

**TOWN OF GORHAM
BOARD OF APPEALS
MEETING MINUTES
JUNE 15, 2017**

The Gorham Zoning Board of Appeals held their monthly meeting on June 15, 2017 at 6:30 pm in the Council Chambers at the Gorham Municipal Center.

Present; Chairperson Mark Curtis, Board Members; Charles Haws, Christine Hume, Jan Labrecque, and David Toye, Code Officer, Freeman Abbott and Deputy Town Clerk, Paula Nystrom. Absent were Thomas Hughes and Alton Shurtleff.

There were four people from the public present.

Moved by Charles Haws, seconded by Christine Hume and VOTED to accept the May 18, 2017 meeting minutes as printed and distributed. VOTED 5 yeas

Nominations for Chair and Vice Chairperson.

Moved by Charles Haws, seconded by Jan Labrecque and VOTED to nominate Mark Curtis to continue as Chairperson. VOTED 5 yeas

Moved by Mark Curtis, seconded by Jan Labrecque and VOTED to nominate Charles Haws as Vice Chairperson. VOTED 4 yeas, 1 abstain Charles Haws

Appeal #17-08 Laurie Simowitz, property owner and petitioner is seeking a 3.5 foot front-yard setback variance for the property located at 23 Old Dynamite Way (Map 30 Lot 18.05) which is located in an Urban Residential zoning district (UR).

This property has a single family home currently under construction with an attached two car garage, covered porch and a 9 x 19 deck. The property went through an approved subdivision in 2011. The owner recently had a mortgage survey done and it noted that the house did not meet the required minimum front-yard setback where the garage is located. It was found to be 3.04 feet in the front yard setback. Gorham's Code Officer issued a building permit December 12, 2016 for the property. The contractor submitted a plot plan. The contractor is the one that created the set-back encroachment. The owner does not want to incur the cost to remove the encroachment part of the garage and front porch as it would be very expensive, it would lessen the architectural interest and weaken the construction of the garage and the house because of how the roof was constructed. Therefore they are seeking a front yard setback variance to allow the setback to be 21.5 feet instead of 25 feet that is required in the Urban Residential Zone (UR).

Raelene Loura, the contractor from Island Cove Building & Development Inc. represented Ms. Simowitz in her appeal. When the foundation was put in for the property there were two visible pins. One on 19 Old Dynamite Way, one on 23 Old Dynamite Way and the third pin was buried six inches in the ground and not visible. This was the pin that should have been used from the survey done for the setback.

Board member David Toye in full disclosure said he owns 23 Old Dynamite Way and felt he could be objective with this appeal since the properties abutted.

Excavator, Mark Verrill spoke that when he began his work he lined up with the sight line pin which he thought since it was on the property was the correct pin.

Public Hearing: Chairman Curtis opened up the floor for public comment. No one commented. Public hearing was closed.

Code Officer Freeman Abbott commented that the foundation was already poured before they found the discrepancy. He also asked for estimates from Island Cove Building & Development Inc. to fix the discrepancies i.e. truss system, roof etc. in which the builder provided.

Raelene Loura commented that they are willing to fix the front porch without little cost but to fix the garage to come into compliance will be more costly.

Discussion: Chairman Curtis asked for comments/discussion from the Board in which there were none.

Findings of Facts:

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

1. The land in question cannot yield a reasonable return unless a variance is granted. The owner of property is building a home which is currently under construction. Moving the building to become in compliance of the code would exceed the value of the home for the seller and supersede any return that the owner could get. The roof would have to be removed because of the complicity of the engineered truss package. This roof has to be supported in various places for proper engineering for structural support. The cost to remove the house from the foundation, remove the foundation to reset it and have proper column supports would cost roughly \$68,000 and that is not including the reassembling of the roof which would be another \$27,783.

Moved by Charles Haws, Seconded by Christine Hume and VOTED 5 yeas.

2. The need for a variance is not because of something that the property caused or the general conditions in the neighborhood but from the confusion among three property pins found on the property and the builder using the wrong pin to set the guidelines of the home. These three pins are a unique circumstance to this variance.

Moved by Charles Haws, Seconded by Jan Labrecque and VOTED 4 yeas, 1 nay (Christine Hume)

3. The granting of this variance will not alter the essential character of the locality. This will not alter the appearance of this subdivision as there are various site lines of homes close and far from the roadway.

Moved by David Toye, Seconded by Jan Labrecque and VOTED 5 yeas.

4. The hardship is the result of action taken by a surveyor or other person prior to plots being surveyed out for buildings who placed two pins near where the actual survey pin was discovered to be buried and not visible. Therefore a wrong pin was used to set the guidelines for the building of the home. This hardship is not the result taken by the applicant of this appeal who is the builder for the property owner.

Moved by Charles Haws, Seconded by Christine Hume and VOTED 5 yeas.

Conclusions:

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

Moved to grant the front yard setback variance to allow the setback to be 21.5 feet instead of 25 feet that is required in the Urban Residential Zone district (UR).

Moved by Charles Haws, Seconded by Christine Hume and VOTED 5 yeas.

Robert McNally the President of the Homeowners Association for the development made a final comment that there are five lots waiting to be built. He intends to be proactive to see that those survey pins are set properly so that this occurrence does not happen again.

Motion to adjourn.

Moved by Charles Haws, Seconded by David Toye. VOTED to Adjourn. 5 yeas

Time of adjournment 7:30 pm.

A TRUE RECORD OF MEETING

Attest:

Paula Nystrom, Deputy Town Clerk