

**TOWN OF GORHAM
BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 21, 2017**

The Gorham Zoning Board of Appeals held a regular monthly meeting on September 21, 2017 at 6:30 pm in the Council Chambers at the Gorham Municipal Center.

Present; Chairperson Mark Curtis, Board Members; Charles Haws, Thomas Hughes, Christine Hume, Jan Labrecque, David Toye, Code Enforcement Officer, Freeman Abbott, Town Lawyer Mark Bower representing the Board and Deputy Town Clerk, Paula Nystrom. Absent: Alton Shurtleff. There were 3 people from the public in attendance.

Moved by Charles Haws, seconded by Jan Labrecque and VOTED to accept the August 17, 2017 meeting minutes as printed and distributed. VOTED 6 yeas

Appeal #17-10 Mr. Fred Panico, Trustee and petitioner is seeking a 200' (two hundred foot) road frontage variance for the property located at 85 Eagle Cove Road (Map 73 Lot 6). The subject property is located in the Rural (R) zoning district with an overlay of Shoreland Zoning (SZ) and Resource Protection Zone (RP). The lot is also located in the Flood Zone.

Mr. Panico spoke on his behalf reading a letter he had sent to the Board of Appeals July 24, 2017 with his plans and supporting documents for the variance. He gave a brief history of the property and how he attained it in 1990 as well.

Public Hearing: Chairperson Curtis opened up the floor for public hearing with no comments. Public hearing was closed.

Discussion: Chairperson Curtis asked for comments from Mr. Bower, lawyer for the Board, from a legal stand point on the variance. He confirmed that the 200' area cannot be used for frontage that is why this is a variance from Zoning Space Standards. If the variance was granted the space standard would not be met and that would create another variance that would be required for a Private Way if the property is sold for the new owner.

Thomas Hughes spoke that this area of development on Eagle Cove Road has never been before the Planning Board which makes it a tough decision as structures have been built without many permits needed. From a safety point he feels that the area cannot accommodate safety equipment down the road should it be needed for a fire or emergency.

Chairperson Curtis indicated that the lot has existed prior to new zoning standards up until 1982 without any properly filed permits and paperwork for building new structures. The space standards need to be met as of today Codes he indicated.

Per the Flood Zone issue Mr. Panico said he contacted a surveyor and he said it was not in a flood zone. Chairperson Curtis comments that we cannot rule on this point because it is not a part of this appeal but he should contact his surveyor again to get actual paperwork needed for this to have with his background.

Christine Hume asked and it was confirmed that this is not a legal subdivision on Eagle Cove Road.

FINDINGS OF FACTS:

The Board reviewed the following criteria for the appeal resulting in the following Finding of Facts:

1. The land in question can yield a reasonable return if the variance is granted.

Moved by Charles Haws, Seconded by Thomas Hughes. After discussion from Mark Bowers regarding the wording of the Findings of Facts and the definition of what a “reasonable return” should be Charles Haws amended his motion.

The land in question cannot yield a reasonable return unless a variance is granted.

Moved by Charles Haws, Seconded by Thomas Hughes and VOTED 1 yea (Jan Labrecque), 5 nays

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. All properties in that area are subject to meeting the frontage requirements therefore Mr. Panico’s lot would not be the only lot in development to do so.

Moved by Charles Haws, Seconded by Jan Labrecque and VOTED 1 yea (Jan Labrecque), 5 nays.

3. The granting of a variance will not alter the essential character of the locality.

Moved by Christine Hume, Seconded by Jan Labrecque and VOTED 4 yeas, 2 nays (Charles Haws and Jan Labrecque)

4. The hardship is not the result of action taken by the applicant or a prior owner. The hardship was created with the changing of the Ordinances over time and not the result of the owner.

Moved by Thomas Hughes, Seconded by David Toye and VOTED 6 yeas.

CONCLUSIONS

Based on the Finding of Facts the Board of Appeals makes the following conclusions:

Moved to deny the appeal as the Variance criteria was not met as set forth in the Zoning Regulations of the Gorham Land Use and Development Code.

Moved by Thomas Hughes, Seconded by David Toye. VOTED 6 yeas.

Motion to adjourn.

Moved by Charles Haws, seconded by David Toye. VOTED to Adjourn. 6 yeas.

Time of adjournment 7:35 pm.

A TRUE RECORD OF MEETING

Attest:

Paula Nystrom, Deputy Town Clerk