

**TOWN OF GORHAM  
BOARD OF APPEALS  
MEETING MINUTES  
OCTOBER 15, 2009**

The Gorham Board of Zoning Appeals held its regular meeting on October 15, 2009 at 7:00 p.m. at the Gorham Municipal Center.

Present; Vice Chairman Lauren Carrier Board members Stephen Scontras, Melinda Shain and Mark Curtis. Town Attorney Bill Dale, Code Officer Clint Cushman and Deputy Town Clerk Jennifer Elliott.

Absent; Chairman, Joe Gwozdz, Board members Cressey Mollison and Alton Shurtleff.

Moved, Seconded and Voted to accept the September 17, 2009 meeting minutes as printed and distributed. 4 Yeas.

The Code Enforcement Officer stated that the mortgage survey showed that the garage was encroaching, and he passed out to the board members a copy of the building permit for the garage and a photo. The original building permit was for a 36 foot by 24 foot garage but it really measures 48 feet by 24 feet.

Appeal # 09-03. The appeal of Kelly and Justin Dearborn requesting a 2 foot after the fact variance for a residential garage that at one corner is 48 feet from the property line and the required setback is 50 feet. This is on property they own at 172 Flaggy Meadow Road (Map 38, Lot 4) which is in the Suburban Residential Zone.

Justin Dearborn spoke on his own behalf and stated that he had made an honest mistake when he had put down 36 feet by 24 feet measurement on the original building permit, but the town came out and did an inspection and did not notice the size either. He stated that his property is 99 feet wide and 700 feet long and he has had an instrument survey done. He stated that B2HM did a survey and said he had 102 feet in width on his property. Moving the garage is not an option due to the expense.

The Public Hearing was opened and Peter Loveitt, a neighbor of the applicant spoke and stated that Mr. Dearborn is cleaning up the property and questioned if the permit was for a barn and not a garage. He was here to provide information and not in favor or against the appeal. There were no further comments and the hearing was closed.

The Board discussed the hardship criteria and had questions for Bill Dale. Bill Dale stated that there are strict guidelines that the board has to follow. There would be an alternative, being that the board would deny the appeal and the applicant would enter into a consent agreement with the Town, and it would mean that the Town would not go forth with any enforcement.

The building is crooked on the lot and may have been surveyed wrong in the beginning, and this situation is not to the applicant's advantage. The mortgage company wants some comfort in hand and not necessarily a variance.

The applicant spoke and asked then why was his porch passed by the Board of Appeals at an earlier date, if it was closer to a setback. They explained that it was attached to a single family dwelling and there is a different set of criteria.

The Town attorney talked about a consent agreement that includes a fine, but there are factors taken into account that would determine the fine.

The Code Enforcement Officer stated he had concerns about the size of the building and what is on the building permit.

The Town attorney stated that the Zoning Administrator, the Code Enforcement Officer and the Town attorney would decide on the amount of the fine.

Moved, Seconded and VOTED to deny the variance request as it did not meet all required criteria. 4 yeas.

Each criteria was read.

The Board discussed the amount of the variance and the circumstances and being bound by ordinance.

The findings of fact were read aloud by Bill Dale.

Moved, Seconded and VOTED to accept the findings of fact.

4 yeas.

Moved, Seconded and VOTED to adjourn.

4 yeas. Time of adjournment 8:00 p.m.

#### A TRUE RECORD OF MEETING

Attest: \_\_\_\_\_  
Jennifer Elliott, Deputy Clerk