

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
September 23, 2019

PRESENT: Chairman Harvey            Mr. Zimmerman  
          Mr. Farmer                    Mr. Dailey  
          Mr. Hoover                    Mr. Kestler-Alternate

EXCUSED: Mrs. Rasmussen           Mrs. Harris

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Kestler-Alternate will be participating in all the discussion and decisions tonight. Mr. Zimmerman made a motion to approve the July 22, 2019, minutes. Mr. Dailey seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #14-2019, Joel & Katy DiMarco, owners of property at 3924-3926 State Rt 364, requests site plan approval to demolish an existing cottage and build a single-family home.

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

Joel DiMarco, Justin Kellogg, Engineer & Paul Colucci, DiMarco Group were present and presented the application to the board.

Mr. Colucci stated that they appeared before the Zoning Board of Appeals last Thursday and were tabled pending some consideration for reducing variance requests for lot coverage as well as height. They are working to make some minor modifications but as they are in the process at looking at that they felt they could have some input from the Planning Board.

Chairman Harvey question why the second residence was not one of the variances.

Mr. Colucci stated that it was not. They submitted a letter of affidavit from the DiMarco's stating that that would not be a rental property. That will be used for recreation room solely just for supporting water type activities somewhat like a pool house.

Chairman Harvey asked if it had a bathroom facility.

Mr. Colucci stated that it does have a bathroom.

Chairman Harvey stated that it has a separate address. It's labeled as an existing cottage so regardless of the affidavit that may be something the Zoning Board of Appeals and something we will discuss when the Code Enforcement Officer gets here. The requirement is when you demolish and rebuild something of this scale the second residence has got to go.

That is a requirement so to get that varied that may be evidence for the Zoning Board to use to grant a variance, but it is a requirement.

Mr. Colucci stated that they did have discussion about the second structure on the property as part of the meeting Thursday. The DiMarco's would like to retain it because it is a unique type structure. The sole purpose of it is to support lake type activities.

Mr. DiMarco stated that portions of it will become a covered porch.

Chairman Harvey stated that the Planning Boards position would be if you meet lot coverage and it's not a second residence than we don't have that big of a problem with it.

Mr. Kellogg stated that it is his understanding that part of being a residence is having a kitchen and if it doesn't have a kitchen even though it has plumbing would not be considered a dwelling.

Chairman Harvey stated that it is real easy to bring in a hot plate and call it a residence.

Mr. Kellogg stated that the existing lot has the two residences and a detached garage. The main residence and detached garage are both non-conforming for setbacks. The site is also sloped fairly steep from the road down to the parking area. Most of the project will be to raise the grade to make it more safe egress and ingress. For the new driveway they will use the curb cut from the detached garage. It seems to be a better location and a better fit to have the new house more centered on the lot. It gives them the opportunity to have a side load garage with a nice area to turn around so that there's no need for backing onto State Rt. 364. The main premise behind the floor elevation was that access to the road. They want to maintain 10% maximum sloop on the driveway with an adequate level area 5% sloop for about 20 feet at the entrance of the driveway. The site was flagged for having some potential archaeological significance. They did receive a negative determination from New York State Parks, Recreation, and Historic Preservation. They are also proposing rebuilding the existing break wall at the lake shore. They plan to replace it with a nice concrete wall. They will keep all their work above the mean high water mark. They are trying to keep as many mature trees as possible. They are taking out some of the ash trees.

Mr. Colucci stated that to the west of the home is the sanitary sewer easement so that dictates what the grade can be over the top of the sewer easement. They have talked to the sewer district and they would like to maintain the grading as close to existing grade as possible.

Chairman Harvey asked if NYSDOT was ok with the rain garden in their right of way.

Mr. Kellogg stated that they were ok as long as the owner understands that any work that they need to do in the right of way the rain garden will be dug up.

Mr. Colucci stated that the grade off the road for the driveway is setting the finish floor elevation of the garage, which sets the elevation for the home. The grade and topography as it slopes away from the house drives that average grade around the house. That's what is pushing them into seeking a height variance. They are working on trying to minimize that.

Chairman Harvey asked how many square feet in the house.

Mr. Colucci stated that the total footprint is about 2100 square feet per floor plate and it's three stories with a walkout. Today this driveway is pretty dangerous for ingress and egress. They are going to reduce the width of the driveway a bit. Now it is shown as 18 feet they are probably going to reduce that to 12 feet based on feedback they get from NYSDOT. The goal is to avoid guests having to park onto the shoulder of the right of way.

Chairman Harvey stated that once they come to the Planning Board for site plan approval. Storm water calculations will need to be presented. They must design the storm water facility to a 10 year storm and show for a 50 year storm. Drainage must be minimum 2% a minimum 5 feet from the foundation. Drainage shown on the plan on the north show's drainage going onto the neighboring property. The drainage must be corrected in this area as to not drain on the neighboring property.

Chairman Harvey stated that as far as a storm water erosion control plan they are showing silt fence, but they need to write a phasing plan. They are going to want to see their diversion their interceptor stabilized before the rest of the construction starts. The rock check dam is fine but if they were writing SWIPT they would require filtration there before it discharges. That will need to be added to the storm water erosion control plan. Show some spot elevations in some of the hard pavement areas showing that they are getting the storm water away from the foundation and how it is wrapping around the house.

Chairman Harvey stated he would like to see a table that shows what has been included in the lot coverage calculation.

Mr. Dailey asked if the proposed is going to be three stories at about 2100 square feet each so over 6000 square feet.

Mr. DiMarco stated that it will be roughly that. He is not sure of the exact square footage.

Mr. Dailey stated that the board tries to maintain the integrity of neighborhoods. He is not sure this fits with what is in that neighborhood.

Chairman Harvey suggested that they look at the Town of Gorham's Design Guidelines. The Planning Board will expect them to tell the board how they met them. "The board's requirement is you meet the Design Guidelines, or we have to find a reason why you could not. It does talk about the character of the neighborhood, the size of the lots, the ratio of the building area to the lot size, etc. One of the things that is also required is a landscaping plan."

Mr. DiMarco stated that he has lived in this cove since he was in high school and seen the properties evolve over time. On both sides of his property there are small cottages that people rent, that they don't occupy. The nature of the lakefront is always changing, and he understands that the board wants to keep it in conformance of some standard, but there's also a change occurring. Three houses down there's a house that is completely non-conforming with the two houses next to it cause there very small cottage oriented homes. Very nicely kept, but there not the same as the next two houses down. It would be interesting to see what the board sees as in conformance because it is all over the board.

Chairman Harvey stated that the town recognized what was happening and wrote the zoning in a particular way for a reason and went to the expense to establish and adopt the Design Guidelines for redevelopment. The town is not looking for McMansions up and down the lake on every lot.

Mr. Kellogg stated that the Design Guidelines mention part of the character of a lakefront home is the rental property. Is the town in favor of having multiple rentals on a single lot.

Chairman Harvey stated on a single lot. No.

Mr. Kellogg stated that seems to be the character in this neighborhood, so this could be a positive change.

Mr. DiMarco stated that he is actually taking down three non-conforming uses to improve the property and ceasing a 30 year rental.

Chairman stated that he absolutely agrees.

Chairman Harvey stated that one of the things the Planning Board is going to have to do when they move a non-conforming driveway to another non-conforming location is to waive the Access Management Local Law. The applicant has given some good verbal reasons for moving it and anything that can be added to this when you come back will be helpful.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was adjourned to be re-opened on October 28, 2019, at 7:30PM in the Gorham Town Hall.

Chairman Harvey explained that the Planning Board has to wait for the Zoning Board of Appeals to take their action before

the Planning Board can act on the application. He advised the applicants that if they have to revise the plan, they must be on file in the Zoning Office 5 business days prior to the next meeting.

Chairman Harvey asked Jim Morse, Code Enforcement officer about the second residence on this property. They are proposing converting it to a non-residential use. Before the board talks more about this he asked Jim if there was something he wanted to add.

Mr. Morse stated that with what Mr. DiMarco has provided the town in writing it is basically a legal bender so you can put that as a condition of approval. It depends on how far the board wants to go with this as far as what is allowed in the structure. He spoke about this with Kevin Olvany at Ontario County Soil and Water and he likes that these places do have showers hooked to a sewer system so that they are not showering and having it go out onto the ground and into the lake.

Chairman Harvey stated that "the easy way to state this is you're not going to install a kitchen and you're not going to install bedrooms and you are going to come up with a new floor plan that shows it and we'll attached that to the approvals. I think that to me would answer the question and that is something that maybe this board would want to recommend to the Zoning Board of Appeals."

Mr. Zimmerman stated that he would prefer to see it labeled an existing accessory structure. As opposed to suggesting it's a cottage.

Chairman Harvey stated that cottage is what is used for now. The key is how it is labeled on the site plan.

Chairman Harvey made a motion that the Planning Board recommends to the Zoning Board of Appeals any variance that may be granted for this project that a condition be attached to the variance stating that the lake front cottage must be converted to a non-residence use. Mr. Hoover seconded the motion, which carried unanimously.

Application #15-2019, Michael J. Spaan, owner of property at 4458 Lake Dr., requests site plan approval to demolish an existing cottage and build a single family home.

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

Michael & Randy Spaan and Anthony Venezia, Venezia Associates was present and presented the application to the board.

Mr. Venezia stated that the plan is to tear down an existing two story cottage and replace it with a single family home. The driveway will be porous asphalt for some storm water

management. There is also storm water management with an infiltration chamber to the north and west side of the property. The design calculations have been done and they can get them to the town. Most of the erosion control that is going to be used is a double silt fence.

Chairman Harvey stated that they are not showing that they are going to protect the outlets.

Mr. Venezia stated that they can add that. The current drain that was installed when the patio and retaining wall was redone, they will be re-using that. For the infiltration area they are going to use an overflow area drain just in case it gets over capacity. It will flow through there down the grass swale.

Chairman Harvey asked if they have done a perk test in that area to determine what the infiltration is.

Mr. Venezia stated that they were going to field verify it once they took the house down. They have the ability to expand that if the soils aren't proper.

Chairman Harvey stated that they are going to specify what the target percolation rate is here.

Mr. Venezia stated that it should be in the details on the site plan if it is not, they will make sure to put it on there.

Mr. Dailey asked if it was designed for a 10 year event.

Mr. Venezia stated that he believes it is designed for a 10 year event.

Chairman Harvey stated that it's supposed to be designed for a 10 year event and show what would happen in a 50 year event.

Chairman Harvey stated that there are a couple of areas that the grading needs to be modified showing water flowing away from the foundation.

Mr. Venezia stated that there are some mature oak and maple trees on site. They are taking down two and there are about seven they are trying to save.

Mr. Dailey questioned if the patio shown on the plan beyond the break wall was included in lot coverage.

Mr. Venezia stated that it was not because it is beyond the high water mark.

Mr. Dailey questioned whether that was where the high water mark was.

Mr. Venezia stated that he will double check where the high water mark number is and rerun the numbers to verify what the lot coverage is.

Chairman Harvey stated that on the Short Environmental Assessment Form question 12 is not answered.

Mr. Venezia stated that they can update the form.

Chairman Harvey stated that must be an actual signature on the form. The form is incomplete until question 12 is filled out.

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

Martin Moll stated that he is buying the property to the south and he would like to say hello.

Hearing no more comments the public hearing was closed.

Mr. Venezia stated that the project was sent to SHIPO on August 25, 2019.

Chairman Harvey stated that they must give them 30 days to respond and it has not been 30 days.

The Planning Board tabled taking action on the application until October 28, 2019.

Application #16-2019, Donald Sloth & Karen Kuhl, owners of property at 3798 Goose St., requests subdivision approval to subdivide 2 acres out of a 23.7 acre parcel.

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

Donald Sloth was present and presented his application to the board.

Chairman Harvey asked if the parcel was in a County Agricultural District and if the parcel is being farmed at this time.

The parcel is in a County Agricultural District and Mr. Sloth stated that it is not being worked and it is brush and woods and is not currently farmed.

Mr. Sloth stated that they would like to subdivide 2 acres out of their 24 acre parcel to build a 1000 square foot home. Their plan is to rent it out while they continue living in the big house. When they retire, they will sell the big house and acreage and move into the small house.

Chairman Harvey asked if perk tests were done on the property.

Mr. Sloth stated no.

Jim Morse, Code Enforcement Officer stated that the lot meets the size requirement in that district.

Chairman Harvey stated that as part of the application perk test must be done before subdivision approval.

The driveway location was discussed, and Mr. Sloth stated that the plan is to use the existing driveway for both parcels.

Chairman Harvey stated that a notation will need to be added to the map showing that the existing driveway will be used for the new parcel.

Chairman Harvey stated that future construction is subject to site plan review by the Town of Gorham.

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

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mr. Zimmerman made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Dailey second the motion, which carried unanimously.

Mr. Dailey offered a resolution [attached hereto] to approve the subdivision with the following conditions: 1. A note be added to the plan stating that the existing right of way for access will be used to access the proposed lot to bring it in compliance with the Town's Access Management Local Law. 2. The approval is contingent on a successful perk test that shows 60 inches or less. 3. The plan will be stamped that future construction is subject to site plan review by the Town of Gorham. Mr. Farmer seconded the motion, which carried unanimously.

Application #17-2019, Richard Frere, owner of property at 3656 County Road 18, requests site plan approval to build a single family home.

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

Brian Heminger, Marks Engineering was present and presented the application to the board.

Mr. Heminger stated that they are looking for approval for a single family home on an 8.8 acre parcel. There is an existing barn in the back, an existing barn in the front and an existing driveway.

Chairman Harvey stated that existing as in he built it before coming in for site plan.

Jim Morse, Code Enforcement Officer stated that the driveway was there, and he has made improvements to it.

Chairman Harvey stated that an agricultural curb cut doesn't entitle him to a curb cut.

Chairman Harvey questioned how the existing curb cut meets the distance requirement for curb cuts on County Road 18.

Mr. Heminger stated that there is not another driveway even close.

Chairman Harvey stated that they need a distance figure to the next nearest driveway.

Chairman Harvey asked if Mr. Frere obtained a curb cut permit from the County.

Mr. Heminger stated that he is not sure. The curb cut was there when they did the survey.

Chairman Harvey stated that even though this parcel is in the middle of nowhere the board still needs to see a storm water system. Show how they are accommodating the storm water.

Chairman Harvey stated that he is going to ask that they come back with a cost estimate for the driveway improvements, the septic system improvements, and the storm water infrastructure because he is going to push for a performance bond or some kind of surety on the project as a condition of approval.

Chairman Harvey stated that the plan needs to show proposed grading around the structure. Show how the water is being diverted around it.

Mr. Zimmerman stated that he would like to see dimensions on the property lines.

Chairman Harvey stated that they need to show where the leaders are and where they are draining. Dumping it in the roadside ditch is not allowed in the Town of Gorham.

Mr. Heminger stated that all the roof drains are draining to the back of the property.

Chairman Harvey stated that site stabilization and seeding also needs to be part of the cost estimate.

Chairman Harvey stated that he's going to look at the Code Enforcement Officer to give him a spec for how the site is going to be re-graded and how many inches of topsoil is being used. There will be no Certificate of Occupancy until this is done or a bond is posted.

Chairman Harvey asked if the proposed home will have horizontal siding, have an appearance of a full masonry foundation and have a 4 on 12 pitched roof. The board would like to see elevations of what the home is going to look like.

Chairman Harvey asked about the soil erosion and sedimentation control.

Mr. Heminger stated that they are just showing silt fence on the plan.

Chairman Harvey asked that they show the limits of disturbance on the plan so that it coincides where the silt fence is located.

Chairman Harvey asked if there were any comments from the public. Hearing none the public hearing was adjourned to be re-opened on October 28, 2019, at 7:30PM in the Gorham Town Hall.

## SKETCH PLAN:

Application #18-2019, Robert Johnson, owner of property at 4989 County Road 11, requests sketch plan approval to build a single family home.

Brian Heminger, Marks Engineering and Robert Johnson were present and presented the plan to the board.

Chairman Harvey asked if there are any variances that are required.

Mr. Heminger stated that they are seeking a variance for a rule in the code that states that they need to be 50 feet off of the top of the bank of a Class C stream. This is a Class C stream and they are not going to be 50 feet.

Mr. Morse stated that he believes the code is 100 feet from a Class C stream.

Chairman Harvey stated that this will have to go to the Zoning Board of Appeals and is sure they are going to want to see what extra protection there is between the building and the stream.

Chairman Harvey question the location of the driveway. Does it line up with the driveway across the street?

Mr. Heminger stated that they do not line up.

Mr. Heminger stated that they are going to expand the driveway a little, build a home and garage. They will hook onto the existing water line. They will hook into a new lateral for the sewer. There will be an infiltrator 52 feet long that will take all the roof drains.

Chairman Harvey stated that one of the challenges is how they are going to intercept water before they do construction and get it stabilized before they open the site up.

Mr. Morse stated that the code reads where it exceeds 15% it is 100 feet from the stream and if it is less than 15% it is 50 feet.

They are preserving as many of the trees as possible.

Mr. Johnson presented elevations of the new home to the board.

Chairman Harvey stated that it appears that the new home will meet everything in the code appearance wise.

Chairman Harvey questioned what was going to be planted on the property.

Mr. Johnson stated that it is going to be yard and they will be adding some trees to shield them from the pole barn.

Chairman Harvey stated the big question is what the buffer will be along the stream bank. The whole idea is not to get fertilizer, or lawn and cuttings into the stream and out into the lake.

Chairman Harvey made a motion recommending to the Zoning Board of Appeals that they approve the variance with a requirement that a natural buffer is to be maintained at the stream bank. Mr. Farmer seconded the motion, which carried unanimously.

MISCELLANEOUS:

Mr. Dailey brought up that he submitted a list awhile back of questions and recommendations for the board to look at and was wondering if the board could take an hour at some meeting and discuss some of the items.

Mr. Hoover made a motion to adjourn the meeting at 9:06PM. Mr. Dailey seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary