

# Town of Gorham

4736 South Street  
Gorham, New York 1461

## ZONING BOARD OF APPEALS

Thursday, December 19, 2024 7:00 p.m.

### MINUTES—Approved

*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*  
Alan Bishop  
Charles Goodwin  
Tom Amato  
Steve Coriddi  
Victor Lonsberry  
Mary Ellen Oliver  
Ed Kaiser, *Alternate*

**Board Members Excused:**

**Staff Present:**

James Morse, Town of Gorham Code Enforcement Officer

**Applicant Present:**

Brennan Marks, Marks Engineering  
Kevin Lightfoote, 3932 Co Rd 17  
Jim Capuano, Contractor 4124 Torrey Beach  
Scott Harter, Professional Engineer 4124 Torrey Beach

**Others Present:**

Gail Kaiser, 4202 State Route 364  
Douglas Lightfoote, 3090 Depew Rd  
Fred Lightfoote, 3090 Depew Rd  
Ben Smith, 4082 Kearney Rd

**Via Zoom:**

Vivek Kaul, 4124 Torrey Beach

## 1. MEETING OPENING

The meeting was called to order at 7:04 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 December 2024. 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 must be first 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 each of 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 the application will be made for a motion for denial and the application will be denied based off of the Town law. 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 Ed Kaiser, Tom Amato, Steve Coriddi, Vic Lonsberry, Mary Ellen Oliver, Alan Bishop and Charlie Goodwin.

## 2. APPROVAL OF MINUTES OF NOVEMBER 21, 2024

■ A motion was made by MR. LONSBERRY, seconded by MR. CORIDDI, that the minutes of the NOVEMBER 21, 2024, meeting be approved.

Motion carried by voice vote with all present voting aye.

## 3. LEGAL NOTICE

**NOTICE IS HEREBY GIVEN** that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Gorham on the 19<sup>th</sup> day of December 2024 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 applications:

**ZBA #55-2024: MARKS ENGINEERING 4303 ROUTES 5&20, CANANDAIGUA, NEW YORK, 14424:** Requests area variances in accordance to Article IV Section 31.4.1 C1 of the Town of Gorham Zoning Local Law. The applicant is requesting area variances for minimum required lot area creating Lot 1 at .655 acres where two (2) acres is required and Lot 2 at 1.860 acres where two (2) acres is required. The applicant is also requesting an area variance for the depth of 172 feet on Lot 2 where 200 feet is required. The property is located at 3932 County Road 17 and is zoned FP Farmland Priority.

**MODIFICATION TO VARIANCE GRANTED FOR ZBA #21-190: SANDHYA KHURANA 4124 TORREY BEACH, CANANDAIGUA, NEW YORK, 14424:** Requests modification to area variances granted for side yard setbacks and front yard setbacks in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local

Law. The property is located at 4124 Torrey Beach and is zoned R1 Residential and LFO Lakefront Overlay District.

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. PUBLIC HEARINGS

**MODIFICATION TO VARIANCE GRANTED FOR ZBA #21-190: SANDHYA KHURANA 4124 TORREY BEACH, CANANDAIGUA, NEW YORK, 14424:** Requests modification to area variances granted for side yard setbacks and front yard setbacks in accordance to Article IV Section 31.4.10 of the Town of Gorham Zoning Local Law. The property is located at 4124 Torrey Beach and is zoned R1 Residential and LFO Lakefront Overlay District.

Mr. Bentley said I am going to do this a little backwards tonight. This is a carryover and we discussed this last month. I am going to open the public hearing if anybody wants to speak on behalf of this application please raise your hand and I will give you the floor. Would anyone like to speak? Hearing none, I will close the public hearing. It was five feet correct on the original variance?

Mr. Morse said I circled in red and wrote what was approved versus what is there. If I put "ok" it means it met the setback.

Mr. Morse then reviewed on the submitted site plan the differences between what was granted and what the as-built shows.

Mr. Bentley so really what we discussed last month, as I recall, was the corner. Now we are back to this corner, this corner, 21.5 feet to the mean high water mark so we have a foot and a half variance there.

Mr. Lonsberry said this notation of lot is 57.6 that is the current coverage when 56.2 is approved, is that correct?

Mr. Morse said yes and that is why I made the note about adding the new gravel area.

Mr. Bentley said but that new gravel area is coming out if I remember correctly.

Mr. Harter said correct. The builder put straw over it to start promoting vegetation on it.

Mr. Amato said will that bring it down to the 56.2?

Mr. Harter said yes.

Mr. Lonsberry said ok, so then there is nothing we have to worry about then.

Mr. Morse said no, it's just the couple setbacks.

Mr. Lonsberry said so those three setbacks.

Mr. Morse yes, and like I said, the only one that was of significance was the one from the lake. The other ones were an inch and two inches, which are insignificant in my opinion but we still have to do it this way.

Mr. Bentley said so the deck is actually smaller than what we approved. Is that what I'm reading?

Mr. Harter said no, I think the deck is pretty spot on from what you approved.

Mr. Bentley said what is the 24.3?

Mr. Harter said for the deck measurement, is that what you are talking about?

Mr. Bentley said yes.

Mr. Harter said that would be on our as-built that would be the twenty three feet that you see on the deck plus the 1.4 on the other side of the stairs. The stairs were shifted from the southerly position a little bit north by 1.4 feet. So if you take the twenty three feet and the 1.4 you get the 24.4. Were we 24.3 for the deck measurement?

Mr. Morse said yes that is what I wrote, so it is three inches longer. Like I said, other than to the lake, you are talking an inch or two here or there. In order to do things the right way I wanted to make sure you guys were aware of the things that were different.

Mr. Bentley said for clarity and for the record if we take that gravel area out because you were approved for 49.6 on the lakeside, correct?

Mr. Harter said total lot coverage on the lakeside was 49.6 and it measures 53% so that was due to the gravel that we have been speaking about.

Mr. Bentley said part of the gravel because if you've added a total of what looks like a foot to foot and a half it is going to change the overall lot coverage. Am I presuming that to be correct?

Mr. Harter said adding a foot and a half of lot coverage?

Mr. Bentley said we added an inch here and three inches here so that is four more inches and then added an additional foot so we are up to a foot and a half.

Mr. Harter said no we didn't add a foot to the deck.

Mr. Bentley said so then explain to me because we approved twenty three feet.

Mr. Harter said you approved 24.3.

Mr. Harter then reviewed the dimensions on the site plan with Mr. Bentley and the Board.

Mr. Bentley said what is the 1.4, Scott? Explain that to me.

Mr. Harter said that is the area south of the steps. The steps weren't taken out all the way to the end of the deck the steps are off.

Mr. Bentley said so you are below.

Mr. Harter said so we are within a tenth of a foot of what the 23.4 was.

Mr. Bentley said am I reading that correctly, Jim?

Mr. Harter said if you look at the original drawing that was done the steps were put to the southerly point on the deck. The steps were just shifted 1.4 feet further to the north but the overall length of the deck did not change. The steps were just moved 1.4 feet in that direction but the overall length stayed the same.

Mr. Bentley said so we approved 24.3 and it is at 23.

Mr. Harter said you approved 24.3 and it is at 24.4 not including the steps. The steps are 4.4 additional to that and it is shown. I can get our original drawing to show you if you would like me to show you that.

Mr. Capuano said what we tried to do was get the existing concrete steps that came off from the frontage.

Mr. Bentley said so the deck measures 24.3.

Mr. Harter said I need to call up and show you the drawing that was approved because I think that is important to see.

Mr. Morse reviewed with Mr. Bentley the original plan that was submitted for the variance.

Mr. Harter said before we were going to put the steps over here on the southside but because of what Jim just said they bumped them this way.

Mr. Bentley said I believe we cut this deck down from the original drawing.

Mr. Harter said from what was originally proposed I believe so but this is what we ended up with.

Mr. Morse then reviewed then changes from the original to the as-built with the Board.

Mr. Bentley said so the deck is 11.7 in depth, correct?

Mr. Harter said yes.

Mr. Bentley said so you are at 21.5 when you were approved at 23.1, correct?

Mr. Harter said that is the Board's interpretation, correct.

Mr. Bentley said so in reality you are 9.8 feet away from the mean high water mark.

Mr. Harter said not to make this more complicated then this is seaming to be but the 11.7 is not measured from the eave it is measured from the actual house itself.

Mr. Bentley said is it a foot eave?

Mr. Harter said no it is roughly half a foot.

Mr. Bentley said I'm not going to argue over five inches. So in reality, Jim, because the way this was written he was approved at 23.5 and he is at 9.8 because normally the deck has to be thirty feet from the mean high water mark. If I recall previously this was about three feet from the old deck from the mean high water mark. It was right on top of the concrete wall.

Mr. Morse said if you look at the proposed on the one I gave you this is a huge improvement.

Mr. Bentley said they brought it back.

Mr. Harter said the old deck extended to the break wall.

Mr. Bentley said I think for the purpose of clarity we need to nullify the 21.5 and take that to 9.8.

Mr. Morse said to the corner of the deck. I would specify that because then they will turn it into living space. I would specify to the deck and to the house.

Mr. Bentley said are there any questions from anyone?

Mr. Amato said the only question I have is to the lot coverage and this is just splitting hairs. Since that corner of the house is one and a half foot closer to the lake then we had planned on and it goes to the southern point, wouldn't that be additional lot coverage not figured in?

Mr. Bentley said yes. That was my question earlier.

Mr. Harter said when we did the lot coverage calculations we used our drawings that you currently see before you. The number 9.8, or whatever the number turns out to be based on discussion, is what you think is the correct number. The truth of the matter is the deck and the house were built extremely close to what the figure is shown on the drawings here. We would have had to change our calculations from this 9.8, for example, in order to really increase the coverage that I think you are asking about.

Mr. Bentley said to word it a different way, we approved 49.6%. We've added to the deck. We've added to the house. It is literally splitting hairs but is for the calculations purposes. This pad is about ten by five, is that about right?

Mr. Harter said for the gravel area, if that is what you are referring to, that sounds about right.

Mr. Morse said there might be even a little bit more in that area.

Mr. Bentley said let's just say in the sake of forgiveness it's sixty five square feet. What is the total here?

Mr. Morse said he is at 57.6% now.

Mr. Bentley said what is the square footage of the lakeside?

Mr. Morse said according to the as-built he sent to you he is at 53%.

Mr. Bentley said if you take out the gravel it is going to be 49.7% so it will go up by five hundredth of a percent. So it is nothing drastic.

Ms. Oliver said is that what they built or what it was previously?

Mr. Bentley said it's what they built. It will take it up a tenth of a percent on the lakeside.

Mr. Morse said which technically you don't have to vote on because they are allowed up to 50% on the lakeside. It does not need to be a part of the conditions. You need to do the overall lot coverage difference and modify the three setbacks.

Mr. Bentley said any further questions? Hearing none, I am going to make a motion that we modify the approved variances for this property and the modification is as follows:

1. 56.31% which is an increase from 56.2% lot coverage for both lots
2. 9.8 feet to the mean high water mark from the northwest corner of the deck
3. 21.4 feet to the mean high water mark to the northwest corner of the house
4. Decreasing the northwest corner of the house from 5.1 feet to 5.0 feet
5. Decreasing the southwest corner of the house from 5.8 feet to 5.6 feet
6. Approving the deck which now extends the house by 1.4 feet to 24.4 feet from 23 feet

Which is all as submitted and the gravel must be removed in it's totality of the area that is to the south of the house extending beyond the deck and no further hardscapes can be put in on this property because you will then be exceeding your lot coverage. This will be null and void if you put any hardscapes on this property what's so ever.

The above motion was seconded by Mr. Lonsberry and the following roll call vote was recorded:

Mr. Amato	Aye
Mr. Coriddi	Aye
Mr. Lonsberry	Aye
Ms. Oliver	Aye
Mr. Bishop	Aye
Mr. Goodwin	Aye
Mr. Bentley	Aye

Motion carried.

**ZBA #55-2024: MARKS ENGINEERING 4303 ROUTES 5&20, CANANDAIGUA, NEW YORK, 14424:** Requests area variances in accordance to Article IV Section 31.4.1 C1 of the Town of Gorham Zoning Local Law. The applicant is requesting area variances for minimum required lot area creating Lot 1 at .655 acres where two (2) acres is required and Lot 2 at 1.860 acres where two (2) acres is required. The applicant is also requesting an area variance for the depth of 172 feet on Lot 2 where 200 feet is required . The property is located at 3932 County Road 17 and is zoned FP Farmland Priority.

Mr. Bentley said did everyone get a chance to go look at this property and was anybody confused? Okay, so I am going to privy you with some information momentarily. Do you want to share with everybody what your intent is here because I have been aware of this application for maybe nine months.

Mr. Marks said we have a lot that currently Kevin and Sarah live on the corner of Depew and County Road 17 in an existing residence. The property is joined across the road to the barns and the silo to that parcel. It is all one piece even though it is divided currently by County Road 17. The application is to divide it at the road into two lots. Both lots will be undersized per the zoning code. The intent is to construct a house on Lot #2 which will be on the eastern side of the road with the barns.

Mr. Bentley said were there any questions on that?

Mr. Bishop said what will happen to the original house?

Mr. Marks said it's going to stay.

Mr. Bentley said Jim and I discussed this maybe six to nine months ago and wanted my opinion. As you all know this is not a cheap process. I don't know when County Road



17 was built but it is difficult to have the same property on different sides of the road. I will stand behind what I said then and I will stand behind what I am going to say now and that is I don't have an issue separating it into two pieces of property because of the road. In reality if you took the road into play as part of the property then the variance requested would be minimal.

Mr. Marks said I think Fred has a few things he'd like to add.

Fred Lightfoote said it is good to see everyone. I am Fred Lightfoote and I am Kevin's father. I am also the past Supervisor here. I own farmland adjacent to the parcel in question as well as a residence adjacent to that parcel. I am a partner of Lightland Farms which farms the farmland completely surrounding the parcel really. We have been in business for over 172 years. We have four new partners coming on in 2025, so we are not going anywhere. Farmland is very important to our operation. The parent parcel beyond that and the parcel contained within the County Ag District, Town of Gorham's Priority District are two important things. Water District is number one because that is making it less of an issue with the parcels being undersized. One main reason why we have parcels of a certain size is because if you have to have a septic system and a well on the same parcel you have to have space to properly space them apart. That itself brings some comfort to the fact that these would be under two acres. If we would want to hold everything strictly and by the book to two acres that runs counter really to what the Town, County and State protection efforts are trying to accomplish, in this case, with no real benefit insight. There is no way to make a second if the current septic system were to fail for the residence that is currently there. You can't pump it under County Road 17. County Road 17 is a wide road and it is heavily traveled. To answer your question, Mike, the road has been there more than 200 years because it was Robson Road before it was County Road 17. As Mike has already said this is a commonsense approach to allow for growth within the Town and in the Ag District without taking up additional farmland. This area within the confines of what the second parcel would be then is an old pasture basically. My farm has been using it as an equipment yard but Kevin and Sarah want to build there, so we have other places we can do that. It is not really impacting agriculture per say. When I was Supervisor I tried mightily not just with this but other things as far as code goes looking at things like how we can better try and address some of these more unique cases such as this. There are others out there like this and completely different which we really can't address which is the whole reason you guys are here is to look at the more unique things.

Mr. Bentley said thank you on the clarity on that. Any questions for Brennan or Kevin?

Mr. Kaiser said will there be a well for this?

Mr. Marks said no it will be connected to water.

Mr. Kaiser said the only reason I am asking is because this came up last night at the Town Board meeting because this is part of the water line extension. Will it be extended farther for this house?

Kevin Lightfoote said no it is actually on both sides.

**\*\*inaudible conversation\*\***

Fred Lightfoote said County Road 17 is an extension but it is called District 6. It was expanded on twenty years ago so the current residences that are there are part of District 1 but it depends on where they tie into really. It is either District 1 or it might have to be District 6, which adds some complexity to it for the Town. It would add to the cost for the applicant because then they have to share paying off the bond for what the cost of what District 6 was.

Mr. Bentley said so it will still be on septic though, right?

Kevin Lightfoote said yes.

Mr. Bentley said so both places will still be on septic. Is the current residence on well?

Kevin Lightfoote said municipal.

Mr. Marks said it's funny because the tax map says that it is in Water District 1.

Mr. Morse said they are working on that right now to fix all of those.

Fred Lightfoote said it is all District 1 but a lot of the paperwork in the past says District 6.

Mr. Morse said I just want to add that this did go to the County and they have be objections to this. The only comments they had were for the Planning Board.

Mr. Bentley said I am going to open the public hearing. Does anyone wish to speak about this application? Hearing none I am going to close the public hearing. Is there any discussion from the Board?

Mr. Bishop said the parcel is naturally separated by the road already.

Ms. Oliver says it seems like the best way to handle the situation.

Mr. Amato said the only other option would be is to lose some farmland which **\*\*inaudible\*\***.

Mr. Goodwin said it is a logical use of the property, I think.

Mr. Bentley said technically you don't need to separate it but you want to build a residence on the other side of the road and you can't have two residences on the same piece of property.

Ms. Oliver said and potentially you might want to sell one of those residences.

Douglas Lightfoote said I am Kevin's younger brother and if the plans should be approved we are in talks that I would purchase that existing house and move into that.

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

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

**RESOLUTION FORMAT FOR VARIANCES:**

**WHEREAS**, application ZBA #55-2024 was received by the Secretary to Planning and Zoning Department from Kevin Lightfoote & Sarah Boyce, owners of the property at 3932 County Road 17 with tax map #115.00-1-24.111, on November 8, 2024, requesting lot size variances and lot depth variances to build a single family residence; and,

**WHEREAS**, said application was denied by the Code Enforcement Officer for the Town of Gorham on the basis that the proposed lots do not meet the size and depth 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 SEQRA was required; and,

**WHEREAS**, said application to the Town of Gorham Zoning Board of Appeals was required to be referred to the Ontario County Planning Board; and,

**WHEREAS**, Public Hearing was duly called for and was published in the official newspaper of the Town on December 12, 2024; and,

**WHEREAS**, Public Hearings were held on December 19, 2024 at which time all those who desired to be heard were heard; and,

**WHEREAS**, on December 19, 2024 after viewing the premises and after reviewing the file, the testimony given at the Public Hearings 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 substantial.

That the proposed variances 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. Lonsberry made a motion to grant the variances as submitted. That motion was seconded by Ms. Oliver and the following roll call vote was recorded:

Mr. Amato	AYE
Mr. Coriddi	AYE
Mr. Lonsberry	AYE
Ms. Oliver	AYE
Mr. Bishop	AYE
Mr. Goodwin	AYE
Mr. Bentley	AYE

The motion carried.

**5. MISCELLANEOUS**

Mr. Morse said with Vic resigning from the Board Ed will move from alternate to member of the Board.

**6. NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, January 16, 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. LONSBERRY that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:47 p.m.

Respectfully submitted,

  
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Michael Bentley  
Chairperson of the Zoning Board of Appeals