

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
October 28, 2019

PRESENT: Chairman Harvey            Mr. Zimmerman  
          Mr. Farmer                    Mr. Dailey  
          Mr. Hoover                    Mrs. Rasmussen

EXCUSED: Mrs. Harris                Mr. Kestler-Alternate

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Zimmerman made a motion to approve the September 23, 2019, minutes. Mrs. Rasmussen 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 re-opened that was adjourned on September 23, 2019, and the notice as it appeared in the official newspaper of the town was read.

The application was required to go to the Ontario County Planning Board. The Ontario County Planning Board made the following comments:

1. All demolition debris should be recycled or disposed of at a licensed facility.
2. The site plan appears to show disturbance of the shoreline area outside the silt fence. The natural shoreline should be retained to the maximum extent possible and sediment and erosion control provided for all disturbed areas.

NYS DOT Comments:

1. The plans show an 18' driveway width. NYS DOT recommended residential driveway width is 9' to 12'. NYS DOT prefers the applicant to stay within the recommended range.

On October 17, 2019, the Zoning Board of Appeals granted a 1.1' variance for a height of 31.1'. At no time can the peak of the house exceed 31.1' except on the lakeside of the property. Grant an 8.8% variance for a 33.8% lot coverage. The accessory lake structure can't be used for residential purposes, any overnight stays or any rental property investment for the life of this variance at 3924 and 3926 State Rt. 364.

Joel & Katy DiMarco, Justin Kellogg, Engineer, Henrick Fisher, Landscape Architect & Paul Colucci, DiMarco Group were present and presented the application to the board.

Mr. Colucci gave a recap of their proposal from the September meeting. "We were proposing that the existing property has a lot of non-conformities. There's an existing detached garage in the right of way. The existing residence is 12 feet into the side yard approximately 8 foot from the property line. There's a rental cottage. We had a little discussion about that. It was used year around as rental property. The existing driveway is sloped at greater than 20% and have serious concerns relative to the safety of that. The plan for redevelopment includes demoing the detached garage, demoing the existing residence, converting the rental cottage into an accessory structure and constructing a new primary residence. As the secretary read, we had previously been before you last time with lot coverage of approximately 40.3%. We reduced that plan. We went back with comments from this board and the Zoning Board. Worked very diligently to reduce the lot coverage to the maximum that we could. We were successful with the Zoning Board a couple weeks ago for lot coverage as you see before you at 33.8%. Some of the ways we achieved that, we reduced the footprint of the house, we reduced significantly the width of the driveway as well as some of the other features where the driveway extended past the width of the garage. We were able to get the lot coverage down to 33.8%. The height of the house the last time you saw us we were at 35.5 feet, which is average the way that the town code reads, we take the average grade around all perimeters and the house was 35.5 feet prior and now 31.1 feet as an average. What that means is from the lake side of the house it is 36 feet from the foundation or where the walkout of the basement would be to the peak. And on the driveway side we're at 27.4 feet to the peak of the house. We set about 5 feet below the center line of Rt. 364. So, the house would essentially appear 22 feet from the road. The Zoning Board was very pleased with the efforts we made to reduce the height and were willing and did grant that variance. Also of note and Justin will go into it with a little bit of detail, we took your comments relative to storm water mitigation that is required, submitted a storm water report added some infiltration. The soils are conducive to the dry wells that we have installed that will capture all of the runoff from the house itself through rain liters. And also, Justin will explain a little bit of the BMP's that he introduced to protect the neighboring properties. And then Mr. Fisher has prepared a landscape plan that we are going to let him explain a little bit about in response to the lakefront development guidelines. So, thank-you for having us back. Thank-you for comments last month and I guess I'll let Justin just touch on some of the storm water stuff."

Mr. Kellogg stated "as Paul mentioned we did make some improvements to the storm water design. The design you see on these plans features a rain garden to capture any surface runoff. As the code reads, we need to capture and treat runoff from all impervious areas on the site. And those treatment facilities need to be designed for a 10 year design storm, which is 3.14 inches of rain in this area. We need to account for a 25 year storm event where there'd be no detriment to the property or structure from that storm event. My rain garden is designed for a 10 year storm from surface runoff mainly from the driveway. And for the house structure I have two drywells at the front two corners of the structure those can capture roof liters and between those three elements I can capture all the proposed pervious surfaces and allow infiltration for that 10 year design storm. Each of those elements does contain a failsafe feature so if we get more than 3.14 inches of rain the rain gardens and drywells are going to fill up. There going to be at capacity, but the roof liters have a discharge pipe so water will discharge over land like a normal gutter downspout system. And the rain garden has a riser pipe so when the water reaches a certain level it goes through the riser pipe out to the lake safely without eroding the edges of the rain garden. The challenging piece of impervious to capture is this existing structure because it's so close to the lake and it's actually over the property line at a certain point, so I did the best I could there with this scourstop mat. If you're not familiar it's basically a door mat that allows grass to grow through so we can assure a vegetative swale and that vegetation will provide treatment for runoff from those downspouts and pervious surfaces."

Chairman Harvey stated that it is quite an improvement over what was there. "Are you piping the downspouts directly into the ground water"

Mr. Kellogg stated that is correct.

Chairman Harvey asked if that is shown on a different plan.

Mr. Kellogg stated that "piping is a little challenging as the site engineer that's something architect's kind of plan where downspouts go. I can provide an easy location to be piped to but actual location of roof liters are"

Chairman Harvey stated "you'll have to coordinate that with the architect. Ok."

Mr. Fisher stated that his job is to make everything green and work. "Basically, what I've tried to do is utilize plant material that will thrive in the soils that we have on the property. Also give color and restore some of the materials that have come out. Specifically, on the rain garden given what Justin just mentioned, I've chosen plant materials in there that

will take fairly dry conditions in the dry season and will also take some inundation if we get the tremendous rainstorms that type of thing. I've tried to minimize foundation type plantings, but I've also paid attention to the side lines or the side property lines and also site distances from the neighboring properties and their structures. I'm primarily using some evergreen materials so number one it affords privacy to the neighbors and also privacy to DiMarco's. I do have some cut sheets on the key plant materials if you'd like to keep those and see those." These will be kept in the file.

Chairman Harvey asked if they were actually on the plan.

Mr. Fisher stated yes.

Landscaping plans were presented to the board at this time.

Mr. Dailey asked if they had renderings of the house.

Mr. Colucci presented the renderings to the board. There were renderings showing the north, south, east and west side.

Chairman Harvey asked what the heating supply was not noticing any chimneys on the renderings.

Mr. Colucci stated that the heating supply will be forced air. Natural gas high efficiency direct vent.

Mr. Dailey asked what the height of the homes were in the neighboring area on the lake side.

Mr. Colucci stated that they vary. "As you head to the south of us, they were more cottage style homes. They are single story I believe."

Mr. DiMarco stated "You're in a transitional point there were you switch to the other side of the road. That's where Old East Lake Road came through. The houses to the south of us are farther back right up against the road and they typically drop down with a large retaining wall separating them from the actual road by six feet and then they have these plateaus where they park on. Going in the north direction you have a transition there's some small cottages on the east side of the sub road and then they have cottages on the west side of that sub road right up against the lake and they start to gradually two in there are very similar or higher than this house. One of them is my uncles."

Chairman Harvey asked how many square feet they ended up with in floor area not footprint.

Mr. Colucci stated 1970 square foot per floor.

Mr. Farmer had questions and concerns with the height of the proposed home.

Mr. Kellogg stated that they kept the elevations as low as possible but to have a safe ingress/egress with the driveway drove the first floor elevation where it is, and it worked out that the walk out elevation is where it is.

Mr. Dailey expressed his concerns with the height of the proposed home on the lake side and the integrity of the neighborhood.

Mr. Colucci stated "One of the things that we're cognitive of in the Lake Front Development Guidelines is that cottagey feel of Canandaigua Lake. Maintaining this accessory structure is really important to not only the character of the lakefront but also the character of this lot. Converting it over to an accessory structure verses a cottage helps with the desire to eliminate the dual residence position that this parcel has today. Mr. Fisher took a look at the Lake Front Development Guidelines, introduced the landscape material. The trees that are being planted replace the ash trees that were eliminated because they were either dead or dying is our effort to try to maintain that screening from the lake but also provide a view shed for the house, which is important for anyone who has a lakefront property they want to see the lake. But we're trying to make efforts to introduce some landscape material that buffers the lake to the residences."

Mr. Dailey stated "Understood, but I guess could you make that hip roof in the front where you're high there. Make it a little less dominate as you look from the lake."

Mr. Colucci stated that is part of the bedroom and would not have the functionality of that room.

The height of the home was discussed further.

Mr. Kellogg asked if there was some screening they could discuss, because they did get a variance for the height and lot coverage from the Zoning Board of Appeals.

Mr. Dailey stated that they have variances, but he still thinks it's the integrity of the neighborhood.

Mr. Kellogg stated that he agrees so he thinks the more productive area of discussion could be screening.

Mr. Colucci stated that as this board is aware when the Zoning Board grants those variances, they take into consideration the benefit sought by the applicant to the impact to the neighborhood. They go through those five criteria and their decision was that there is no negative impact, that eliminating the dangerous driveway, reducing the side yard for the current residence, which is 8 feet from the south property line. That the applicant demonstrated that there would be no negative impact to view shed for many of the surrounding residences and that they had mitigated to the best extent that they could to seek those variances. "Our goal was to look at from a planning perspective given that we do have the height variance and we do have the lot coverage variance now how do we deal with storm water."

Are we complying with the town's standards relative to storm water mitigation? Are we complying with town's standards as it relates to the Lake Front Development Guidelines given the allowable lot coverage and the height that we have? Our attempt was to show that with the introduction of the landscape plan with the introduction of some of the additional storm water mitigation features, a significant reduction in the width of the driveway. The driveway and the egress movement onto 364 truly is one of the paramount concerns that we have. And we wanted to eliminate that safety concern for people making an egress move and we also wanted to eliminate what you see very common along this stretch of 364, which is people parking on the shoulder of the road, which makes it very hard for any egress movements out of driveways and/or a lot of driveways that truly don't have a true definition they are just large swaths of people barely pulling the bumper off of the edge of the shoulder. So, I think this is a significant improvement. The existing detached garage sets partially in the right of way. Any parking in this area is truly that, a danger. There's the high rate of speed on 364, clear zone that this wouldn't afford a vehicle to be out of that clear zone the new driveway allows vehicles to be parked safely off the road and have safe ingress and egress movement."

Chairman Harvey stated that the landscaping plan is showing a couple of pillars that is not on the site plan. "Are they part of it? They certainly were not in the lot coverage calculations.

Mr. Colucci stated that they were just an idea that showed an opportunity to frame the driveway.

Chairman Harvey asked if they are on the plan or not.

Mr. Colucci stated that they are on the landscape plan. It was a way to show some interest to incorporated into the landscape plan.

Chairman Harvey stated that right now they are not on the site plan nor are they in the lot coverage calculation. "So, unless you reduce something else, they're not on the plan."

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

Mr. Farmer stated that the lake level is 689 so it is 11 foot drop from there to the lake. "So, it makes that house from the lake up 48 feet as far as I'm concerned. It is just too high from the lakeside. Plus, I think the elevation is higher yet. Because what it sounds like is you've built it up right there to his 710 from exiting. So, it doesn't really go nice and straight up like they show on the right side elevation."

Mr. Dailey asked how many feet between the garage doors and the second floor. He was wondering if they could shrink it down

as it looks like there is a large span between the garage doors and the second floor.

Mr. Colucci stated that there is just the depth of the required structural members. There is no way to reduce the floor joists.

Mrs. Rasmussen stated that she likes what they have done with the plan. "I commend you on improving the driveway. You're right, in that area it's hugely important to get cars off the road and to make that egress safe in good weather and bad is very important. I agree that if you took anything off the front that would make that house architecturally unsavory. It's a nice looking design. It's well thought out given the variances that they've been given. I personally think the landscapes a little cluttery, but I like that it's low. The majority of the things are low. It's very full."

Chairman Harvey stated that he applauds the rain garden and the materials in the rain garden.

Mrs. Rasmussen stated absolutely. "All the things we can keep from going into the lake all the better. So, thank you."

Chairman Harvey stated that the landscaping plan does follow the town's design guidelines.

A letter dated August 28, 2019, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

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

Mrs. Rasmussen 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. Hoover second the motion. Dailey & Farmer voted NAY. Harvey, Zimmerman, Hoover & Rasmussen voted AYE. Motion carried 4-2.

Ontario County Public Works made the following comments:

1. A foundation sleeve of at least 6 inches is required for Laterals that do not enter under slab.
2. Label 8 inch AC pipe on sewer main shown on drawing.
3. Label Northerly Manhole, 6-28.

4. If the current lateral and tap are to be reused it has to be televised and witnessed by District staff to determine viability for reuse.
5. If the current lateral is SDR-35 the same material can be reused if it has been deemed acceptable after televising. If not, it will need to be upgraded to 4 inch SDR-21.
6. Add cleanout required within 3 feet of the foundation.
7. Add trenching and bedding detail.
8. Add cleanout detail.

Chairman Harvey noted that from the 10/3/2019 plan there's been revisions to the grading around the west end of the retaining wall to address drainage concerns.

Chairman Harvey asked about the conversion of the lake front cottage to an accessory structure.

Mr. Colucci stated that there is no bedroom. They are looking to re-clad it to match the architecture of the house. Currently there is a screen porch on the south side that they are going to open up as a covered porch.

Chairman Harvey asked if it was going to have a kitchen in it.

Mr. DiMarco stated that it does have a bathroom and it does have a sink.

Mrs. DiMarco stated that it will have no stove but will have a refrigerator to keep drinks cold. There is a shower and they are taking that out. It will just have a sink and a toilet.

Chairman Harvey stated for the record that having a shower right next to the water is not a practically bad idea if it's hooked up to the sewer district.

Mr. Farmer asked if the electric is underground to the accessory structure and if it will be underground to the proposed home.

Mr. DiMarco stated that the electric to the accessory structure is currently underground.

Mr. Colucci stated that the existing home and to the home to the south is overhead from an existing service pole. Their proposal is to work with the neighbor to the south to put the electric underground and eliminate the service pole.

Mr. Zimmerman made a motion to approve the site plan with the following conditions: 1. Adhere to the 8 conditions set by Ontario County Public Works. 2. Revisions to the grading at the west end of the wall to move the drainage away from the edge of the wall to string out the intersection of the 698 and 699 contours at the end of the wall. 3. The electric utilities be underground. 4. That there be no stove or cooking apparatus in the accessory building. 5. Change the label from one story frame cottage on the lakeside to accessory building.

6. Pillars on the landscaping plan can remain if after the lot coverage is re-calculated it calculates to the lot coverage granted by the Zoning Board of Appeals. Mr. Hoover seconded the motion. Dailey & Farmer voted NAY. Harvey, Zimmerman, Hoover & Rasmussen voted AYE. Motion carried 4-2.

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

Chairman Harvey re-opened the public hearing that was adjourned on September 23, 2019, and the notice as it appeared in the official newspaper of the town was read. No one was present to represent the application. Chairman Harvey adjourned the public hearing to be re-opened on November 25, 2019, at 7:30PM in the Gorham Town Hall.

Application #18-2019, Robert Johnson, owner of property at 4989 County Road 11, 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.

The Zoning Board of Appeals has not granted any of the variances that were requested at this time.

Chairman Harvey asked if there were any comments from the public on this application. Hearing none, the public hearing was adjourned to be re-opened on November 25, 2019, at 7:30PM in the Gorham Town Hall.

Application #19-2019, Jonathan Kozuha, owner of property at 4634 Kearney Rd, requests site plan approval to build a 30' x 40' pole barn.

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

Fred Shelly & Dan Wolfe, BME Associates were present and presented the application to the board.

Mr. Shelly stated that they are looking for preliminary and final site plan for a 1200 square foot pole barn located approximately 180 feet from the road. It is located about 37 feet from the north boundary line of the property. They are proposing the extension of the existing driveway to the structure as well as a new curb cut onto Kearney Road.

Chairman Harvey asked if they were aware that the Town has an Access Management Local Law, which the new curb cut doesn't comply. There can be only one access unless they can show that they meet the driveway separation requirements based on the 35mph posted speed limit.

Mr. Shelly stated with that being said he will reconvene with the applicant and likely they will just extend the existing driveway back to the proposed structure.

Mr. Shelly stated that there are no proposed utility extensions with the project in regard to sanitary or water to the structure. There will be electric provided to the structure. It will be underground per town code.

Chairman Harvey stated that on the Short Environmental Assessment Form on line 13a it is checked yes for wetlands or other waterbodies regulated by a federal, state or local agency.

Mr. Shelly stated that he reviewed that and in reviewing the online inventory mapping he believes it is the properties to the west and north of this property. They have plenty of setback from those wetlands.

Chairman Harvey stated that the only issue is that he has to address storm water management, and, in this case, you will need to balance. They can't discharge more or less than what is naturally occurring presently from this area. They will need to show on the plan what they are going to do to detain on site and show how they are going to make up for the additional proposed impervious surfaces. They don't want to increase or decrease the flow to the wetlands.

Mr. Shelly stated that the proposed will be a metal sided pole barn.

James Morse, Code Enforcement Officer stated that it meets all zoning criteria.

Chairman Harvey asked if the proposed driveway was going to be paved or gravel.

Mr. Shelly stated that they have given an option for paved or gravel but initially it will be a gravel driveway.

Chairman Harvey stated that once they formalize the driveway, figure out where the drainage is going and compensate for it.

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

A letter dated October 15, 2019, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

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. Dailey 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. Mrs. Rasmussen second the motion, which carried unanimously.

Mrs. Rasmussen made a motion to approve the site plan with the following conditions: 1. Revise the site plan eliminating the second curb cut. 2. Revise the lot coverage calculations. 3. Indicate an infiltration site or some other mitigation for the additional discharge that will be created by the impervious surfaces without increasing or decreasing the discharge into the wetland areas. 4. Electric will be underground to the proposed pole barn. Mr. Zimmerman seconded the motion, which carried unanimously.

#### MISCELLANEOUS:

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 on the application was held on September 23, 2019, at 7:30PM in the Gorham Town Hall and was closed.

Rocco & Pat Venezia, Venezia Land Surveyors and Civil Engineers, was present and presented the application to the board.

The application was submitted to New York Office of Parks, Recreation and Historic Preservation on September 23, 2019. No response has been received from them at this time, which is over the 30 day response time.

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. Hoover second the motion, which carried unanimously.

Mr. Dailey questioned the height of the proposed home.

On the plan it states that the proposed home will be 32.6 feet in height. On this parcel the height of the home can be 35 feet.

Mr. Dailey questioned the lot coverage.

On the plan it states that the proposed lot coverage is 26.5%.

No variance was granted for lot coverage from the Zoning Board of Appeals.

Mr. Dailey questioned the lot coverage calculation because of what is built along the lake.

Mr. Venezia stated that what is built along the lake is not part of the applicant's land. It is on New York State land.

What is built past the high water mark is under the Docks and Moorings Local Law.

Mr. Dailey questioned the square footage of what is built past the high water mark.

Mr. Morse, Code Enforcement Officer stated that they received a permit and a Certificate of Compliance for all that was built beyond the high water mark.

Chairman Harvey made a motion to approve the site plan with following conditions: 1. Add and establish a diversion swale to grab the uphill drainage. 2. Calculate the lot coverage and revise the site plan showing the lot coverage at no more than 25%. Mrs. Rasmussen seconded the motion.

Mr. Dailey questioned why the board is not making them come back with a revised site plan showing the 25% lot coverage calculations.

Chairman Harvey explained that the Board has allowed changes to be made to a site plan without coming back to the board the next month. It is up to the board. As a board it is the boards right to establish conditions or require the applicant to come back with an amendment before the board.

Motion was made with Harvey, Zimmerman, Farmer, Rasmussen & Hoover voting Aye. Dailey voted NAY. Motion carried 5-1.

Mrs. Rasmussen questioned the fill that has been brought in and dumped on John Frost's property in Reeds Corners.

Chairman Harvey also questioned the fill that has been brought and dumped on Jeremy Thomas's property at the corner of State Rt. 245 and County Road 18.

Mrs. Rasmussen also questioned where the Town is with dealing with Proctors.

Mr. Morse stated that John Frost is supposed to be spreading the fill out on his property.

Chairman Harvey asked if that exceeds the soil erosion & sedimentation control local law.

Mr. Morse stated that it is not more than an acre.

Chairman Harvey stated that it doesn't have to be for the Town's Local Law.

Mr. Morse stated that BME Associates is working on a site plan for Proctors.

Mr. Hoover made a motion to adjourn the meeting at 9:25PM. Mr. Dailey seconded the motion, which carried unanimously.

---

Thomas P. Harvey, Chairman

---

Sue Yarger, Secretary