

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
January 19, 2017

PRESENT: Chairman Hoover Mr. Airth
 Mr. Farrell Mrs. Oliver

EXCUSED: Mr. Johnson Mr. Bentley
 Ms. Hoover-Alternate

Chairman Hoover called the meeting to order at 7:30 PM. Mr. Farrell made a motion to approve the minutes of the October 20, 2016, meeting. Mrs. Oliver seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #16-165, David & Denise Pontillo owners of property at 3848 Cove Content, requests an area variance to build a single family home and detached garage. Proposed home does not meet the north and south side yard setback and the front and rear yard setback. The garage does not meet the north and south side yard setback.

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

The application did go to Ontario County Planning Board. The County Planning Board made the following comment and findings: The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

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

Chairman Hoover explained that since the County Planning Board recommended denial they would need to approve the application with a majority plus one of the board. The ZBA is a 7 member board and would need at least 5 members present to even carry a motion for approval. With only 4 members present a motion for approval could not happen tonight.

David & Denise Pontillo, Rocco Venezia, Surveyor, and Richard Krapf, Architect, was present and presented the application to the board.

David and Denise stated that they have owned this property for 16 years and would now like to make it their permanent residence. It will be their home for retirement so would like all their living space on the first floor and the second floor for extended family.

Mr. Krapf stated that the second story will be a half story.

A new survey was presented to the Zoning Board of Appeals where the detached garage was repositioned so that no variance would be needed for the detached garage.

Mr. Pontillo stated that the detached garage will be used for cars, boats, canoes and kayaks. The attached garage is a one car garage for winter time groceries and for garbage and trash.

Chairman Hoover explained that he has a concern with the increase in footprint from the existing to the proposed. The proposed front setback is very similar to what is existing. The side setbacks are in line with what was existing. His concern is the rear yard setback. If someone tries to park in the driveway their car will be in the right of way.

Mr. Pontillo stated that they have a lot of parking on the other side of the right of way at the detached garage.

Mrs. Pontillo stated that it would be a great difficult if they could not have at least a one car garage attached to the house.

Mr. Krapf stated that he designed the attached garage as small as he could to allow one car and opening doors on one car.

Mr. Pontillo stated that the attached garage is a single story.

Chairman Hoover asked if it would be possible to extend the driveway over and come into the garage on the side so if someone does park in the driveway they are not backing out into the road.

Mr. Venezia stated he does not believe they could make the sweep into the garage.

Mr. Krapf stated that he may be able to bring the wall of the house in a little so that the garage is moved further from the right of way.

Chairman Hoover stated that he would like to see a 15 to 16 foot driveway, enough to get a car in front of the garage and be off the right of way.

Ms. Oliver suggested a driveway change so that they make a swing in and have a longer driveway, keeping the garage door as proposed. This way visitors would have a longer driveway to park in.

Chairman Hoover stated that he would like to see the garage moved back so that it is 15 to 16 feet off of the right of way.

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

An e-mail was received from Jeff and Paula Conroy, neighbors to the north stating that they are uncomfortable with the attached garage creating a wall where there is no wall now.

Chairman Hoover asked if there were any more comments from the public. Hearing none, the public hearing was closed.

Decision on the application was adjourned until February 16, 2017.

Application #17-001, Bill Pellicano, owner of property at 4356 State Rt. 364, requests an area variance to erect a 6 foot fence. Proposed fence does not meet height requirement of 4 feet.

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

Bill Pelicano and Rick Szkapi were present and presented the application to the board.

Mr. Pelicano stated that they would like to get rid of the construction fence. They will maintain the aesthetic view at the road with a 4 foot fence. From a security standpoint he would like a 6 foot fence down the south side of the property.

People have come down the asphalt drive and harassed his wife. With a 6 foot fence maybe they could block people from coming down the drive.

The neighbor to the south on Lincolnwood has a 20 foot easement going down the asphalt drive.

Chairman Hoover asked why the fence line is going down the middle of the asphalt drive instead of on one side or the other.

Mr. Pelicano stated that the neighbor has a 20 foot easement and so he is allowing his 20 feet and then put his fence from the 20 foot easement.

Chairman Hoover asked if he was denied a 6 foot fence would he put up a 4 foot fence.

Mr. Pelicano stated that he would prefer a 6 foot fence. He will probably put some type of gate at the entrance to avoid someone coming down the drive.

Chairman Hoover expressed his concern with a 6 foot fence 400 foot long.

Mr. Airth brought up a point that the fence was going to block the fire hydrant on the southwest corner.

Mr. Pelicano stated that there is already a fence there now.

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

James and Dory Adams were present and presented their concerns to the board.

Mrs. Adams stated "My Husband Jim and I live to the south side of Mr. Pelicano's property. We have a couple concerns about what he is proposing. We have an easement we as well as many past owners of the property use that easement along the side as an access easement. What he's proposing as far as moving the fence over to the middle of the road now moves us onto grass and trees and part of what is forever wild there. So there will no longer be a paved area there for us to drive up and down. The fire hydrant is right at the front of our property, if there is no road there the fire truck is not going to be able to get down to that road to the properties along Lincolnwood. Mr. Pelicano mentioned that we have another access. We don't really have another access. We have a fence that has a gate on it. But the reason for that gate is so that if a fire truck has to go through there for the fire hydrant they can get to the other properties along Lincolnwood. We do not share in maintenance of that road. We do not share in the plowing of that road. So it is not necessarily another option. As far as a 6 foot fence, I think that's setting a very poor

precedence for the town. If you allow him to have a 6 foot fence they are going to be popping up all over the lake with all the rich people moving in and changing the character of what we're trying to maintain, that rural setting. We are a year around resident. He is a summer time resident. We've lived there for quite some time. Yes, when he started building we had the look seers coming up and down the driveway. A simple sign saying private property would have been good enough. But no sign was ever put up. The Thendara sign was not even taken down until his property was almost completed. I really don't think that security is that much of an issue. We don't live in a high crime area. These are curiosity seekers more than anything else. I've had issues with people on the road as well, because they come into our property turn around and leave. Have I ever felt life threatened? No. The only time I ever felt life threatened was by one of his contractors who was very verbal to me about using my driveway. I really feel that if he wants to put a fence up that's his right. I don't think a 6 foot fence is needed. I don't think a 6 foot fence fits into the character of the area. And I don't particularly care of the idea that he's putting an easement down the middle of the road because we wouldn't sell the easement to him."

A letter that was received in the Zoning Office from Joan and Jack Dailey stating their concerns was read and will be kept in the file.

Mr. Pelicano stated that there are some facts that need to be squared away. Mr. Dailey mention along State Rt. 364. "It is not along State Rt. 364. He mentioned a second point of egress. They have no access to the road it is my property. We had an issue with the docks so they eliminated all rights to the easement so that doesn't exist anymore. She mentioned about the sharing in expenses. I asked Jim about sharing in expenses and he wants nothing to do with it. So based on that comment they shouldn't be using my driveway either. So if we are going to talk facts we should talk facts."

Mr. Szkapi stated that it states a 20 foot easement not a 20 foot driveway.

Mrs. Adams asked if there are trees blocking there access do they have the right to cut them down.

Chairman Hoover stated that they would have to consult with their attorney on that.

Chairman Hoover stated that he does agrees if the survey that was presented to them is correct the fence is on the edge of that easement and Mr. Pelicano has every right to put the fence down the center of that driveway.

Chairman Hoover asked Mrs. Adams if they have an easement to go out the Lincolnwood right of way.

Mrs. Adams stated that they do have an easement, but it would be a burden on them to have to start paying for plowing and maintenance of that right of way.

Chairman Hoover explained that they are only looking at the request for a 6 foot fence. If they were to deny the application the 4 foot fence can go in the exact same spot that he is asking for without a variance.

Mr. Pelicano stated that they don't want to use Lincolnwood as an access because they don't want to incur the expenses. "If they continue to use my driveway they are going to incur the same expenses."

Mr. Farrell stated that he does have concerns with a 6 foot fence. It is a character with the neighborhood issue.

Mr. Airth stated that he has the same concerns with the height of the fence.

Mrs. Oliver stated that she agrees with Mr. Airth.

Mr. Pelicano stated that the character of the neighborhood keeps coming up. You have to understand what was there before. Tents, weddings, loud music, drunkenness. They have taken what was there and made it a little bit nicer. "You really think that I am going to put a fence in that is going to ruin the character from what I've done to that house?"

Chairman Hoover asked if there were any more comments from the public. Hearing none, the public hearing was closed.

After discussing the application and the questions on the back of the application the following motion was made [attached hereto]: Mr. Farrell made a motion to deny the application for a 6 foot fence. Mr. Airth seconded the motion, which carried unanimously.

Mr. Airth made a motion to adjourn the meeting at 8:37PM. Mr. Farrell seconded the motion, which carried unanimously.

Jerry Hoover, Chairman

Sue Yarger, Secretary