



CITY OF GARDINER BOARD OF APPEALS

Meeting Minutes
Tuesday November 30, 2021
6:00 PM
City Council Room Chambers

1. **Call Meeting to Order:** Chair Young called the meeting order at 6pm and determined that there was a quorum.
2. **Roll Call: Board Members-** Kristen Poremby, Edward 'Ted' Potter, Chair Lester Young, and Glen Glazier who participated via phone,. Guy Ferriss, and Kevin Sullivan were unable to attend. City Staff- Kris McNeill- Code Enforcement Officer, Angelia Christopher- Planning and Development Assistant. Applicants- Derek and Stacy Usher
3. **Review of the September 7, and September 13, 2021 minutes-** Chair Young asks if board members had a chance to review the minutes. There are no changes or corrections for either set of minutes. Chair Young asks if the two board members that were present for these dates would like to offer a motion. Ted Potter offers a motion to approve the 9/7 and 9/13 minutes as presented. Lester Young seconds. Kristin Poremby and Glen Glazier were not present for these meetings and did not vote. Minutes approved.
4. **Dimensional Requirements Variance-Public Hearing-** Derek Usher of Usher Properties is requesting a variance to increase the units at 556 Water St. City Tax Map 030 Lot 113. The building currently houses two apartment units, and Mr. Usher is requesting a variance to add a third unit. The current lot size is 13,086sf in the High Density Residential Zone. In order to have three units in this building, Mr. Usher would need a lot size of at least 15,000sf.

Board members agree that the application is complete. Mr. Usher will present his application. Mr. Usher states that he purchased this property with the intention of doing an extensive remodel, and eventually renting the units. He tells the board that this home was built to be a multi-unit. There are 2 interior stairways, one of which goes to the third floor. The third floor already has plumbing, and there are also egress windows. Mr. Usher states that he plans to make the renovations to the other 2 units, and then build the third floor to also be an apartment with all units being up to code. Mr. Usher is already a property owner/ landlord in the Gardiner area and he knows that housing is a big need. He tells the board that other towns have much lower density standards than Gardiner's 5000sf, and that other towns in the area require @ 2500 sf of lot space for each unit. This property offers 13086sf, which is not enough for three units.

There are a set of conditions outlined in the LUO that need to be met in order to get a variance:

- That the land in question cannot yield a reasonable return unless a variance is granted.

- That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
- That the granting of a variance will not alter the essential character or the locality.
- That the hardship is not the result of action taken by the applicant or a prior owner.

Chair Young asks the applicant if he is ready to make a case as to why the City should grant him a variance. Mr. Usher explains that he may not be quite ready to make a case, however he knows that housing is a big need in Gardiner and he feels that he can help with that.

Board member Kristen Poremby asked Code Enforcement Officer Kris McNeill if the building would meet the criteria for a 3-unit. Kris feels that the building itself does meet the criteria for a 3-unit, but does not meet the criteria for a variance. Meaning that none of the conditions set in the Gardiner Land Use Ordinance will apply towards granting the variance. Board Member Glen Glazier asks Mr. Usher to explain how there will be enough room for a third unit in the attic. Mr. Usher states that the third unit would go in the attic which has an 8' ceiling across. It will likely be a one bedroom unit. There are no further questions.

Board member Kristen Poremby asks what a special circumstance would entail. An example would be if the applicant felt that a denial would cause his business an undue hardship. A special circumstance could be that the land in question would not yield a reasonable return unless the variance is granted. Because that third unit is not allowed, and not bringing in money. Mr. Usher explains that due to the large investment he will need to make in this building, two units alone will not support a cash turnaround for many years. Mr. Usher plans to essentially gut the building and completely start over. Mr. Usher states that he would not let anyone live there in its current state Board member Kristen Poremby states if a property needs that much work, then there will need to be a significant investment. Mr. Usher tells the board that without the 3rd unit, he will not see a return on their investment for 8-10 years. If the variance is granted and he is allowed to build a third unit, the return of investment would be a couple of years earlier. Kristen states that the 3rd unit could help create a reasonable return in a more timely fashion.

Board Chair Lester Young feels that the applicant should have done more research about the code, so he would have known that there is not enough lot coverage for three units. Mr. Usher states he would have bought the building no matter what he found in the code. He can still make use of the building, it just would be better with a third unit. He goes on to tell the Board that the building needs to be gutted, that it is currently unlivable. There is lead in the building that will need to be abated. Mr. Usher tells the board that he wants families to live here, in a clean lead free environment. Board member Kristen Poremby asks Mr. Usher if he has ever purchased a building that he would have lost money on. Mr. Usher answers with 'not intentionally'. He tells the board that the two downstairs apartments will probably be 3bd units, with a rental price of \$1200-1500.

Board member Ted Potter feels that he could get a reasonable rate of return on his investment without the third unit. Les enters a motion that the property as it exists can yield a return without the variance. Ted second. Board member Glen Glazier asks if the building can be profitable, without the variance. Kristen Poremby answers 'without seeing what the numbers looked like, she still feels that the renovated building can return a reasonable variance.

The Board voted on each condition-

2.4.5.3.1.1 That the land in question cannot yield a reasonable return unless a variance is granted; Chair Lester Young makes a motion that the property as it exists can yield a return without the variance. Ted Potter seconds. Glen Glazier does not agree. Kristen Poremby agrees that the property will yield a return without the variance.

2.4.5.3.1.2 That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; Chair Lester Young moves that there are no unique circumstances to this property. Ted Potter seconds. Unanimous on #2. All Board members oppose this condition

2.4.5.3.1.3 That the granting of a variance will not alter the essential character or the locality; the granting of the variance will not alter the appearance of the locality. Lester Young moves that the variance will not alter the appearance of the locality. Kristen Poremba seconds. Unanimous on #3. All Board members oppose this condition.

2.4.5.3.1.4 That the hardship is not the result of action taken by the applicant or a prior owner. Lester Young moves that the hardship is the result of his action. Ted Potter seconds. Unanimous on #4. All Board members oppose this condition.

Lester Young moves that the variance request be denied based on the fact that all four requirements were not met. Ted Potter seconds the motion. All Board members in favor to deny the variance.

5. Other: none at this time.

6. Adjourn: Chair Young asked for a motion to adjourn. Lester Young offers a motion to adjourn at 7:00 pm. Ted Potter seconded the motion. All in favor.