

**TOWN OF GORHAM
BOARD OF APPEALS
ZOOM MEETING MINUTES
AUGUST 20, 2020**

The Gorham Zoning Board of Appeals held their monthly meeting on August 20, 2020 at 6:45 pm in a Zoom Webinar format due to the COVID19 outbreak across the country. Charles Haws, Chairperson opened the meeting.

Present: Board Members; Courtney Barnett, Chad Butts, Mark Curtis, Charles Haws, and Craig Stirling, Code Officer, Freeman Abbott, and Deputy Town Clerk, Paula Nystrom. Absent Christine Hume and Patrick Palermo.

There was one person from the public signed on to the Zoom Webinar.

Moved by Craig Stirling, seconded by Court Barnett to accept the June 18, 2020 meeting minutes as printed and distributed. VOTED 5 yeas

Moved by Mark Curtis, seconded by Court Barnett to accept the May 21, 2020 version of the minutes as printed and distributed by Deputy Town Clerk Paula Nystrom. VOTED 3 yeas, 2 nays – Chad Butts and Craig Stirling

Appeal #20 – 05 Single-Family Dwelling Set-Back Variance. Shawn and Lindsay Paradis, property owners and petitioners, are seeking a single-family front yard setback variance for the property located at 28 Clay Road (Map 113 Lot 10.001). The subject property is located in the Rural (R) zoning district.

Chairperson Haws invited Mr. Paradis to give a background on his appeal. Mr. Paradis indicated that during the refinance of his mortgage a 2' (foot) variance was found from a mortgage survey done to the addition that was added in 2018.

Chairperson Haws asked for any comments from the CEO Abbott on this appeal. CEO Abbott indicated that when Mr. Paradis put in his building application with site plan for the 2018 addition it showed a 100' (foot) front line setback. Thomas Hahn, Gorham's Building Inspector/Code Officer reviewed the application and based upon the information provided in the building application approved it without further consideration with such a distance from the front line. Mr. Paradis then contacted the Code Office stating that the bank conducted a mortgage survey for his refinance and found the front line setback for the new addition to be 48' (feet) not the 100' (feet) as he originally stated in his building application. Mr. Paradis is requesting a 2' (foot) front yard variance.

Public Hearing: Chairperson Haws opened the public hearing through the Zoom Webinar. With no one from the public to comment the Public Hearing was closed.

Discussion: Chairperson Haws asked for comments/discussion from the Board. Mark Curtis asked the applicant if an actual survey was done and per the applicant no, just the mortgage survey was done for the refinance. Per CEO Abbott the Town can do a Consent Agreement on properties that have been in existence for a long time and are beyond a Board of Appeals authority to rule on an appeal. There are attorney fees and penalty fees and it is recorded with the Registry of Deeds. Chairperson Haws then asked to begin the Criteria for the Findings of Facts.

Criteria for Findings of Facts:

Based on the facts stated above, the Board concludes that:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. The house had met the setback when the house was built and the addition had room to meet conforming setbacks as well if a proper survey was done. Moved by Mark Curtis, Seconded by Chad Butts and VOTED 1 year and 4 days. (Barnett, Curtis, Haws and Stirling).
MOTION FAILS
2. The granting of a variance will not alter the essential character of the locality. The locality is rural and the variance request of 2' (feet) is negligible and will not affect the character of the locality. Moved by Court Barnett, Seconded by Mark Curtis and VOTED 5 years.
3. The hardship **IS** the result of action taken by the applicant or a prior owner due to the site plan drawing submitted by the applicant when adding his addition with 100' (feet) front line setback from the front property line which was grossly overstated. Mr. Paradis claimed he did not measure but in fact just estimated. When the mortgage survey was done for his refinance it was found to be 48' (feet). This does not meet the criteria for this fact. Moved by Chad Butts, Seconded by Mark Curtis and VOTED 5 years.
MOTION FAILS
4. The granting of the variance will not substantially reduce or impair the use of abutting property. With the encroachment being 48' (feet) instead of the 50' (foot) those two feet have been in existence for many years and there has been no negative impact to the abutting properties. Moved by Mark Curtis, Seconded by Chad Butts and VOTED 5 years.
5. The granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available. Removing the two (2) feet of the addition will render the building unstable and is not a possible solution. There is no other feasible alternative for the petitioners. Moved by Chad Butts, Seconded by Court Barnett and VOTED 2 years, 3 days (Barnett, Haws and Stirling). **MOTION FAILS**

With three above motions failing Mr. Paradis was given advice from Code Officer Abbott. Mr. Paradis can withdraw his application for the variance and work with the Code Department for a Consent Agreement to take care of this issue. Mr. Paradis decided to withdraw his application and work with Code to resolve.

Conclusions:

On the basis of the above Findings of Fact and Conclusions of Law the appeal failed before a final vote on the appeal was made therefore Mr. Paradis withdrew his application.

Chairperson Haws concluded that with no vote this matter was ended.

SETBACK DISCUSSION

Chairman Haws brought this discussion for the Board of Appeals to express concern over the amount of appeals coming in for setback variances after the fact. He made a suggestion to send a request to the Town Council to add to or modify the original ordinance requesting that all builds for a building permit will be required to have a foundation pinned by a professional surveyor. This requirement may be waived by the building inspector.

Chad Butts felt we set precedence tonight with this appeal.

Chairperson Haws agreed that he would send a memo to the Town Council to ask Town Staff to survey other towns in the area to see how they are handling these setback variances that come to their Board of Appeals.

Motion to adjourn.

Moved by Chad Butts, Seconded by Mark Curtis and VOTED to Adjourn. 5 yeas

Time of adjournment 8:00 PM

A TRUE RECORD OF THIS MEETING WHICH IS INTENDED AS A SUMMARY AND NOT A TRANSCRIPT. See the video recording for additional discussion.

Attest:

Paula Nystrom, Deputy Town Clerk