

MINUTES  
TOWN OF GORHAM ZONING BOARD OF APPEALS  
February 18, 2021

PRESENT: Chairman Bentley                      Mr. Coriddi  
          Mr. Amato                                 Mr. Morris  
          Mrs. Oliver                                Mr. Goodwin-Alternate

EXCUSED: Mr. Lonsberry                        Mr. Bishop

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mr. Goodwin-Alternate will participate and vote on all decisions tonight. The January 21, 2021, minutes were amended adding to the last paragraph on page 3 the following: "Roll Call was read with Bentley, Coriddi, Oliver, Bishop, Morris and Goodwin voting AYE. Amato was kicked off of the webex and could not get back on. Motion carried. Mr. Amato made a motion to approve the amended January 21, 2021, minutes. Mr. Goodwin seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #21-008, David McCarthy, owner of property at 4541 Maiden Ln, request an area variance to build a 16' x 30 garage addition. Proposed garage addition does not meet the side yard setback.

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

Chairman Bentley stated that in order for the board to continue with this application they must have a stamped drawing showing the lot coverage calculation.

Mr. Morris stated that the setback will need to be to the overhangs of the proposed addition.

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

A neighbor asked if the height would be part of the engineering architectural drawing.

Chairman Bentley stated that the height should also be shown on the drawing.

Mr. Amato made a motion to adjourn the public hearing to be re-opened March 18, 2021, at 7:00PM. Mr. Coriddi seconded the motion, which carried unanimously.

Application #21-012, Brent McConnell, owner of property at 5242 County Road 11, request an area variance to build a 15' x 30' two story residential addition. Proposed addition does not meet the setback from County Road 11 and Shale Beach Drive.

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

The application was referred to the Ontario County Planning Board.

The County Planning Board made the following comments: 1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot. 2. The applicant and referring agency are strongly encouraged to involve Canandaigua Lake or Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. 3. What erosion and sediment control measures will be installed to minimize impacts of steep slope disturbances? 4. What green infrastructure practices will be installed to minimize water quality and quantity impacts of additional lot coverage? Final Recommendation - With the exception of applications involving lakefront properties or encroachments to County owned right-of-ways described in AR Policy 5 Parts A and B, the CPB will make no formal recommendation to deny or approve applications involving one single family residential site, including home occupations.

Brent McConnell was present and presented his application to the board.

Mr. McConnell stated that there are two buildings on his property. His home and a detached garage. He is proposing an addition between the two buildings to connect them. The addition is 15' x 30' two story. The addition would serve as a living room, laundry room on the first floor and master bedroom on the second floor.

Chairman Bentley asked if there is living space above the detached garage.

Mr. McConnell stated no.

Mr. Morris asked if he considered moving the addition to the front face of the garage.

Mr. McConnell stated that he did it was actually the original intent. He still believes with the irregular lot he would still need a variance. With moving it there would have to be more excavation that would have to occur. And there would be more trees that would have to be removed. He also believes there is an old septic tank in that area.

Both Chairman Bentley and Mr. Amato also suggested moving the addition further from Shale Beach Drive.

Mr. McConnell stated that he would have to remove two trees if he moved the addition.

Mrs. Oliver stated her concern with possibly causing more drainage problems with moving the addition.

Mr. Morris asked what the size of the overhangs were going to be. The setback to the overhangs is what the board has to look at and grant the variances from.

Chairman Bentley stated that they would need the setback measurement from the overhangs before they could make a determination on the application.

Mr. Amato stated that he would like to see him look at ways to reduce the variance request.

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

Several e-mails expressing concerns with the application were received in the Zoning Office and were read. These will be kept in the file.

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

After discussing the application and reviewing the questions on the back of the application the following motion [attached hereto] was made: Chairman Bentley made a motion to deny the application as presented. Mr. Amato seconded the motion, which carried unanimously.

Application #21-016, Greg & Delia Kern, owners of property at 4194 State Rt. 364, request an area variance to build a single family home. Proposed single family home does not meet the side yard setbacks, rear yard setback, front yard setback and does not meet the lot coverage requirement. Public Hearing time 7:50PM to 8:10PM.

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

The application was referred to the Ontario County Planning Board.

The Ontario County Planning Board determined the application to be a Class 2. Their final recommendation was denial. The Ontario County Planning Board made the following 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.

Greg Kern and Brennan Marks, Marks Engineering were present and presented their application to the board.

Chairman Bentley explained to the board that he met Mr. & Mrs. Kern and Brennan Marks at the property. They are trying to make the lot somewhat more conforming. They are tearing the structure down and rebuilding bringing it in from the lot lines. What concerns him is the proximity of the neighbor's garage to the Kern's lot line.

Mr. Marks stated that the existing cottage is basically beyond repair. The existing structure is right up to the north and south property lines. The proposed structure is a 28' x 60' three bedroom house with an attached garage. They are replacing the new structure within the footprint of the old structure and adding a small addition on the southeast corner, which is for the attached garage. They will be 5.39 feet from the south line and 6.1 feet from the north line, 26.68 feet from the mean high water mark and 8.3 from the road. They are also asking for a variance for lot coverage and a variance for the 10 foot separation between structures. They are also asking for a lake side lot coverage variance.

Mr. Morris asked if the measurements were to the building foundation or to the overhangs.

Mr. Marks stated that they are to the foundation.

Mr. Morris stated that they need the measurements to the overhangs.

Mr. Marks stated that the overhangs on the proposed home is 6 inches.

Chairman Bentley asked what the existing lot coverage is.

Mr. Marks stated that the existing lot coverage is 53.07%. They are reducing the lot coverage to 45.16%

Mr. Amato asked how is the lot coverage being reduced.

Mr. Marks stated they are reducing the building area and some additional hardscapes are being removed.

Chairman Bentley stated that his biggest concern is the garage on the neighboring property being so close to the property line.

Mr. Kern stated that in conversation with the neighbor he is not interested in moving the garage.

Mr. Amato expressed his concern with them asking for a lot coverage variance and proposing an attached garage when they own a garage across the street.

Mr. Kern stated that they plan on having living space above the attached garage. They also want the attached garage for safety. This will be their full time residence and to walk from the garage across the street to the house in bad weather would not be in his wife's best interest.

Chairman Bentley stated that the lot coverage could be minimized if the garage across the street was removed.

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

Mike Horst owner of property south of this property, expressed his support with this project.

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

Jim Morse, Code Enforcement Officer explained that if variance are granted to build the proposed home they will have to meet the fire code for the separation from the neighboring garage. That side of the home will need to have a fire wall.

Chairman Bentley asked Mr. Morse if the Kern's would be able to build what they have existing with just administrative review.

Mr. Morse stated no and read the section in the code. 31.4.10 K 2a. Which reads as follows.

Property owners will be permitted to replicate the former footprint of the demolished dwelling if the following requirements are met: The dimensions of the proposed dwelling are the same as those of the original dwelling prior to demolition (habitable floor area, width, depth, etc.) The height of new structure must be in accordance with the maximum height established for this district.

The board reviewed the questions on the back of the application.

Mr. Goodwin stated that he believes it is a very large house on a very small lot, but there is no other way to build something on that property without some sort of concessions.

Mr. Amato stated that he believes there is room to reduce some of the variances requested.

Chairman Bentley stated that they are taking a bad situation and making it somewhat better. They are moving the house further off of both side property lines. They are not going further back than they already are today and they are moving further away from the lake. He also believes they have room to reduce some of the variances requested. He asked Mr. Kern if he would be willing to remove the garage across the street.

Mr. Kern stated that is one of the reasons they bought the property. He has English sport cars that he restores for himself, so he needs that room for that purpose.

Mr. Amato asked if the long driveway off of State Rt. 364 was included in the lot coverage.

Mr. Marks stated that it was. That driveway is also used by some of the neighbors.

Mr. Marks stated that he has had discussion with the Kern's, and they are willing to remove the driveway that comes in off of State Rt. 364, to reduce the lot coverage. They would put in grass in the area.

It was asked if other neighbors use that driveway.

Mr. Kern stated that until he bought the property there was a chain across the driveway.

Chairman Bentley stated he does not believe they would want to take up the asphalt and in the middle of winter drive down a muddy driveway and go into their garage.

Mr. Amato stated that they could reduce the house size to 24 feet reducing the side setbacks. And with the garage across the street they are asking for quite a large lot coverage variance.

Mr. Marks stated that the reason they are not going to 24 feet and are proposing 27 feet is so they can have a hall down the center of the house on the second floor.

Mr. Kern explained that they have done and gone through a lot in the last year to try and comply with the zoning laws. He feels they have done a good faith effort to go forward to put in something that is going to improve the neighborhood. Going to a 24 foot is not going to be conducive to living for them.

Chairman Bentley stated that they have done a good job making this less non-conforming but believes they could reduce the lot coverage a bit more.

Mr. Morris made a motion to adjourn the decision on the application to receive more clarified plans. Mr. Amato seconded the motion, which carried unanimously.

Application #21-017, Timothy & Mary Beth Anderson, owners of property at 4763 County Road 11, request an area variance to build a single family home. Proposed single family home does not meet the front yard setback, rear yard setback and does not meet the lot coverage requirement. Public Hearing time 8:15PM to 8:35PM.

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

The application was referred to the Ontario County Planning Board.

The Ontario County Planning Board determined the application to be a Class 2. Their final recommendation was denial. The Ontario County Planning Board made the following 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.

Timothy & Mary Beth Anderson and Anthony Venezia were present and presented their application to the board.

Mr. Venezia stated that the Anderson's bought this piece of property about 20 years ago and the home that was on the property was unsalvageable and was torn down. The new home is going to be placed in about the same location as the previous home. They will keep the existing driveway entrance. They have set the home back as far as they could to be able to get drainage around the back of the home. For drainage they are doing an underground system that goes under the driveway.

Mr. Amato asked how big the proposed home was going to be.

Mr. Anderson stated that the home is just over 2200 sq feet of living space on two levels with a two car garage underneath. The footprint is 1450 sq feet.

Chairman Bentley asked if they could move the home back 3 feet to meet the 30 feet from the road.

Mr. Venezia stated that the problem with moving it back 3 feet is it would mess with the ability to get a swale back there. The swale would have to be steeper and would be harder to maintain.

Mr. Anderson explained that when they bought this parcel about 20 years ago they had a vision to build a small retirement home on the property. They tried for many many years to buy additional property from the neighbor behind them and to the north. So, they decided to go ahead with the process of requesting variances to build on the property.

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

Mr. Amato stated that they could reduce the size of the elevated porch and meet the front setback.

Mr. Anderson stated that the elevated porch is 13' x 21'.

Mrs. Anderson stated that she wants it big enough to put a table and chairs on the porch to be able to eat out there with the family.

After discussing the application the following motion [attached hereto] was made: Chairman Bentley made a motion to grant a lot coverage variance of 4.4% for a lot coverage of 29.4%. A 19.9 foot rear yard variance for a setback of 10.1 foot setback on the southeast corner and a 17.7 foot rear yard variance for a setback of 12.3 foot setback on the northeast corner. A 3.3 foot front yard variance for a 26.7 foot setback. Mrs. Oliver seconded the motion, which carried unanimously.

Application #21-018, Douglas & Robnlyn Ketchum, owners of property at 4056 State Rt. 364, request an area variance to build a single family home and detached garage. Proposed single family home does not meet the side yard setbacks. Proposed detached garage does not meet the south side yard setback, the rear yard setback and exceeds the height of 14 feet. The proposal does not meet the lot coverage requirement. Public Hearing time 8:40PM to 9:00 PM.

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

The application was referred to the Ontario County Planning Board.

The Ontario County Planning Board determined the application to be a Class 2. Their final recommendation was denial. The Ontario County Planning Board made the following 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.

Douglas & Robnlyn Ketchum and Brennan Marks, Marks Engineering were present and presented their application to the board.

Mr. Marks stated that the application is for a tear down and rebuild of the existing residence and garage. The existing structure is 2 feet from the northern property line. It is dilapidated beyond repair. There is a large deck on the front a porch on the rear, walkway, and existing garage. These will all be removed, and a new structure will be constructed. With the new structure there will be a patio on the front. The house will be set at 32 feet from the mean high water, 5 feet from the north property line 12.2 feet from the south property line. The garage structure will be set 19.53 feet from the north, 5 feet from the road and 5 feet from the south property line. The existing garage encroaches over the south property line. Alternatively, the garage could exist as is and be interior remodeled. The proposed garage is planned to have a small, lofted recreation area so they are requesting a variance for height. The existing garage is 21.5 feet in height, and the proposed garage is 19.8 feet. If no variances are granted for the garage the applicants may consider renovating the structure as is. They are also requesting a lot coverage variance for the entire parcel. They are reducing the lot coverage from 52% to 48.9%.

Mr. Morris asked if the upper deck on the front falls within the 30 foot setback requirement.

Mr. Marks stated that it does meet the 30 foot setback requirement.

Mr. Morris questioned the patio that will be in the sewer easement.

Mr. Marks stated that they have talked to the sewer department and they are ok with it as long as it is not a hard structure and they will not be responsible to replace it if they have to dig in that area.

Chairman Bentley explained that his biggest concern is the height of the proposed garage and asked why they couldn't move it more towards the house.

Mr. Marks stated that they could move it to a maximum of 9 feet from the road. He also stated that if the applicants don't receive a height variance for the garage the existing garage will stay as is and be remodeled. As existing it is an eyesore and is encroaching on the south property line.

Chairman Bentley continued to explain his concern with the garage height and closeness to the road. It could be very dangerous backing out into the road. He made a suggestion to look at attaching the garage to the house.

Mr. Marks stated that with the elevation difference it would be difficult to attach the garage to the house. The further it is moved off of the road the higher the lot coverage will be.

Chairman stated that he respects that, but they also have to look at the safety. "This is my opinion. I would rather somebody be safe and be more compliant to be less compliant, if that makes sense."

Mr. Marks stated that if no variances are granted for the garage it will stay where it is. They can talk about moving it off the road for safety and they will work with lot coverage to reduce it to what is being proposed. The Ketchum's bought the property with this square footage and want to keep the same square footage to keep their investment.

Chairman Bentley suggested again that they connect the garage to the house. If they have an opportunity to make an unsafe situation safer they should take that opportunity. He would vote more for the safety of the people that live there and visit there.

Mr. Morris explained that the board has concerns when someone wants to put a second story above a garage because they become another living area, which is not allowed in the town code. That is one reason they shy away from having a two story garage.

Mrs. Ketchum stated that Mr. Morse shared his concern with having sanitary water in the second story. Presently the existing structure has a full bath and on the proposed garage they have cut it down to a water closet.

Mr. Morse, Code Enforcement Officer stated that they have to be concerned with the flood plain when rebuilding on this parcel.

Chairman Bentley asked if there were any comments from the public. Hearing none he made a motion to adjourn the hearing to be re-opened on March 18, 2021. Mrs. Oliver seconded the motion, which carried unanimously.

MISCELLANEOUS:

Mr. Morris made a motion to adjourn the meeting at 9:29PM. Mr. Goodwin seconded the motion, which carried unanimously.

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Michael Bentley, Chairman

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Sue Yarger, Secretary