

Town of Gorham

4736 South Street
Gorham, New York 1461

ZONING BOARD OF APPEALS

Thursday, October 16, 2025 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: Ed Kaiser
Charles Goodwin
Steve Coriddi
Tom Amato
Ben Smith, *Alternate*

Board Members Via Zoom: Mike Bentley, *Chairperson*

Board Members Excused: Mary Ellen Oliver
Alan Bishop

Staff Present:
James Morse, Town of Gorham Code Enforcement Officer

Applicants Present:
Anthony Venezia, Venezia Land Surveyors
Bill Grove, 8677 State Route 53
David Cox, Nibawauka Beach

Others Present:
Gail Kaiser
Many others that did not sign in

Via Zoom:
None

1. MEETING OPENING

The meeting was called to order at 7:00 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 October 2025. I am not, obviously, present so I will be unable to vote for this meeting. Minutes of each meeting are recorded and the vote of every member is recorded as well. The jurisdiction of the ZBA is limited to appellate review only. Before we can make a decision or hear an application, there first must be a determination made by the Zoning Officer. Town Law 267-B says that we can reverse, modify or affirm any decision of the Zoning Officer. There's five questions that you have submitted on your application that we will go over before any determination is made and just for the record that if four out of those five are a yes then it is a motion for an automatic denial. The ZBA in the granting of area variances shall grant the minimum variance that it shall deem necessary if a variance is granted and it is written to protect the character of the neighborhood, health, safety, and welfare of the community. In attendance tonight is Ed Kaiser, Tom Amato, Steve Coriddi, Ben Smith, and Charlie Goodwin.

Mr. Bentley said I am going to make a motion, for the purpose of this meeting, so that Ed Kaiser reads the questions if we get to a vote and that he is the present Chairperson in charge for this meeting. The motion was seconded by Mr. Goodwin. The motion carried with all present voting aye.

2. APPROVAL OF MINUTES OF SEPTEMBER 18, 2025

■ A motion was made by MR. KAISER, seconded by MR. AMATO, that the minutes of the SEPTEMBER 18, 2025 meeting be approved.

Motion carried by voice vote with all present voting aye.

3. LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Gorham on the 16th day of October 2025 commencing at 7:00 p.m. at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following application:

ZBA #6-2025: TIMOTHY ODELL 3704 NIBAWAUKA BEACH, CANANDAIGUA, NEW YORK, 14424: Requests an area variance in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting relief to the maximum allowable lot coverage of 25% with a variance to allow a lot coverage of 33%. The applicant also requests a variance for a front setback of twenty (20) feet to the northwest corner of the deck where thirty (30) feet is required and a front setback of twenty five (25) feet to the southwest corner of the deck where thirty (30) feet is required. The property is located at 3704 Nibawauka Beach and is zoned LFO Lake Front Overlay and R-1 Residential.

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

Michael Bentley, Chairperson
Zoning Board of Appeals

4. CONTINUED PUBLIC HEARINGS

ZBA #4-2025: RICHARD KOHLER 66 SABLERIDGE COURT, SPENCER-PORT, NEW YORK, 14559: Requests area variances in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting relief to the maximum allowable lot coverage of 25% with a variance to allow a lot coverage of 53.3%. Also requesting an area variance for the northeast side setback of 6.2 feet from the house where fifteen (15) feet is required, a southwest side setback of 10.3 feet where fifteen (15) feet is required, a front setback of 19.8 feet to the north east corner of the deck where thirty (30) feet is required, a front setback of 24.2 feet to the south west corner of the deck where thirty (30) feet is required and a rear setback of .3 feet where thirty (30) feet is required. The variances are to allow the construction of a single family residence. The property is located at 5028 County Road 11 and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Bentley said this application went to the County and because the County recommended denial you will need a super majority. All five people present will need to vote in favor of your application. I will give you the option if you would like to proceed tonight or carry this over again until next month due to the extenuating circumstances of tonight. Even though we have five members there you should be afforded the opportunity of a full Board. I want to give you the opportunity to say what you would like to do.

Mr. Grove said I think that we have done everything that the Board asked for last time with respect to the variance requests. We were able to minimize every variance request that we were asking for. We eliminated the variance to the south, so we eliminated one variance completely. All the other preexisting nonconformities we have improved. I feel like we are pretty solid on the application but I think it is probably wise to wait until we have a full Board. Do we still need ZBA approval before Planning Board?

Mr. Bentley said yes.

Mr. Grove said the whole point getting this through quickly was to get the permit before the gas ban goes into effect.

Ms. Mitchell said if you choose to defer tonight I would suggest to have a conversation with Jim within the next few days in regard to that. It is completely up to you. If you defer tonight that will put you on the ZBA Agenda for November and then you won't be able to submit until December to go on the January agenda for the Planning Board, so it's your decision.

Mr. Bentley said we can move forward but I wanted to give you the option to decide.

Mr. Grove said I'd like to move forward but it is a gamble especially because I don't want someone to vote no on it.

Ms. Mitchell said Mike, can we reopen the public hearing so he can get feedback from the Board where it stands right now and then they can make that decision during the public hearing?

Mr. Bentley said no we don't need to reopen the public hearing to do that. The public hearing is for the comments from the public so they are able to speak.

Mr. Kaiser said have you seen the letters?

Mr. Grove said yes I just read them.

Mr. Amato said are those letters admissible since we got those after the close of the public hearing?

Ms. Mitchell said the public hearing is not closed it was continued.

Mr. Kaiser said if we postpone, Mike, would we close the public hearing?

Mr. Bentley said no we have to give the public a chance to speak. Anyone can speak because it is an open format. Once I close that then the public cannot comment unless they are called upon.

Mr. Grove said I guess we will request to defer to the November meeting unless you want to hold a special meeting which we would be in favor of.

Mr. Bentley said I am not opposed to that. We would have to give a seven day notice. You are not the only one up against this new law. I would not be opposed to that just to be fair to the applicant. I would be ok if you wanted to do that on November 6th and then if they are approved they can submit to the Planning Board.

Mr. Kaiser said will that work for them to be on the November Planning Board?

Ms. Mitchell said they can't go on the November agenda because they already missed the submittal date.

Mr. Bentley said but they could go on the December Planning Board agenda.

Ms. Mitchell said if you turned it around really fast you could.

Mr. Grove said what is there to turn around?

Ms. Mitchell said if they were to agree to have a meeting on Thursday November 6th then submittal date is that Monday. Basically, if your variances get approved as submitted or with changes, you have to update the site plan with the variances on them to submit for Planning Board by November 10th then you could potentially be on the December agenda.

Mr. Grove said that would be ok.

Mr. Bentley said I can't do November 6th. I'm sorry. November 5th?

Ms. Mitchell said that may conflict with the Conservation Board.

Mr. Smith said they usually meet the first Wednesday of the month. The meeting could be a half hour or 2-3 hours depending on the agenda.

Ms. Mitchell said can we do October 30th?

Mr. Kaiser said is everyone good for the 30th?

The Board members agreed to the date.

Mr. Kaiser then made a motion to continue this application to October 30th at 7pm. The motion was seconded by Mr. Smith. The motion carried with everyone present voting aye.

ZBA #5-2025: VENEZIA LAND SURVEYORS 33 NORTH MAIN STREET, CANANDAIGUA, NEW YORK, 14424: Request area variances in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting relief to the maximum allowable lot coverage of 25% with a variance to allow a lot coverage of 39.8%. Also requesting an area variance for the southwest side setback of five (5) feet from the house where fifteen (15) feet is required and a height variance of 26.9 feet where twenty six (26) feet is allowed. The variances are to allow the construction of a single family residence. The property is located at 5018 County Road 11 and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Venezia said I think we will do the same thing. We did do a couple of things and we did change it. We got rid of the height variance and we did shift that house a foot further from that south line.

Mr. Bentley said I am also going to give you the option to go to the October 30th date for a special meeting due to the extenuating circumstances with the Board for tonight.

Mr. Venezia said that will work.

Mr. Kaiser then made a motion to continue this application to October 30th at 7pm. The motion was seconded by Mr. Goodwin. The motion carried with everyone present voting aye.

5. NEW PUBLIC HEARING

ZBA #6-2025: TIMOTHY ODELL 3704 NIBAWAUKA BEACH, CANANDAIGUA, NEW YORK, 14424: Requests an area variance in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting relief to the maximum allowable lot coverage of 25% with a variance to allow a lot coverage of 33%. The applicant also requests a variance for a front setback of twenty (20) feet to the northwest corner of the deck where thirty (30) feet is required and a front setback of twenty five (25) feet to the southwest corner of the deck where thirty (30) feet is required. The property is located at 3704 Nibawauka Beach and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Cox said I am with Cox Engineering and I am representing Mr. Odell. Currently on the property is a pretty old cottage. It is not insulated or anything like that. It is pretty small and there is a bathhouse because the cottage doesn't have any water or sewer or anything like that. They are really wanting to turn this into a more four seasons property. They would like to demolish the cottage and the bathhouse and construct a single family home on it. It is a very small lot. It is only 6920 square feet so 25% max lot coverage only allows 17300 square feet for a house, driveway, sidewalks, decks, docks and it's just not very much. The house is pretty small. It is only twenty feet wide. It only has a 780 square foot livable on the first floor area. It is definitely much smaller than all the surrounding houses. We shrank that as much as we could but due to the lot size being very small it is still over that 25%. It is at 33%.

Mr. Amato said so there are two variances technically then.

Mr. Bentley said technically it is two variances but for our case it's three because we are very specific.

Mr. Amato because one side is twenty feet and the other is twenty five feet?

Mr. Bentley said that is correct. That is to protect us so he can't go and build it twenty feet across the whole entire way. As you recall we put that into place five or six years ago to protect us.

Mr. Amato said I went out there and looked at the property and yes it is very small. One of the things I noticed from the deed that was included is it says the property is about fifty feet wide.

Mr. Cox said correct.

Mr. Kaiser said your numbers don't add up.

Mr. Amato said you are looking at about sixty feet wide. On the actual deed it says fifty on the front and fifty on the back. Unfortunately on this site plan there is a ton of numbers but not what you need.

Mr. Kaiser said you call for a twenty foot setback on each side.

Mr. Cox said yes I am just noticing that but even with the house being twenty feet wide and with the fifteen feet setbacks it still fits.

Mr. Amato said that's what I was wondering was how wide is the house because going with this numbers it's a ten foot wide house.

Mr. Cox said no it's twenty feet wide.

Mr. Amato said so that answers that question it is fifteen and fifteen and the house is twenty foot wide.

Mr. Cox said yes.

Mr. Smith said what is the plan for the stairs off the deck on the front of the house? Are you not going to have stairs down?

Mr. Cox said no there isn't any stairs down.

Mr. Bentley said for this one be sure that whoever makes the motion, if the Board does approve this, that in order for it to move to the Planning Board they have to have updated plans showing the width of the house and the fifteen foot setback not the twenty foot setback. Just so we are all on the same page. Does that make sense?

Mr. Cox said yes, I will update that.

Mr. Amato said so you are not going to have any egress from the deck?

Mr. Cox said no egress off the deck. That is correct.

Mr. Bentley said I don't know the code on that, I wish Jim was here, I think it's considered a second story balcony so you don't have to have a per say egress off of it but I just want to make sure.

Mr. Amato said how about a front door? There is no access out front because you have all garage although we have no elevations.

Mr. Kaiser said the existing concrete pad by the lake appears as though it's staying.

Mr. Cox said yes he wanted to keep that.

Mr. Kaiser said I don't see enough grade change there to walk in one end and walk out the basement. I am assuming you shot grades.

Mr. Cox said yes there is a grading plan submitted. Right now the property goes right from the existing road and it kind of just goes a steady decline to the lake.

Mr. Kaiser said it drops that much?

Mr. Cox said we are going up a little bit. We are going from the existing road up to the garage. We are going up about two feet.

Mr. Amato said you are going to raise grade at the back of the house.

Mr. Kaiser said you are saying the road is at 697 and you are going up to 699?

Mr. Cox said yes.

Mr. Amato said so your driveway is going uphill?

Mr. Cox said yes.

Mr. Smith said is this 33% including the concrete slab and the stairs down to the water?

Mr. Cox said yes.

Mr. Bentley said how big is the concrete slab?

Mr. Cox said probably sixteen by seven or something like that.

Mr. Bentley said so about one hundred square feet?

Mr. Cox said yes roughly.

Mr. Smith said what is the total height of all of this?

Mr. Cox said it is twenty six feet.

Mr. Amato said you didn't answer the other question, so no front door?

Mr. Cox said all through the garage.

Mr. Bentley said I am going to open this to the public. If you would like to speak please state your name and relevant location to the property. Hearing none, I will close the public hearing.

Mr. Kaiser said it is a big house for the lot but all the houses down there are.

Mr. Bentley said if you look at that beach, I have always said and you know I live right behind that house, is that it enhances the character of the neighborhood. They would have concerned me if they came in to ask for 8-10 feet on each side. This is really the smallest house you could put on this lot. It's not like you are asking for something extravagant. Me personally I don't have any issues because the lot is so small. I think it's going to enhance the character of the neighborhood.

Mr. Amato said the only thing I would like to make sure is that after the house is built is a big patio doesn't get put in, or a walk down the side, or a front door. We can put that in any motion, right?

Mr. Bentley said absolutely you can.

Mr. Smith said I agree with Mike, for the lot, they are only asking for a twenty foot wide house. They aren't encroaching on the neighbors. You're following side setbacks. You could have asked for a monstrosity on a small lot because that happens every month. I agree with Mike, given the lot size, I commend you for the size house you are trying to build there.

Mr. Coriddi said I agree. It is a very small lot and I walked it today. I applaud you for hanging in there with the side setbacks.

Mr. Goodwin said I also agree, I think you've done as good of a job as you can on a small piece of land and how you set it up it's not intrusive to anybody around you. I think you've done the best you could with the spot. I think you've done a great job.

Mr. Bentley said all I ask, if you guys choose to move forward with it, that you guys put in there that you have to have updated plans. Any further comments? Hearing none, Ed, would you read the five questions.

Mr. Smith said Mike, do you have any questions for Jim before we move to the questions? He's here now. I don't know if you can see him or not.

(Mr. Morse arrived late to the meeting due to a fire call in the Town.)

Mr. Bentley said Jim, if the deck is over five feet off the ground it has to have a variance, correct?

Mr. Morse said it's not five feet, it's lower than that.

Mr. Smith said there are no stairs.

Mr. Morse said that's alright as long as it goes to the outside.

Mr. Amato said what is the answer on the stairs?

Mr. Morse said you don't need the stairs. The whole idea of egress is to get to the outside of the building.

TOWN OF GORHAM
ZONING BOARD OF APPEALS
P.O. BOX 224
GORHAM, NEW YORK 14461

RESOLUTION FORMAT FOR VARIANCES:

WHEREAS, application ZBA #6-2025 was received by the Secretary to Planning and Zoning Department from Timothy Odell, owner of the property at 3704 Nibawauka Beach with tax map #113.07-1-35.000, on September 9, 2025, requesting a lot coverage variance and two front yard setbacks to build a single family residence; and,

WHEREAS, said application was denied by the Code Enforcement Officer for the Town of Gorham on the basis that the proposed single family residence does not meet the lot coverage or front setback requirements; and,

WHEREAS, the Town of Gorham Zoning Board of Appeals has determined this application to be a Type II Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations, and as a Type II Action, no further review under SEQRA was required; and,

WHEREAS, said application to the Town of Gorham Zoning Board of Appeals was not required to be referred to the Ontario County Planning Board; and,

WHEREAS, a Public Hearing was duly called for and was published in the official newspaper of the Town on October 9, 2025; and,

WHEREAS, a Public Hearing was held on October 16, 2025 at which time all those who desired to be heard were heard; and,

WHEREAS, on October 16, 2025 after viewing the premises and after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Gorham Zoning Board of Appeals made the following findings of fact:

For an Area Variance:

That an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the variance.

That the benefit sought by the applicant cannot be achieved by some feasible method other than a variance.

That the requested variance is not substantial.

That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created.

DECISION/CONDITIONS

NOW, THEREFORE BE IT RESOLVED that Mr. Amato made a motion to approve the application with an 8% variance for lot coverage to allow a lot coverage of 33%, for a variance from the southwest corner of the proposed deck to the mean high water mark of five feet to allow a twenty five foot setback and a variance of ten feet from the northwest corner of the deck to the mean high water mark to allow a twenty foot setback. The site plans need to be updated with the correct side setbacks of fifteen feet per the guidelines of the Town code. No additional patios, walkways, etc. can be built in the future. That motion was seconded by Mr. Kaiser and the following roll call vote was taken:

Mr. Kaiser	Aye
Mr. Amato	Aye
Mr. Coriddi	Aye
Mr. Smith	Aye
Mr. Goodwin	Aye

The motion carried.

6. MISCELLANEOUS

NONE

7. NEXT MEETING

There will be a special meeting of the Zoning Board of Appeals held on Thursday, October 30, 2025 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

The next regular meeting of the Zoning Board of Appeals will tentatively be held on Thursday, November 20, 2025 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

8. ADJOURNMENT

■ A motion was made by MR. AMATO, seconded by MR. KAISER that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:41 p.m.

Respectfully submitted,



Michael Bentley
Chairperson of the Zoning Board of Appeals