause the local law is about a half a year old, so they would eventually contact us about it.

Mr. Kaiser said ****inaudible**** being done over Airbnb currently.

Mr. Morse said it's a violation, so that's usually how it gets picked up with situations like this.

Mr. Kaiser said my next question or statement is that a statement was made that the lot coverage that they are proposing or asking for is going to be in line with typical north and south. Are you saying that the houses on both the north and south side are oversized for their lots?

Mr. Bentley said I don't think that's what's being stated. I think what's being stated, you might have misunderstood or I understood differently so you live at you said 4938, is that right?

Mr. Kaiser said correct.

Mr. Bentley said so you have a substantially larger size lot, correct?

Mr. Kaiser said that is correct.

Mr. Bentley said and your house is about twice the size of what's being proposed here. Would that be a factual statement?

Mr. Kaiser said I don't know what's being proposed. What square feet are they proposing?

Mr. Bentley said it's 24' x 70', so about 1400 square feet per floor.

Mr. Kaiser said so they are proposing three times the size of what I have.

Mr. Bentley said no, what's over the roof is 1400 square feet.

Mr. Kaiser said of this would be comparable size, but I don't think my house is oversized for the lot. I think that's what was stated.

Mr. Bentley said it said lot coverage and you're at 41.6% lot coverage, you're allowed 25%, so you have a variance of about 70% to the lot coverage.

Mr. Kaiser said ok if you say so.

Mr. Bentley said and then their lot coverage that they're proposing, because they are a much smaller lot, is 43%, which is I think a little higher. It's not comparable. I think 40% would be comparable and then the lot to the south of them is at almost 45% lot coverage and obviously it's a much larger home as well because it's a much larger lot.

Mr. Kaiser said ok, alright. As you know runoff on Canandaigua Lake and blue-green algae is a culprit of it from what I'm hearing and they are reducing the paving with this new proposed project. I don't know how you can reduce that.

Mr. Morris said the driveway, whether it's gravel or asphalt, is the same lot coverage.

Mr. Kaiser said but the runoff is going to be substantially higher.

Mr. Morris said we consider it the same, between gravel and asphalt. You are not going to get absorption through impermeable driveway because how can compact the material is.

Mr. Kaiser said I agree to disagree. Currently, as you know, I think it came up that it's approximately two feet and I would dispute that a little. I don't know the exact number, but we were told by the previous Building Inspector that it's one foot to six inches when we bought it because the question came up regarding our fence. They are asking to move it to four but I think that is still a little too close with all the trees there. Then I heard the

comment again from the architect saying that they wanted to build a house that was of value for the property. Are they even considering a two story home with a walkout basement? They could do a ranch on the top. Why do they need three stories. There is lots of ways to reduce this in my opinion and get it closer to what the Town codes allow. Again, I'm not against them building a new house. I understand they need that, but I think a lot more needs to be done to get it more within the Town code.

Mr. Bentley said thank you for your comments. Anyone else? Jean or Susan? Would either one of you like to speak? Ok, I will close the public forum to those folks on Zoom. Would anyone here present like to speak?

Mr. Hanlon for this document, that we put together, people on the north and the south are in the low and mid-forties on their lot coverage. You guys are saying 43 is too much and it should be less. Already people on the north and south of us exceed 40%. Is 43 the wrong number is 42 or 41 acceptable?

Mr. Bentley said as I stated earlier, is it comparable? It is a lot specifically to itself and that's what I have to look at.

Mr. Hanlon said but if we have the toughest lot of everybody.

Mr. Bentley said understood and I don't want to sound pompous and I won't but you're asking to build something twice the size that you have on that lot today with 38% lot coverage. You already have a 50% variance in the lot coverage on the lot as it sits today. So now we're asking for 20 more percent of lot coverage if you look at it that way.

Mr. Hanlon said I am not following.

Mr. Bentley said ok, so 25% is the allowable. When you go up to 30, you're going up 20%, or five basis points. It is 20% above the allowable lot coverage or five percentage points. Are you with me or no?

Mr. Hanlon said no but go ahead.

Mr. Bentley said so it's 10% of 25 is 2 and a 1/2, so 20% of 25 is five. So now when you go from 25 to 30, you are 20% over the max allowed.

Mr. Hanlon said I don't know the relevance of that, but I don't want to argue with that.

Mr. Bentley said I won't argue with you. I'm just stating for clarity. So now you're removing hardscapes or whatever that you are removing that you're at 38% and you're increasing the size of the footprint of the house, which is then creating a bigger variance to where you are today. That's why you're here is because the code specifically says you can't do that.

Mr. Hanlon said I know when you say every lot has to be dealt with on their own, I understand that. But one of the five questions is how does it fit within the character of the

neighborhood, and 43 fits within the character of the neighborhood. So 43 is objectionable even though it's the character of the neighborhood. Is there a number then that we should be pulling back to?

Mr. Bentley said well I don't think that anybody on this board would give you a number. I think that as I stated in my opening statement, if any area variance is granted the minimal area variance will be granted that we deem necessary. From my perspective, you have room to downsize this house. Do you take it off the back porch? Do you take it off the front porch? Do you take the garage and you move it and do away with that? I don't know, 200 square feet of whatever that may be because that is included in lot coverage. So I personally think that the way that it sits today is that there is room for improvement with minimizing the area variance requested. You can't do much with the width of the house because it's already narrow as it is. I mean, I think at that point it becomes treacherous to say anything about that and then the height, I think there's some space on the height and the eaves. I mean six inches times seventy, that's thirty five feet times two, that's seventy square feet that will minimize it. How much would it minimize it, I don't know, but is that something that you could do? Could you do six inch eaves versus a foot. That's our job, is to make sure that, I'm all for improving the character of the neighborhood. We can look back for the last 11 years I've been on this board, I'm all for improving the character of the neighborhood, but with marginal increases. This is unfortunate it's a very poor nonconforming lot because it's so small. So that's sort of my thoughts. Anyone else here want to speak?

Mr. Bishop said what is the total square footage of the house?

Mr. Tempueton said it is about 2200 square feet.

Mr. Bishop said is that including the basement area there too?

Mr. Tempueton said if you include the basement it's about 2700 square feet.

Mr. Bentley said what is the main floor front to back?

Mr. Tempueton said the main floor is 1100 square feet.

Mr. Bentley said is that including all the porches and everything?

Mr. Tempueton said it doesn't include the porches. It is the interior space.

Mr. Bentley said so you are at 72 feet by 24 feet. That's where I come up with the 1480 that I got.

****inaudible conversation****

Mr. Amato said what is the footprint of the house?

Mr. Hanlon said with unfinished storage and mechanical?

Mr. Bentley said it's anything that's from front to back. It's the one floor under the roof.

Mr. Bishop said they are only showing 500 square feet for the basement. I'm just saying that should be included in square footage because it could be turned into a bedroom.

Mr. Bentley said there's a lot of confusion on this drawing from my standpoint, but we will get there momentarily.

Mr. Amato said so you didn't actually give me an answer, what is the actual footprint of the space?

Mr. Hanlon said if you want the number I will give you the number. When people ask me for a square foot house, I give them outside wall to outside wall. I don't give them overhang to overhang. I got 24 by 73 which is 1752.

Mr. Amato said so not 1400 it's 1752.

Mr. Hanlon said 24 by 73 is 1752.

Mr. Amato said and that's not including the eaves.

Mr. Hanlon said that is not including eaves.

Mr. Amato said so it's really 26 as you have it drawn, correct?

Mr. Hanlon said correct. What is the information for?

Mr. Bentley said that is considered square footage.

Mr. Amato said it's telling me how far off this 1151 square feet is and then you're looking at there's that effectively times three.

Mr. Hanlon said no, the second floor is reduced footprint of the first.

Mr. Bishop said how many square feet on the second floor?

Mr. Hanlon said so we provided these, like you said, there's a lot of information. We provided you more information not less. If that made it more confusing I apologize but this shows you the second floor and you can see how it's chopped up.

Mr. Amato said if the 1151 was that far off. How far off is what you're saying the 1043 now, I don't know.

Mr. Hanlon said so why don't we do this, I know we're going to come back with another application. We are going to do it to the definition so you guys are used to hearing overhang

to overhang. We will give you updated information based on that application because I know we are going to go through dialogue here on different square footages.

Mr. Bentley said I will say this, just for clarity, although these numbers that you just gave me are not on here the number that you have on here for the square footage at 43 percent is spot on. So that's the number that matters most to me is that number is dead on. So that 2452 lot coverage is right even though that you are deeming the outside wall to the outside wall, etcetera, and I took it as that number is correct. Just for clarity. I had to do the math, which I normally don't do. I'm going to close the public hearing since there's no comments from the public. I think I can speak on behalf of the board; I'd like to see a better drawing with the details. Are we asking for 25 feet? Are we asking for 29 feet? Those things matter because if I've got a drawing that you've got two different numbers on two different pieces of paper, I don't know which one I'm approving or putting up for a vote. Then get us the accurate, I don't need to know, I'm not going to sit here and argue over an inch or two inches. It's just not what we do. So if we don't need the \pm and it's 5.6 get it to the eaves. If you're OK, and I don't think anybody here isn't OK with what I'm about to say, I would prefer to table this and you get us a new drawing with that stuff before we vote it and work whatever you want to work based off the conversation today. Do you disagree with that?

Mr. Hanlon said is that ok?

Ms. Graham is oh yes I do. I do have one thing; I feel bad and it is correct. We owned the house for 33 years and raised 4 kids there. One of them will live with us and the other three have brought people to the family they married and have children. But Ed is correct for the last, Ed would probably know more on the timeframe, maybe five years that we've rented it because our family can't fit in it anymore. So we weren't trying to hide anything from you and the architects when we talked about the design of the house, we talked about our family. So he's coming from one place, but Ed is correct. We did rent it because we can't fit there anymore. So I didn't want you to think I'm pulling something over somebody's eyes because I'm not.

Mr. Bentley said it's your home. Whatever you choose to do with it, that's totally your decision. I can't tell you not to rent a house.

Ms. Graham said I didn't want Ed to think we were trying to pull one over on you.

Mr. Bentley said I appreciate you saying that to keep the neighborly love going down there.

Mr. Morse said I just want to clarify one thing too before he redoes the calculations for square footage. Square footage of house is square footage of house, square footage with the eaves included is for the lot coverage calculation. Just so you don't come in now and do the square footage and add the extra foot on both sides of the thing as living space because it's not.

Mr. Bentley said that is missing from here with the eaves. Everything else is right.

Mr. Morse said eaves is for lot coverage and the house is wall to wall.

Mr. Bentley said he has to add that and it's also going to make the percentage go up by 70 or 150 feet unless you reduce it down to six inches, which I would strongly encourage you to. I'm not going to read the questions because this is not the plans we are going to see. You do need to have them in at least 10 days prior to the meeting and the meeting will be April the 18th. So you need to have them in no later than Monday the 8th. If you want to be considered for that application.

Mr. Bentley then makes a motion that we table this application to the April 18th meeting and the motion is seconded by Mr. Amato. All present voted aye. Motion is carried.

5. TABLED BUSINESS

ZBA #46-2024 William Coe 1445 Windsor Circle, Farmington, New York 14425

The applicant is requesting a variances to add a single family home that does not meet required rear setback and exceeds the maximum allowed lot coverage of 30%.

Mr. Bentley said we tabled this last month. We talked about the front porch, the back porch, the culvert, etc.

Mr. Rockcastle said originally we had a bigger footprint house of 1500 square foot. The new footprint is 1187 square feet. This is closer to like 900 foot minimum for the house in this area.

Mr. Bentley said so this this is 1187, not 1500, right?

Mr. Rockcastle said that is correct and I will update the plans to show that. With that 1500 square foot footprint, the coverage was going to be over the allowable by code. Since we reduced that we no longer need to have the variance for coverage. We are only asking for an area variance for the rear setback, which is now under 30% . I updated the table to 29.6. Then we are asking for a five foot variance with the house being set back twenty feet from the rear lot line. You can kind of see the reductions better from what we first proposed to what we are proposing now, which is more in line with our conversation last time.

Mr. Bentley asks if anyone has questions.

Mr. Amato said I guess we don't get to see elevations of this.

Mr. Rockcastle said I had elevations last time. I forgot to print them off again. They fit with the character and design guidelines.

Mr. Amato said is it a one story?

Mr. Rockcastle said it's a one story small cottage and it fits the design guidelines by the Town.

Mr. Bentley said it's very small. They had a back porch they were asking for, as you can see on yours, the back porch was the same size as the front porch and then they were asking for an eighteen foot variance. Any other questions folks?

Hearing none, Mr. Bentley then asks the following five (5) proofs:

(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 –
7 NO / 0 YES

(2) whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance -
7 NO / 0 YES

(3) whether the requested variance is substantial –
7 NO / 0 YES

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district –
7 NO / 0 YES

(5) whether an alleged difficulty is self-created –
0 NO / 7 YES

MR. BISHOP made a motion to approve the application with a five (5) foot variance from the rear setback to make it twenty (20) feet. The motion was seconded by MR. LONSBERRY. Motion carried with 7 Yes / 0 No.

6. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, April 18, 2024 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

7. ADJOURNMENT

■ A motion was made by MR. BENTLEY, seconded by MR. LONSBERRY, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

A handwritten signature in red ink that reads "Michael Bentley". The signature is written in a cursive style and is positioned above a horizontal line.

L.S.

Michael Bentley

Chairperson of the Zoning Board of Appeals