

**TOWN OF GORHAM
BOARD OF APPEALS
MEETING MINUTES
NOVEMBER 16, 2017**

The Gorham Zoning Board of Appeals held a regular monthly meeting on November 16, 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, Alton Shurtleff, David Toye, Code Enforcement Officer, Freeman Abbott, Town Lawyer Natalie Burns representing the Code Enforcement Officer and Michael Hill from Monaghan Leahy, LLP representing the Board of Appeals and Deputy Town Clerk, Paula Nystrom. There was one person from the public in attendance.

Moved by Jan Labrecque, seconded by Thomas Hughes and VOTED to accept the September 21, 2017 meeting minutes as printed and distributed. VOTED 7 yeas

Appeal #17-11 Ms. Susan Duchaine, petitioner is seeking an Administrative Appeal of the Code Enforcement Officer's determination letter dated September 15, 2017 on grandfathered/non-conforming uses on the property located at 560 Main Street, Gorham (Map 32 Lot 24). The subject property is located in a Commercial Office District.

Ms. Duchaine spoke on her behalf giving a brief history of the property and what has transpired up to this date including the purchase of the property, demo of a house and barn and before completing demolition stopped leaving an 8' by 12' by 3 foot high concrete slab in place to wait for site plan approval for a commercial building. Andy Morrell from BH2M also spoke saying the concrete slab is a part of the original foundation from the house left going approximately 6-8 feet below grade and has the old stone foundation visible on the backside of the slab. Ms. Duchaine pointed out on large poster maps showing the paved walkway right up to where the house was now to the slab. She does not want to use the concrete slab in her building but wants the foundation slab to be used as the location/foot print for the commercial building to come. When asked when demo was completed she said it has not fully been completed as she left the slab to preserve her grandfathered clause which preserved the one year time line for discontinued use so that the property does not revert back to current purposes allowable in the district where located.

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

Discussion: Chairperson Curtis asked Natalie Burns, lawyer for Mr. Abbott and Mr. Abbott to approach the podium for comments from a legal stand point on the appeal. After reading parts of the Code which applies to this appeal and restating the timeline that had transpired, Mr. Abbott felt his determination letter of September 15, 2017 to Ms. Duchaine should suffice and stand. The definition for a structure in the Code Section 1-5, page 34 states that anything built for use or occupancy by or support shelter or enclosure of persons, animal, goods or property of any kinds. The question becomes is this slab a structure? Per Mr. Abbott the demolition permit was applied for and gotten October 15, 2015 with an expected completion date of April, 2016 give or take. No timeline was set and there is no deadline for demolition to be completed. When Mr. Abbott inspected the property December 8, 2015 he saw the building was removed and considered demo complete. He considered the concrete slab left not to be a foundation therefore not to qualify as a structure according to the Code. A question from the Board was asked when a demo permit is granted why an inspection is not done before and after to insure completion. Mr. Abbott indicated he tries to but many times there are not enough manpower hours to do this.

Ms. Duchaine approached the podium to further add to her appeal. She expressed her concern in the need for consistency in the ordinance interpretation from the Code Enforcement's office. She feels that sometimes the Code is interpreted one way for one developer and another way for another which impacts permitting and development.

Moved by Jan Labrecque, Seconded by Christine Hume to grant the appeal.

Board members agreed that this slab of concrete is a structure to support shelter as stated in the Code Section 1-5, page 34 and that this is a non-conforming use as stated in Section 1-5, page 29. After this discussion Jan Labrecque withdrew her motion and restated it.

FINDINGS OF FACTS:

Moved by Jan Labrecque, Seconded by Christine Hume, VOTED 5-2 (Shurtleff, Hughes) to grant the appeal based on the following Findings of Fact:

1. The existing slab is a structure pursuant to the definition in the ordinance in that it is built for the support shelter of persons, animals, goods and/or property.
2. The structure maintained its non-conformance status because the structure was not completely removed.

CONCLUSIONS

The Code Enforcement Officer erred in his determination letter dated September 15, 2017 and therefore the applicant's appeal is granted.

Motion to adjourn.

Moved by Christine Hume, seconded by Jan Labrecque. VOTED to Adjourn. 7 yeas.

Time of adjournment 8:05 pm.

A TRUE RECORD OF MEETING

Attest:

Paula Nystrom, Deputy Town Clerk