



CITY OF GARDINER BOARD OF APPEALS

Meeting Minutes Wednesday October 7, 2020 6:00 PM Via Virtual Conferencing

In accordance with An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, as enacted to read: Sec. G-1 1 MRSA §403-A Public proceedings through remote access during declaration of state of emergency due to COVID-19

1. Acting Chair Potter Called the Meeting to Order, welcomed everyone and declared a quorum. Members were asked to do a roll call to introduce themselves.
2. Roll Call- Kevin Sullivan, Guy Ferris, Glen Glazier, Rusty Greenleaf, Carrie Arsenault, Louis Sigel, and Chair Edward 'Ted' Potter. City staff present include- Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement Officer, Angelia Christopher- Board Secretary- Planning and Development Assistant. Also present are applicants Daily Gist and Sheryl Jenkins.
3. Chair Potter determines that there is a quorum, and all notice requirements have been met. This meeting can proceed as planned.
4. No meeting minutes to review at this time
5. Chair Potter invited Kris McNeill Code Enforcement Office to give some information to this request.

The property, located at 33 Riverview Drive is within the High Density Residential (HDR) Zoning District, City Tax Map 40, Lot 004

This is being heard as a variance appeal at 33 Riverview Dr. The application is listed as a dimensional variance, however due to the property being 250' from the Shoreland Zone, it will need to be heard as a Shoreland variance. The applicants are requesting a deck 9X24 across the front of the house, which is too close to the road/front setbacks on the property.

Board of appeals does have jurisdiction in this case- provided by section 2.4.5.6 of the LUO.

-Chair Potter asks if any members feel that they might have a conflict with this case, or any appearance of impropriety with respect to appeal. No members have issue with hearing this application.

-Does the applicant have standing? There is a deed in the application.

-The board has to determine if the basis application is complete- if required notice was given, has standing, and everything is filled out completely- Yes.

Chair Potter asks the applicant if they or their attorney would like to make a presentation- Sheryl Jenkins and Daily Gist are representing themselves, and will speak to their application.

-The applicants introduce themselves as Daily Gist, and Sheryl Jenkins. They explain that they purchased this house in July 2020. The applicants had another house, in South Gardiner, that they just sold. Their goal is to fix up 33 Riverview Ave and move in when renovations are complete. They understand that the work they want to do that involves the deck/porch, will cross the setback lines. They also state that there are at least 5 other neighbors that cross those same setback lines. Chair Potter asks if any board members have questions for the property owners.

-Kevin is trying to make sure that he knows what the actual setback is supposed to be here.

“Is the setback from the edge of easement of the road, or is it a setback that was created for this location?” Kevin asks Kris if he knows if there was there ever a ‘taking’ of the property to form the road, when it was created, and if there was, was there any compensation for any of the previous property owners? Kevin states he is trying to understand the easement for the road, and the setbacks that are presented. Kevin asks if we even have that information or is it just too old. Kris reports that the original establishment from Gardiner to Richmond was down Riverview Dr. therefore when they created River Ave, they gave it a ROW of 66 ‘. Riverview is a four rod road, which is very wide. When River Ave became the main road, the ROW remained. He is unsure of how many existing properties there were at the time of the construction of the road. Any structure should sit 25’ from the edge of the ROW according to the map. Kevin asks again, if we have confirmation that it was a ‘taking’? Kris states he going to assume there was. He states that this is one of the older roads in town. In the book of roads, there is reference to compensation or future compensation for the property owners that this particular road crossed. Another board members asks for the significance of the question of ‘Taking’. Kevin states there he felt that there is significance in whether the road belonged to the municipality or the property owners. Kevin states that his next question would have been ‘do we know if this house was built before or after the road easement was created’? Kris does not have an immediate answer to that, but can research while the meeting continues. Chair Potter asks if there are any other questions, there are not, but he has one. Chair Potter asks the property owners if they knew that they would have to apply for a variance when they bought the property. The applicants answer that they did not. In fact, they were surprised by the 66 ft. easement rule, and thought it was a little excessive. Chair Potter then asked if the addition will block any view for their neighbors. No.

There are no other questions from board members.

Ted opens the public hearing with approval board members.

Has anyone contacted the city about this application? Kris McNeill states that there have been no contact about this.

Ken Holmes is on the Zoom meeting- he is an abutter. He states that he lives 2 houses down, and he supports this project, and their work. He feels it will be beautiful to see this old cape rehabbed.

Riverview Dr. is a hodgepodge of old and new houses. Mr. Holmes feels that this house may be the oldest house on the street now. It is an old hand hewn post and beam home, with a listed build date of 1867. Mr. Holmes feels from the design perspective, the porch position that they want is the best position. He feels the proposed deck/porch would benefit the look and appearance of the house with the river view. The front would be the logical place to put the porch.

Ted closes the public hearing, which is acceptable to all board members.

It is now up to the board, to review the application.

Guy asks the applicant if this will be a resale or a primary residence. The applicants answer that the
AMC BOA Approved Minutes 10/07/2020

Intention of this purchase was for it to be their forever home, a retirement home once Ms. Gist retires. They have wanted a home on the river, and their first home in South Gardiner did not fit that criteria. They wanted something with a river view.

Kevin Sullivan would like to offer comments for the record that would explain how he would like to vote. It is unusual for a road to be 4 rods wide road to be in this area. This house is old, in that time, a lot has changed around it. Including the road, there are a lot of properties on Riverview drive. It is interesting to know that almost all of the properties are non-compliant. There have been no neighbors shown to contest it. The variance should be the exemption, not the norm. This variance seems as reasonable as they get.

Rusty, makes a comment, he did go look at the property and after hearing that the porch will not block the view, and the neighbor in support, Rusty sees no issue with granting this variance.

Need for a variance is due to the unique circumstances of the property and not the general circumstance of the neighborhood. Rusty feels that granting of the variance will not alter the general appearance of the locality, if anything it will tie the house in more with the others.

No further questions.

The Board feels they can make a decision

Kevin Sullivan makes a motion that we grant the variance exactly as filed by the applicant, Rusty Greenleaf seconds the motion.

Certificate of Zoning Variance will be drawn up and chair will sign it.

Is everyone ready to vote?- yes

Rusty Greenleaf- yes, Guy Ferris- yes, Glen Glazier- yes, Kevin Sullivan-yes, Carrie Arsenault- yes, Louis Sigel-yes, Edward 'Ted' Potter- yes,

Application for variance is passed.

5. Other- Board secretary will schedule a monthly meeting and a follow up.

6.Adjourn: Chair Potter asked for a motion to adjourn.

Rusty Greenleaf makes a motion to adjourn at 7:00pm. Kevin Sullivan seconded the motion.

Roll call vote: Rusty Greenleaf- yes, Guy Ferris- yes, Glen Glazier- yes, Kevin Sullivan-yes, Carrie Arsenault- yes, Louis Sigel-yes, Edward 'Ted' Potter- yes All in favor.