

# *Town of Gorham*

4736 South Street  
Gorham, New York 1461

## **ZONING BOARD OF APPEALS**

**Thursday, July 17, 2025 7:00 p.m.**

### **MINUTES—Approved**

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*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.*

**Board Members Present:**

Mike Bentley, *Chairperson*  
Charles Goodwin  
Alan Bishop  
Tom Amato  
Ed Kaiser  
Mary Ellen Oliver  
Ben Smith, *Alternate*

**Board Members Excused:**

Steve Coriddi

**Staff Present:**

James Morse, Town of Gorham Code Enforcement Officer

**Applicants Present:**

Jay Palermo, JC Concepts Inc.  
Emily DeGraff, JC Concepts Inc.  
Lynn Bianco, 4192 State Route 364

**Others Present:**

Gail Kaiser

**Via Zoom:**

Paul Greco, 4186 State Route 364

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## **1. MEETING OPENING**

The meeting was called to order at 7:03 p.m. by Mr. Bentley.

Mr. Bentley stated I am the Chairperson for the Zoning Board of Appeals for the Town of Gorham. This is the meeting for the month of July 2025. Minutes of each meeting are recorded and the vote of every member is recorded as well. The jurisdiction of the ZBA is limited to appellate review only. Before we can make a decision or hear an application, there first must be a determination made by the Zoning Officer. Town Law 267-B says that we can reverse, modify or affirm any decision of the Zoning Officer. There's five questions that you have submitted on your application that we will go over before any determination is made and just for the record that if four out of those five are a yes then it is a motion for an automatic denial. The ZBA in the granting of area variances shall grant the minimum variance that it shall deem necessary if a variance is granted and it is written to protect the character of the neighborhood, health, safety, and welfare of the community. In attendance tonight is Ben Smith, Ed Kaiser, Mary Ellen Oliver, Charlie Goodwin, Alan Bishop, and Tom Amato.

## 2. APPROVAL OF MINUTES OF MAY 15, 2025

■ A motion was made by MR. BISHOP, seconded by MR. GOODWIN, that the minutes of the MAY 15, 2025 meeting be approved.

Motion carried by voice vote with all present voting aye.

## 3. LEGAL NOTICE

**NOTICE IS HEREBY GIVEN** that a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Gorham on the 17th day of July 2025 commencing at 7:00 p.m. at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following application:

**ZBA #3-2025: JC CONCEPTS INC. 65 SOUTH MAIN STREET, CANANDAIGUA, NEW YORK, 14424:** Requests a variance in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting a front setback of 10.7 feet from the north corner of the proposed motorized pergola to the mean high water mark where thirty feet is required and a front setback of 7.8 feet from the south corner of the proposed motorized pergola to the mean high water mark where thirty feet is required. The variance is to allow the installation of a motorized pergola over an existing deck. The property is located at 4192 State Route 364 and is zoned LFO Lake Front Overlay and R-1 Residential.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Michael Bentley, Chairperson  
Zoning Board of Appeals

## 4. NEW PUBLIC HEARING

**ZBA #3-2025: JC CONCEPTS INC. 65 SOUTH MAIN STREET, CANANDAIGUA, NEW YORK, 14424:** Requests a variance in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The applicant is requesting a front setback of 10.7 feet from the north corner of the proposed motorized pergola to the mean high water mark where thirty feet is required and a front setback of 7.8 feet from the south corner of the proposed motorized pergola to the mean high water mark where thirty feet is required. The variance is to allow the installation of a motorized pergola over an existing deck. The property is located at 4192 State Route 364 and is zoned LFO Lake Front Overlay and R-1 Residential.

Mr. Bentley said I reviewed this. If you can go over what you would like to do. I don't know what a motorized pergola is.

Jay Palermo, JC Concepts Inc, said this product is called Azenco. A motorized pergola is a pergola when it's closed its flat and it has a **\*\*inaudible\*\*** system and a gutter system. This is the one piece gutter right here. When it is open it is allowing natural light to come into the house. Right now currently in front of her house there is no shade protection on the east side of the lake and what we are trying to propose is something that is minimally impactful without higher roof lines or an awning that would have over a 36" drop from top to bottom. This is the impact on the view coming from north, south and west. The post itself is just a 6x6 post. Not much larger than a standard deck post. Our louver, which is on a pivot, which will be going perpendicular to the house, it's an 8" louver and when it opens up it's going to shine light through and when it's raining out this will be closed allowing shade to be coming into the house that we recently renovated the inside of.

Mr. Bentley said thank you for that explanation.

Mr. Palermo said we have some pictures as well just for sight lines and what knot.

Mr. Bentley said I saw the pictures and in one of the pictures I saw the fan or what I think is the fan.

Mr. Palermo said that is one that we did in another project. If you have been to Kix on Main that rooftop up there is one that we built. When it's nice out they have it all open and in the wintertime they close it all up. It is very similar just a different brand.

Mr. Bentley said ok. Does anybody have any questions?

Mr. Smith said question #2 on here it says semipermanent, what makes it semipermanent?

Mr. Palermo said it's a bolt together kit that can be unassembled.

Mr. Smith said so you can take it apart if you really wanted to?



Mr. Palermo said yes, for sure. The frame itself will pull together with about thirty two bolts and there are some corner brackets that go inside. If you want to take it down it's very easy to do. The gutter system at the house is called a super gutter. It replaces the soffit and the overhang of the current house. It will actually pull it back to the house instead of having that eighteen inch overhang it's going to come back flush to the house collecting the water from the roof and that super gutter will drain to the existing drain points of what it is.

Mr. Amato said you said the post is 6x6, correct?

Mr. Palermo said yes.

Mr. Amato said what is the dimension of these eaves?

Mr. Palermo said that is fourteen inches from the bottom of the one piece gutter to the top is fourteen inches. We are also an awning dealer and when I did the calculations of a roof mount awning as an option at a twelve foot projection we are going to have a thirty six inch drop of recommended pitch from our summer space awning recommendation.

Mr. Kaiser said this is sitting right on top of the current deck? It's not going any closer to the lake?

Mr. Palermo said yes, same footprint of the current deck.

Mr. Kaiser said Jim, is it safe to assume they already have variances for the deck?

Mr. Morse said we discovered mid to late last year under Lakefront Overlay there is a provision in there that allows decks to be built with zero foot front setback providing that all side and rear setbacks are maintained but it says no other structures, like roofs, which is why they are here for a variance for that.

Mr. Bentley said but I don't think that would apply for this one, that zero foot setback, because there are other variances on this property.

Mr. Morse said no, they didn't do anything. This was just a remodel of the interior part of the house.

Mr. Bentley said understood but today's standards it is a very small postage size lot.

Mr. Morse said the only thing that is really in question is the roof. The deck I took care of because it is in the code section.

Mr. Bentley said right, ok.

Mr. Smith said if they were to use a retractable awning, would that need a variance?

Mr. Morse said no, that is not within the definition of a structure.

Mr. Palermo said it wouldn't be as attractive.

Mr. Morse said to be honest with you, if this was something from Costco that you went out and bought, it is really kind of a grey area whether or not it even needs one.

Mr. Bentley said that's what I was wondering.

Mr. Kaiser said so the eaves are at eight feet plus or minus and I think the top of the current gutter was at eight feet two inches and you are proposing for it to be two feet taller.

Mr. Palermo said no, the bottom of the gutter will be at the level of the existing gutter but sucked back to the house. That eighteen inch overhang gets removed and a super gutter gets installed which is a 7 3/8's gutter from this manufacturer and that is our structural load point attaching to the house. Then from there it is just a fourteen inch frame going up.

Mr. Kaiser said which puts it at ten feet. According to your drawing 120 inches.

Mr. Palermo said in those drawings you have to put in the calculation for the post height and those get cut down in the field.

Mr. Kaiser said it says post height is 106 and roof height 120.

Mr. Palermo said at the current we are at eight foot two inches plus fourteen inches which would be nine foot four inches to the top.

Mr. Kaiser said so sixteen inches lower than what you are proposing here.

Mr. Palermo said yes.

Mr. Kaiser said that helps with the letter that we received. Are you going to share that Mike?

Mr. Bentley said I will have Sarah read this. Any other questions from the Board?

Mr. Palermo passed some pictures for the Board to review showing lines of sight from the lakeside.

Mr. Palermo said we have done work on multiple properties in that area. You will see the two cottages to the right are much smaller and those gutter lines line up and they have shade protection to the north and south side. We were trying to put something on the front of Ms. Bianco's house that was elegant, looking the part, but not too impactful because we are trying to be cognitive of the neighbors. The view shed is important to all of us. That is why we proposed doing a product like this instead of a roof or something

because it would be almost impossible to get that approval anyway. I just didn't think it was going to add to the character of the house.

Mr. Kaiser said it would have been much taller at the ridge too.

Mr. Palermo said oh yeah, we were almost at thirteen foot two ridge height when I did the math that's why she came to my showroom in Canandaigua and saw the product and we explained the operation of it, useability of it and the warranty. Economically it is the same cost per square foot as a conventionally framed roof. This is only seven pounds per square foot compared to a live load of thirty five pounds in a framed structure. The louvers are only going to be about ten foot six inches by time you're done because of how small the footprint is.

Mr. Kaiser said is there an ability to enclose this then?

Mr. Palermo said we do motorized drop shades on it. Summer space is another product that we offer. We just installed some of these panels to the south. It is a two inch frame, aluminum. Rochester Colonial sells the same one. It's glass and screens. If there was a time where we get the opportunity of closing anything in either to drop that shade for the westside sunset or to get more of a bug free zone in this area it would be lakeside. The option would be to do a motorized drop shade which has a six inch impact and on the north and south elevation would be our summer space porch enclosure which would be a solid glass door with a two inch frame.

Mr. Kaiser said is that part of this proposal?

Mr. Palermo said at this point right now our approval right now is going for the shade protection on the roof only and we know we will have to come back for any additional walls.

Ms. Bianco said I think it is important to say the intent down the road if I enclose it would be to use all clear shades. I wouldn't be looking to do blocking shades it would literally be an all clear enclosure.

Mr. Kaiser said so a vinyl curtain.

Mr. Palermo said we have both vinyl windows and screens so we have those options. We are trying to minimize the impact of any view shed coming from any north or south neighbor but also give her the protection and reprieve that she doesn't have at this point.

Mr. Kaiser said that sunset gets hot.

Mr. Palermo said after the renovation in the inside we are definitely seeing that impact of the sun beating through those six windows and that sliding glass door.

Mr. Amato said but you do have plans to enclose it eventually?



Ms. Bianco said hopefully.

Mr. Bentley said enclose it or drop shades?

Mr. Palermo said drop shades.

Ms. Bianco said nothing permanent. The intent is to have a space that maintains the integrity of the lake and the view for everyone. For my family and for everyone around. The intent, for me personally, is for me to move down here permanently without creating a big monster of a house and tearing mine down. I have been trying to maintain my integrity of what I had. Hopefully, if we can, get some screens down the road if we can get to the point where we are ok with what we are talking about tonight. We would hope to do screens and any shades we do would keep visual clearance and openness so if I'm in my house I can with the front being all glass to keep that visual view of the lake.

Mr. Bentley said any other questions? Hearing none I am going to open the public hearing. Mr. Greco, I have a letter from you that Sarah will read if everybody hasn't had the opportunity to read it. This was sent out Monday or Tuesday to the Board, so we were able to read it. If you would like to speak just say your name and your relevance of location and your address please and thank you.

Mr. Greco said I am the neighbor at 4186. Yes, I did send a letter to the Board either Monday or Tuesday. I understand that letter will be read but I have a few more comments after the letter if I am permitted as such.

Mr. Bentley said you can go ahead now if you would like or we can read the letter it's totally up to you.

Mr. Greco said as a neighbor to the house at 4192 it is quite disappointing to see the differences in zoning laws between new construction and construction on existing properties. For example, next door I have been witnessing continuous ongoing construction front and rear that utilizes almost the entire lakeside footprint including the conversion of an old roadside garage into additional living space and the very recent construction of a new deck that is just a few feet away from the front lakeside water barrier wall. Now with the two variances that are seeking Board approval construction of the pergola would further promote the building inconsistencies of new versus existing structures. It's most likely that building a deck on 4192 would never have been permitted if it was for new construction. From our point of view if these variances are approved and permitting a pergola be constructed a large part of our southern view will be blocked and through approval consequently failed to recognize or address inconsistencies or inequities between new and existing construction. Actually approving the variance encourages homeowners of existing structures to maximize their front **\*\*inaudible\*\*** as a disadvantage to their surrounding neighbors. As you know the southern view down the lake is spectacular and it would be very disappointing to permit surrounding neighboring views blocked by approving these variances that are requested. For these reasons we respectfully request

these two variances be denied. Second, obviously, there is a plan for screening and shades and that is going to be that much more of a block. If you sit in my kitchen you can see nothing but that pergola from some of the windows facing out of the kitchen. The “comstruck” is all the way up the front of water wall. That’s it. Of course, my letter as well.

Mr. Bentley said we are going to read that Mr. Greco. Thank you for your sentiments. As long as the public hearing is open if you would like to speak just let me know and I will allow you. Did everyone have a chance to read the letter?

All Board members present responded yes.

Mr. Bentley said perfect, your concerns are duly noted Mr. Greco. Anyone else? Hearing none, I will close the public hearing. Alright, discussion of the Board.

Mr. Bishop said my point of view is, originally when I looked at this I thought the posts were going to be outside the existing deck.

Mr. Bentley said that was my concern.

Mr. Bishop said right but since it is on the deck, similar to what Jim said, if you got one from Costco you wouldn’t need any kind of variance. We aren’t getting any closer to the lake than we already are.

Mr. Bentley said and furthermore I am going to address some of Mr. Greco’s concerns. What I was trying to say earlier is there is a variation of new construction and existing because the way the code reads is if you don’t tear down more than 50% of your home you can remodel, reconstruct, etc. Then with the deck, what I was saying earlier, is this house today if it were to be submitted for variances to rebuild this house today you would have to have several variances in order to construct this house. To the point I was saying earlier, is that you would not be able to add a deck to zero foot frontage if you were constructing it because you had other variances. If you don’t have other variances on a home that you want to do a new build on then you would be able to move that to zero foot from the seawall.

Mr. Morse said I will expand on that a little bit too, Mike, because the code is the way that it is. If you look at the difference between the new construction verses the rebuilds and you can see just in that photograph the difference of impact when there’s a new build verses a remodel. The houses that are being remodeled, in a lot of cases, are cottages and are single story. The ones that are coming in for new construction are two story and garages. I’m not trying to defend the code because we are going to do code updates, and we noted your concern on that, but that is one of the main reasons why it was written the way it was because I did question the guy who wrote it.

Mr. Bentley said right and that’s where I was going to go with it. The eastside of the lake, and we are fortunate to be able to have new construction homes such as the one you



built Mr. Greco to the north of this property, but the character of the neighborhood is cottages for the most part of that little nook there. You go from the Kern's and then right down to the Smith's and they have two cottages. You would never be able to build a two story home on your property and you are trying to preserve the cottage aspect and the character of the neighborhood which I applaud. I was 100% concerned with this application seeing that, that's why I asked where this was from, seeing that the post was on the outside of the deck and I thought this deck doesn't even look like this deck. That is all I have as far as concerns and conversations and you clarified that. Anything else from the Board?

Mr. Kaiser said I was originally concerned with the height of it but being that you dropped it down to 104" from 120" and that is a substantial drop which takes some of the view issues out of play for the neighbor next door I would think.

Mr. Bentley said I'll say something about this, Ed, and I have always said this and it offends some people and it doesn't offend others but if you have a home on the lake you've got view. If you have a home on the lake you pay for that lake frontage, and I am going to put this on record, and it really really really concerns me that you have a home on the lake and I am not referring to you Mr. Greco and you get variances or exceptions for your property but you don't want your neighbors to have the same substance that you have for a variance.

Mr. Palermo said originally when we did the renovation on the inside we had a landing coming down and the proposal was to put in a patio lower, so dropping it down the 18-20" and having it ground level concrete but she had severe flooding. She had her patio area that was just steppingstones from the original builder of the cottage and it wiped out her firepit, her gardens, her dirt so there is a lot of water coming down through there which wasn't there prior to the northside commencement. We raised it up so she got out of that water issue and now its hot so that's why we are here asking for the rooftop.

Mr. Smith said I have one more question. What will the proposed railing on the existing deck be? Spinals?

Mr. Palermo said it is currently a glass railing. It's a two inch top rail, one inch bottom rail and a four inch slot rail with four inch **\*\*inaudible\*\*** facing between so it is completely transparent. It is actually going to remain because what we wanted to do was the posts were going to be going inline. We laid out the posts in accordance to this center post is going to be replaced with the six inch post instead of the two inch post, corner post, corner post, and then the railing tied back into it so there is no reconstructing of the railings.

Ms. Bianco said and the one thing I do want to say in response is the shed/garage that I redid because it was dilapidated and falling down.

Mr. Bentley said is it living space?

Ms. Bianco said it is not living space. I have my bicycles in there, some weights, and a refrigerator in there right now. I have no intent on sleeping in my little shack/shed or whatever you want to call it. It is not living space it has my bicycles in it.

Mr. Bentley said if you do have the intent to make it living space you could not.

Ms. Bianco said I have no intent on that.

Mr. Bentley said just for the record.

Ms. Bianco said I am not going to live in there nor am I putting my children in there.

Mr. Amato said I do have a question and this is for Jim. If we were to approve this and let's say fifteen years in the future this is damaged and they want to replace it with some type of a permanent roof structure are we approving that then too?

Mr. Morse said you can approve this design. You can grant the variance based on this pergola that is being presented if you are nervous about somebody coming back and doing a zero foot setback.

Mr. Bentley said then it is no longer a deck.

Mr. Amato said we are approving this.

Mr. Morse said you are approving a pergola. You are not approving a porch roof. A porch roof is different if you are thinking it can be wood built later because you approved this. You are approving a motorized pergola. Now if it got damaged and they wanted to replace it then they could replace it with a motorized pergola.

Mr. Bentley said or a non-motorized pergola.

Mr. Morse said we are going to clarify a lot of this. We are working through a different situation right now but when we actually start meeting for the code update we will clarify some of this. We do need to clarify this because I have another issue almost identical to this on County Road 11. Definitions need to be more specific in the code.

Mr. Bentley said any further comments? Hearing none let's move on to our five questions starting with Ben and ending with Tom.

TOWN OF GORHAM  
ZONING BOARD OF APPEALS  
P.O. BOX 224  
GORHAM, NEW YORK 14461

#### **RESOLUTION FORMAT FOR VARIANCES:**



**WHEREAS**, application ZBA #3-2025 was received by the Secretary to Planning and Zoning Department from JC Concepts Inc, representing the owner of the property at 4192 State Route 364 with tax map #127.11-1-43.000, on May 20, 2025, requesting two front setback variances to install a motorized pergola; and,

**WHEREAS**, said application was denied by the Code Enforcement Officer for the Town of Gorham on the basis that the proposed motorized pergola does not meet the front setback requirements; and,

**WHEREAS**, the Town of Gorham Zoning Board of Appeals has determined this application to be a Type II Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations, and as a Type II Action, no further review under SEQR was required; and,

**WHEREAS**, said application to the Town of Gorham Zoning Board of Appeals was not required to be referred to the Ontario County Planning Board; and,

**WHEREAS**, a Public Hearing was duly called for and was published in the official newspaper of the Town on July 10, 2025; and,

**WHEREAS**, a Public Hearing was held on July 17, 2025 at which time all those who desired to be heard were heard; and,

**WHEREAS**, on July 17, 2025 after viewing the premises and after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Gorham Zoning Board of Appeals made the following findings of fact:

**For an Area Variance:**

That an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the variance.

That the benefit sought by the applicant cannot be achieved by some feasible method other than a variance.

That the requested variance is not substantial.

That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created.

**DECISION/CONDITIONS**

**NOW, THEREFORE BE IT RESOLVED** that Mr. Bentley made a motion to approve the application as submitted other than duly noted that it will be 104” not 120” common height

at the house and in the event that this is damaged in the future it can only be replaced with a motorized or a non-motorized pergola on the same footprint as the deck is today with no further extensions to the deck. That motion was seconded by Mr. Kaiser and Mr. Bentley requested a roll call vote:

Mr. Smith	Aye
Mr. Kaiser	Aye
Ms. Oliver	Aye
Mr. Goodwin	Aye
Mr. Bishop	Aye
Mr. Amato	Aye
Mr. Bentley	Aye

The motion carried.

**5. MISCELLANEOUS**

**NONE**

**6. NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals will tentatively be held on Thursday, September 18, 2025 at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

**7. ADJOURNMENT**

■ A motion was made by MR. BENTLEY, seconded by MR. AMATO that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:34 p.m.

Respectfully submitted,



Michael Bentley

Chairperson of the Zoning Board of Appeals