

MINUTES
TOWN OF GORHAM ZONING BOARD OF APPEALS
April 21, 2016

PRESENT: Mr. Johnson Mr. Markell
 Mr. Farrell Mr. Bentley
 Mrs. Oliver Mr. Airth
 Ms. Hoover-Alternate

EXCUSED: Chairman Hoover

Mr. Johnson called the meeting to order at 7:30 PM. Ms. Hoover, Alternate member will be acting on all applications. Mr. Markell made a motion to approve the minutes of the February 18, 2016, meeting. Mrs. Oliver seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #15-167, John J. Manila, owner of property at 5220 & 5222 Long Point Rd, requests an area variance to build a residential addition. Proposed addition does not meet the front yard setback and exceeds lot coverage.

The applicant asked that the public hearing be adjourned to be re-opened on May 19, 2016.

Application #16-025, David & Cheryl Waldman, owners of property at 4572 Lake Drive, requests an area variance to tear down an existing single family home and build a new single family home. Proposed home does not meet the north and south side yard setbacks.

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

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.

David & Cheryl Waldman & Rocco Venezia, Land Surveyor, was present and presented the application to the board.

Mr. Venezia stated that they proposing a new home that will meet the required height. The lot coverage has been reduced. They will be removing the existing paved driveway and putting in a smaller paved drive just in front of the garage. They meet the front setback, which is 30 feet they are going to be 60.9 feet. They meet the rear yard setback at 30.6 feet. They are looking for a 6.9 foot setback on the south side and a 6.4 foot setback on the northeast corner and 11.9 foot setback on the northwest corner.

Mr. Farrell asked about the access on the north side to the boat launch.

Mr. Venezia stated that that will be lawn down that side of the property.

Mrs. Waldman stated that now it is stone and part of it will become landscaped. There still will be access to the water so Sharon Kehoe, owner to the north will still have her access to the water.

Mrs. Waldman stated that the way the existing porch is there is no way anyone can back a trailer down to the launch to launch a boat.

Mr. Venezia stated for the record that the County's findings had a lot do with lot coverage. "We are actually reducing lot coverage so I'm not quite sure why they didn't give us credit for that."

Mr. Johnson asked if there were any comments from the public.

Pat Atkinson asked if the proposed house is smaller than the existing house.

Mr. Johnson stated that it is larger, but with the elimination of the paved driveway and hardscape brought down the lot coverage.

Dewey Fladd presented pictures of a fence that is partly on the Crystal Beach Betterment Association property. He requested that the fence issue be addressed during this process, because the fence is falling down and it is on the deeded right of way property.

John Fladd explained the history of this area. That right of way was established during the steam boat days. The right of way went through their kin folk's farm, which was on the corner of Cottage City and East Lake Road. This right of way has been built up on the side the Waldman's own and they have a lousy fence there that is not on the proper line.

Mrs. Waldman stated that they bought the property with the fence there. They did not build or put it there.

John Fladd stated that they would like a fence that they could see up the lake to the north.

Bob Fladd explained the history of how the concrete patio was built. He explained that the previous property owner built the property up. "It hasn't been a big issue, but with the floods that we have been having. There's a creek that comes down the Cottage City Road and the other creek just south of that has been flooding more recently. When that happens it actually comes down Cottage City Road it goes down their property, which they've had issues. That little lane way that they are going to close off on the north side is actually an escape for the water. The rest of it comes right down our right of way."

Mr. Farrell stated that he thinks it is worth the ZBA's time to understand a little bit about the right of way. "Because it is my since that Canandaigua Lake unlike some of the other Finger Lakes has very limited public access to the lake. Let me see if I understand. Your concern is the appearance of the fence. You are also concerned; the property line itself doesn't have integrity relative to the fence. You would like the fence to give those who are using the public access of your community the ability to look toward the northern part of the lake. Is that right?

Several responded yes.

Mr. Farrell asked who owns the right of way.

Randy Ross, President of the Crystal Beach Betterment Assoc., stated that the Betterment Assoc. and the Waldman's own it jointly. "Crystal Beach gave each family right of way and I think Cottage City owns a portion of it. Doesn't it Bob?"

Several responded no. Rocco stated that he could not find the ownership, but he believes the Betterment Association owns it.

Mr. Waldman stated that they would like to replace the fence and put it right on the property line, not two feet in like the town code states, because their lawyer told them that that will create a title issue. Another thing they are considering is putting up a tree line.

Mr. Johnson stated that has nothing to do with this variance proposal. The fence being on the Betterment Association property is a legal problem it is not a ZBA problem.

Suzanne Craugh stated the other huge problem is water, the runoff and the drainage. "I live at 4576 Lake Drive. My house is flooded all the time from the runoff that comes off of Cottage City Road and it funnels right past everybody's house."

Mr. Johnson stated that the water comes off Cottage City Road and into all the properties. It doesn't come off of this property.

Ms. Craugh stated that she believes that the grading on his property is an issue.

Mr. Waldman stated that the drainage is from the culvert coming down the road. "We can show you pictures of the drainage coming down the culvert down the road, which is the big problem. It has nothing to do with our property."

Gordon Freida, Town of Gorham Code Enforcement Officer stated that the drainage will be address during site plan approval with the Planning Board.

Donna Fladd asked if the Waldman's were asking for a height variance.

Mr. Johnson stated that they are not. They meet the height limit.

Mr. Bob Fladd asked about the elevation of the property.

Mr. Venezia stated that they are showing no grading changes except on the rear and it is just enough to slope the driveway up to the house. In the front there are no grading changes.

Mr. Johnson stated that the drainage will be addressed by the Planning Board. So if you want to address the drainage you will need to go to the Planning Board meeting.

Ms. Craugh stated that she has to agree with the County. "Variances are made for a reason and they're asking to cut the variance in half on both sides. I think that's wrong."

Mr. Waldman stated that the variances that they are asking for are less than what is there today. The house today sets right on the property line.

Mr. John Fladd questioned why they didn't try to build it to 10 feet or whatever the requirement is.

Ms. Suzanne Cavanaugh stated let's stick to the rules here, especially when it is a waterfront, drainage nightmare. "I have a question. If you say right now that you're not doing the driveway you're kind of compensating that area with being stone in the driveway is that to say that they can't just pave it?"

Mr. Johnson stated no. "I'm saying the new driveway is figured into the new lot coverage, which is less than the lot coverage that is there now."

Ms. Cavanaugh asked what prevents them from paving it in the future.

Mr. Johnson stated that the old driveway will be gone. It will be lawn. The gravel and pavement have to go away.

Mr. Bentley explained that if they were to put in more paved driveway than was approved they could be made to take it out.

Mr. Venezia stated that they have moved the building over away from the south property line 7 feet. They have enough room there to put in arborvitaes, which is his recommendation to get rid of the fence and put in arborvitaes.

Several people in the public did not like this idea, because that would eliminate their view.

Mr. Venezia stated that when they got to the lake they could tether it back, but right by the house he does not understand why the public needs to see into the house.

Mr. John Fladd stated that he does not have a problem with them putting shrubbery near their house, but when you get to the front yard of the lake we want to be able to look either way.

Ms. Hoover asked if this is a legal issue why this hasn't been dealt with, because that fence is not what we're here for it's a legal issue why hasn't it been dealt with in civil court beforehand.

Mr. Dewey Fladd stated that they ask that the board would look at an issue of the public who is upset over this issue. "We don't know who to talk to so we're talking to you. How can we address this non-conforming of the fence?"

The board suggested that they call an attorney.

Mr. Johnson asked if there were any more comments. Hearing none, the public hearing was closed.

After discussing and reviewing the questions on the back of the application the following motion was made [attached hereto]: Ms. Hoover made a motion to grant a variance of 8.1' for a setback of 6.9' on the south side and 8.6' variance for a setback of 6.4' on the north side. Mr. Johnson seconded the motion. Roll Call was read. Hoover, Johnson, Airth, Markell, & Oliver voting AYE. Farrell & Bentley voting NAY. Motion passed. (5-2).

Mr. Airth made a motion to adjourn the meeting at 8:44PM. Mr. Markell seconded the motion, which carried unanimously.

William Johnson, Vice Chairman

Sue Yarger, Secretary