

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
February 17, 2022

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

Chairman Bentley called the meeting to order at 7:00 PM and explained the process. Mr. Lonsberry made a motion to approve the December 16, 2021, minutes as presented. Mr. Bishop seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #22-006, Richard Hall, owner of property at 4881 County Rd 11, request an area variance to build a single family home. Proposed home does not meet the front yard setback off Arrowhead Dr. Public Hearing 7:00PM to 7:15PM.

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

Mr. & Mrs. Richard Hall and Peter Sarkis, Marks Engineering was present and presented the application to the board.

Mr. Hall stated that they were granted a variance about a year ago. The reason that they asked for that variance is because they were in favor in trying to save the barn. They also wanted to use their property to the best of their ability to have a view of a little bit of the lake. When the house was staked out they were amazed at how close it was to the barn. The barn is very high at two plus stories. They are hopeful that the house can be moved further back on the lot away from the barn to be able to see a little bit of the lake. Even moving the house back as far as they would like to they are still about 45 feet from the roadway. That part of the roadway is really only used by two or three houses.

Mr. Sarkis stated that they are proposing to have the house located 39.6' off the actual gravel on Arrowhead Drive to the east of the property. The setback to the road line is 35 feet so they feel that even though they are crossing the setback it's a moderately reasonable ask to shift it back and gain that extra elevation that will allow them to have a better view and space them further from the barn.

They are proposing to cross the 35 foot setback line by 20 feet leaving them 15 feet off of the road line.

Chairman Bentley asked how big the garage was.

Mr. Sarkis stated that the garage is 24' x 24'.

Mr. Amato stated that from his notes originally the roof elevation of the home was going to be 33 feet above grade and asked if this is correct.

Mr. Sarkis stated that sounds correct.

Mr. Amato asked what the roof elevation of the garage was going to be.

Mr. Sarkis stated that the garage roof will be lower than the house. He was unsure what the elevation of the garage roof was going to be.

Mr. Lonsberry asked if they had elevations of the home and garage.

Jim Morse, Code Enforcement Officer presented the elevations to the board that were given to the Zoning Department at an earlier date and were kept in the file.

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

A letter of concern from Peter & Rebecca Rulison, 4873 Arrowhead Drive was read and 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.

Chairman Bentley stated for the record so that the board understands the house at 4873 is two houses to the northeast.

Mr. Coriddi made a motion to grant the variance of 20 feet for a rear setback of 15 feet. Mrs. Oliver seconded the motion.

Chairman Bentley asked Mr. Coriddi to withdraw his motion.

Mr. Coriddi withdrew his motion.

Chairman Bentley stated that they need to make it clear that the condition of this variance is that the barn must remain on the property. The barn staying is contingent on these variances granted.

After discussing the application and reviewing the questions on the back of the application the following motion [attached hereto] was made: Mr. Coriddi made a motion to grant the variance of 20 feet for a rear setback of 15 feet maintaining all the other variances that were granted and the stipulations that were granted. The barn has to remain on the property. Mrs. Oliver seconded the motion. Roll call was read with Coriddi, Oliver, Amato, Lonsberry, Bishop, and Morris voting AYE. Chairman Bentley voting NAY. Motion carried.

Application #21-190, Sandhya Khurana, owner of property at 4124 Torrey Bch, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard setbacks, the rear yard setback, exceeds lot coverage, and exceeds the height of 22 feet. Public Hearing 7:20PM to 7:35PM.

The public hearing was opened 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 made the following findings.

1. Protection of water features is a stated goal of the CPB.
2. The Fingerlakes 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 the Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comments:

1. The referring body 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 Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures. Paul Morabito, Architect, was present and presented the application to the board.

Mr. Morabito stated that they have had the plans properly done since the meeting in December. They have considered the overhangs so that the lot coverage calculations now include the

overhangs. On the south they are looking to jog the house to keep the setback at 5 feet. There is no change to the roadside setback and lake side setback from the existing 2 story home. The north setback is at 5 feet, which is no change from the existing home. The south side is at 5 feet, which will include the deck. They are still seeking the height variance because to do a proper design the height will be at 24'6". The lot coverage is being reduce to just under 4%.

Chairman Bentley asked what they are asking for in lot coverage.

Mr. Morabito stated that the existing is 64.3% and the proposed is 60.9%.

Chairman Bentley asked what the lot coverage is for just the lake side of the parcel.

Mr. Morabito stated that the existing lot coverage on the lake side is 62.2% and the proposed is 57%.

Chairman Bentley stated that he has a lot of concerns with the proposal. His concern is that they still have this monstrosity of a deck on the front of the house. The deck is almost the same size as the house. As the County has stated this board is to grant only the minimum variance necessary. They are asking for 7 variances. If the house were moved forward removing some of the deck the rear yard variance could be eliminated.

Mr. Morabito stated that the neighbor to the north has an issue with the home moving towards the lake because it would block their view.

Mr. Bishop asked if there was something they could do to get the height down to the height limit.

Mr. Morabito stated that they would have to go with a lower pitched roof. They are proposing a 9 foot first floor and an 8 foot second floor with some sloping of the side walls along the lake side to keep the pitch at least at a 5, which they could go to 4 but it impacts the appearance of the overall structure.

Mr. Amato asked if they went to 4 on the roof pitch how much lower would the house be.

Mr. Morabito stated that he does not have that number.

Chairman Bentley stated that they can gain a foot on the first floor by going to an 8 foot ceiling.

Mr. Morabito stated that with a new build that they are going to spend a lot of money on nothing is built with an 8 foot ceiling on the first floor. If they couldn't get the height he would have to figure something out but maintaining a 9 foot first floor ceiling height is important.

Mr. Lonsberry asked if the customer was agreeable to reducing the front deck.

Mr. Morabito stated that they have discussed it and not so much. This property without a deck with the slope of the grade without a deck it is really unusable space.

Chairman Bentley again expressed his concerns with the size of the deck.

Mr. Morabito stated that his client is trying to leave the deck and not rebuild the deck and have extra expense with having to rebuild it. He is unsure how much more they could reduce the deck and have useable space.

Mr. Amato stated that he agrees with Chairman Bentley he does not like the size of the deck in relation to the house and the magnitude of the variances they are asking for. He also doesn't like the idea that the deck is right on the break wall. "In all reality you're asking to build a whole new house and your looking to keep the one thing that is really egregiously against the zoning laws. I'm also looking at the whole lot coverage. You're not doing anything to reduce your potential lot coverage for both properties. The shed is a potential area to reduce some lot coverage. And the gravel parking area is quite large compared to the size of that side and you could lose some lot coverage there as well."

Chairman Bentley stated it is a small lot. "What's there now we can't control. It's too big for this size lot. Building a new house with, I don't know how old that deck is, I can't reason with that. I would be more apt to look at a different avenue for me is if we reduce that deck and brought it back and then have storage underneath the deck potentially I don't know. Not going to tell you how to design it. I'm not an architect. I just think there's some areas to minimize these variances."

Mr. Morabito stated "lets say the deck is gone and something was rebuilt that was big enough to have, I mean that's where you are going to spend your time. That's where the water is that's why you have this house that's the whole point. If it's 20 x 20 its 400. We are reducing to 589, 189 square feet in the scheme of the lot coverage what percentage are we really gaining here?"

Chairman Bentley stated that he feels 20 x 20 is still too large for this lot.

Mr. Morabito stated, "that the size that would be useable for a dining table or lounging if we could get it up to reducing it 250 square feet the percentage of the lot coverage is not going to drop to a point where wow this is so much better."

Chairman Bentley stated it's an improvement.

Mr. Morabito stated that they are improving it now.

Chairman Bentley stated that you are asking for 6 variances, which some of them are existing. "That's duly noted. When you have a house in essences 800 square feet, just to round numbers, and a 600 square foot deck I think you can reduce it. You want my opinion on what size deck? I have a 14 x 50 deck and the 14 x 25 has ample enough room for 10 people to set at a table."

Mr. Morabito stated that "14 x 25 is about 400 square feet, which was the 20 x 20 example is 400 square feet, which is back to that doesn't move the needle that much. That's my whole point I get what you're saying I don't miss the point. It's just that where we're going with this is that any deck at all is almost to big. Reducing it to a size that's big enough to be useable is not really shifting our percentage of coverage down enough. Which brings us to full circle that we have this little dinky lot that were trying to make best use of."

Chairman Bentley stated that the deck has been a concern since day one.

Mr. Morris asked if they were going to have air conditioning to the house.

Mr. Kaul stated that they will have air conditioning.

Mr. Morris stated that it states that the AC unit is to be removed. "So where is the AC unit going to go and how may square feet."

James Morse, Code Enforcement Officer stated that the more popular ones are in the wall.

Mr. Lonsberry stated that he feels that the deck is too large and feels it can be reduced. He also has a concern with the height of the home. He feels that can be reduced as well.

Mr. Morris stated that the job of the board is to make sure that the variances needed are at bare minimum. He feels there is room to reduce the lot coverage so that there is not a lot of runoff into the lake.

Mr. Morabito stated that the house has a small first floor footprint so would not want to reduce the house at all. The deck exists so they were hoping to keep it at 5 feet off the side.

Mr. Amato stated that there are other places that they can reduce lot coverage.

Chairman Bentley asked if there any comments or concerns from the public.

Carol Steron 4126 Torrey Bch "I feel that Sandy has made a true effort to make it fit into our neighborhood. And especially next to me I'm very happy that there's extra green space between us that is not there. As far as the deck I think that kind of to be discretionary. It's not going to affect our side or your side the way it is now. I don't think that it looks out of place. They are actually making it smaller, which I appreciate because it's moving away from my property line. But I think they've been very thoughtful about reconstructing and making it fit into our neighborhood. They really want to be there. And I look at them as very positive neighbors that are being considerate. Even for the construction they don't want to begin until the fall so that we're not disturbed for that. And I personally think that the plans look great to me. And I was hesitant but I think the plans look very good. It's something that I would be very comfortable being there and having them as our neighbor. I would like to see they can grant them the opportunity to build the house. And I am defiantly in favor of it."

Carol Steron also wrote a letter in favor of the application and this will be kept in the file.

Renee Madara, 4122 Torrey Bch "I have to tell you I understand your concerns and your job. I find it quite fascinating. And I also, as Jim knows, we work very hard to preserve the lake and be good stewards of the lake ourselves. We try very hard to think about what we do with our property. Our property also is very small. We had the opportunity to build a home that we treasure every day. We would not be there if we weren't allowed to build because we had a seasonal cottage. We had the I guess grace of God to put a tree to crush it so that we had no choice and we didn't have to just decide voluntarily to take it down. But ultimately it got us where we are. As a neighbor as part of the community, we have a wonderful community on Torrey Beach. We're all very close. We're very supportive of each other. Our family has been there for 60 years. We've been through many neighbors. Part of the reason the house turns over as much as it does is because it's very old, it is very limited as what you can do in that place. There's rodents in there. It's old. It's not a place that you would want to spend a tremendous amount of time. I believe what Sandy and Vivek are looking for is to put a home that fits on the footprint with new materials. So that they don't have all those old cottage issues. I understand the concerns about the deck. We were there when the deck was built.

I also have concerns as a neighbor. If the house is not able to be improved if there's no way to improve this property then it will keep turning over. And eventually we'll get someone in there who rents it out as an Airbnb or something of the sort. That would be very bad for us. Very bad for our community. And we don't want that. We've gotten along with almost all of our neighbors. We've had one who's tested us and they're no longer there. We appreciate the fact that Sandy and Vivek did come to us. They did talk to us. They did take our concerns in mind. If the house moves forward it not only blocks our view to the south we're there year around, we're residents here, it takes our southernly light in the winter. Because that's the only sun we have in the winter. So we appreciate the fact that they didn't want to move the house forward. Because that would be detrimental to our property. The deck we've lived with the deck for a very long time. I understand your concerns and what you are charged with doing. But as far as an environmental issue I don't know how that's going to work. As far as support it doesn't matter to us the deck. Even if the deck is reduced the space doesn't get larger. It doesn't expand anything it doesn't enhance anything for us. So as far as we're concerned, I'll let my husband speak for himself, we approve of the property of the plans as they are proposed now. However you have to make it work with lessening the variances is certainly up to the board, but I would urge you to please consider the fact that at some point this house has to be able to be improved. And you have to let somebody have a home there. And as it stands now it is not possible."

Robert Madara, 4122 Torrey Bch "Much of what has been said I agree with all of it. I agree with Carol. As a community there's been a lot of conversation about that. I have to say that Sandy and Vivek have put in the most communicative sincere effort to build within the spirit of the community. They don't want to over build. They don't want an ostentatious place. They don't want to put 10lbs in a 5lb bag. They worked very very hard towards that. And I appreciate that effort immensely. I think that it would be such an asset to remove that house in its present condition and put in what they're proposing. I think it would fit within the community. I think aesthetically it would be fine. It wouldn't look out of place. It wouldn't be to big. When we built the lots are pie shape. We are narrow front wide in back and they are wide in front narrow in back. That poses tremendous challenges on both lots to get anything done in that case.

For example if you squared those lots up both of our houses could have been approved far easier and with fewer variances. I agree overall within the community that house has needed to go for a long time. And I don't mean that it's an eyesore because it's not. It's really a cute cottage, but it's uninhabitable for the most part. I mean the wind and rain and the rodents and everything else it's just past its time. So I also would agree very strongly that I think the effort that's been put forth here is genuine and sincere and I would like to see them have an opportunity to build a house they could live in."

Mr. Amato asked the Madaras if their home is a one story above grade with a walkout.

Mrs. Madara stated that is correct they did not get a height variance.

Mr. Madara stated that the way their lot was constructed it was almost mandatory that it was a walkout because with the grade. Their break wall is to a level that they couldn't build a lot up there. They couldn't reduce the lot on the top side. So they had to go with a walkout.

Carol Stern "I do agree that we need to have something that house can be stabilized as the rest of the neighborhood is. There's very little turn over on our street. And I worry every single time that house was sold that someone was going to come in and use it as a rental property. I really feel much more secure that Sandy and her family is willing to appreciate it. They're looking for it as a rest bed just as I bought what I did 15-16 years ago for my family and friends. I can appreciate what they want. They just want to be able to enjoy the sunsets like we do. It really is not a very compatible situation for someone to live in right now. The upstairs is really very challenging. And I think that the plans look like it will defiantly enhance the property on our street. So I do urge you and I can appreciate all your concerns and the fact that you want to keep Canandaigua to high standards and so do we. But I think that Sandy's plans will do that."

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

Chairman Bentley explained again that the deck was a concern to him. In doing some math he feels that the deck could be reduced and the lot coverage could be reduced to about 56%.

Mr. Morabito stated that since this is such a small property there is no chance they are getting any where near conforming properly. He doesn't want to be back in front of the board every month trying to figure out where the sweet spot is. He appreciates the guidance that he has gotten from the board. The shed on the other side of the road they need to keep for storage since they don't have a garage. The gravel parking area makes for a better than a couple mud strips for a car. He express his concern with coming back with a smaller deck and then the board having a problem with something else.

Chairman Bentley stated that he doesn't think that is the way this board operates. He feels that the board is very transparent and sometimes people don't like what they have to say. He feels that the height can be reduced and the deck could be reduced.

Vivek Kaul, Sandhya Khurana's husband, "Thank you for the deliberation tonight. As you can see from December we've come along way. You've heard both of the neighbors. Minor correction the neighbors did not say that the deck is an eyesore. They actually don't care. The issue with the deck is that it's not built as one square piece. So we have not factored touching, rebuilding, or remodeling the deck in the budget. There's not an unlimited amount of funds here for hard work salary people. As you just heard the topography of the land doesn't allow for an easy remodeling of the deck. A decrement from 580 to 375 I think is from my prospective a very large decrease and as Paul mentioned we're there for a reason most of the time enjoyment is spent outside. So from every perspective it's an unfair burden on us to address the deck at this point. Now we have done every effort every measure that was asked for that's why it took two months to come to this point. The only thing is I think if we can reduce the deck just about enough and maybe reduce some other areas, we've already reduced the 5 feet setback, what accommodation could we reach where we could not break our bank here? The remodeling to the level that you're asking with this deck will be very costly and not a happy situation for us. So we expect you to look at it fairly and reasonably and really that was not part of our plan. So I think if we have to make a decision within 60 days, we don't have recourse to another discussion I would plead you guys to look at it a little more fairly and see what's fair for us because we don't have a million dollars to spend on this."

Mr. Amato asked about the height of the home and if it changed from the first submission.

Mr. Kaul stated that it was 26 feet and it is 24.6 feet now.

Mr. Amato asked if the area across the street has changed.

Mr. Morabito stated that the shed is really required since there is no garage.

Mr. Amato stated that the only thing that is changed is moving the deck in 5 feet.

Mr. Morabito stated that they have also reduced the footprint of the house.

Mr. Kaul stated that they also redid the survey and confirmed the highwater mark and all of the things that were brought up last month.

Sandhya Khurana "The house the way it is right now is not useable. Our main goal is just to fix it. But it can't be fixed until it can be built again because the foundation is not adequate to support a rebuild. The house itself I think it will be more costly and less sustainable long term if we were to just try to fix it. So we're feeling like we're kind of caught here because we bought this in good faith wanting to use it. And also if we can make a decision soon then that gives us time to..."

Mr. Kaul "It takes time away from our patients from the hospital. This is a lot of work and at the end of the day it doesn't help anybody."

Ms. Khurana "With the construction it's going to put us into the winter again if we can't get to some resolutions."

Mr. Coriddi "I would say that I applaud you guys. I mean you guys have overcome some challenges that we saw the last time you were here from neighbors. And I think that you've at least made in good faith some effort to reduce."

Mr. Kaul stated that they were hoping for a decision tonight that would be favorable.

Chairman Bentley stated that the board does not rush to make any decision. They want to get it right. He applauded them for what they have done so far. He explained that what the board has done along the lake front have been fair and consistent.

Chairman Bentley made a motion to adjourn the decision on the application. Mr. Amato seconded the motion, which carried unanimously.

Application #21-179, Amy Costanzo, owner of property at 4620 Lake Drive, requests an area variance to build a single family home. Proposed home does not meet the north and south side yard setbacks, the front yard setback, and exceeds the height of 26 feet.

The applicant has asked that the hearing on the application be adjourned until next month.

Chairman Bentley stated that if the applicant does not present at the March 17, 2022, meeting they will need to reapply.

Chairman Bentley made a motion to adjourn the meeting at 8:52PM. Mr. Bishop seconded the motion, which carried. unanimously.

Michael Bentley, Chairman

Sue Yarger, Secretary