



CITY OF GARDINER BOARD OF APPEALS

REGULAR MONTHLY MEETING

MINUTES

Tuesday, February 27, 2018 6:00 PM

Members Present: **Louis Sidel, Acting Chair** **Kevin Sullivan**
 Charles J. Betit **Edward (Ted) Potter**

Members Absent: **Harlan Brown**

Also present: **Barbara Skelton, Assistant Planner/Code Enforcement Officer (CEO)**
 Dorothy Morang, Secretary to the Board of Appeals
 Terry Berry, Applicant
 Peter H. Johnson
 Mary Ann Johnson

CEO Skelton noted that the previous Chair, John Burgess had recently resigned. She noted that the Mayor appoints the Chair, but there was not enough time before this meeting to make that appointment. She asked if anyone wanted to volunteer as acting chair for this meeting. Louis Sidel volunteered to chair the meeting.

1.) Call Meeting to order

Acting Chair Sidel called the meeting to order, welcomed everyone and declared a quorum. He had members introduce themselves.

2.) Roll Call

3.) Consideration of the Minutes from the December 27, 2016 Meeting

Charles Betit moved to accept the minutes. Ted Potter seconded the motion.
Vote: 4 in favor. 0 opposed. Motion passed.

NEW BUSINESS

Floodplain Variance – Public Hearing

- 4.) **Three Pillar Properties, LLC, Terry Berry Applicant is seeking a Flood Plain Variance for exemption from the flood proofing requirements of the Flood Plain Management Ordinance due to the historic nature of the property. The property is a contributing structure to a recognized Historic District and therefore meets the historic criteria. The property, located at 243-247 Water St, is within the Central Business/Historic District/Floodplain (CB/HIST/FP) Zoning Districts, City Tax Map 037, Lot 125.**

Acting Chair Sidel read the agenda item. He asked staff if the application is complete and was received on time. He also asked if the proper notifications to abutters and the KJ ad were done and meet the deadlines. Staff said yes to all.

Applicant, Terry Berry introduced himself and referred to his application as the reason for the Floodplain Variance and was available to answer any questions the members might have.

CEO Skelton added that the Applicant was planning to make improvements to his building at 243-247 Water St due to fire damage. To bring the building to a usable state, the improvements will exceed 50% of assessed value. The Floodplain Ordinance requires floodproofing or seek a variance. She noted that in 2016, the Board reviewed a similar request for a Floodplain Variance.

Acting Chair Sidel asked why Mr. Berry's permit was turned down. CEO Skelton the permit was denied because of the improvements exceeding 50% of the assessed value of the building. Once she denied the permit, the Applicant could appeal it and started the process for a variance.

Ted asked what the downside is for not having floodproofing. Mr. Berry said that floodproofing is very costly. He said he has moved the electricals up 22' off the ground to 1' above flood stage. All of the materials he will be using in the basement are flood resistant. He said he has tried to mitigate any future issues – to floodproof the building, you would have to build a dam around the building. CEO Skelton said she has worked with the Army Corps of Engineers in the past and she said that if you floodproof just one building and not the surrounding buildings, it can have a damaging effect on the surrounding buildings.

Kevin asked what were his plans for the building. Mr. Berry said the first floor could be offices, retail or a restaurant. The 2nd & 3rd floors would be apartments. He noted that the building was severely damaged. He has removed the studs and sheetrock from the basement to the attic.

Kevin said the options are to leave the building as is or require full floodproofing. He said it appears that if you do that to one, you have to do it to the surrounding buildings and that is not practical.

CJ asked about the liability. CEO Skelton referred the members to Land Use Ordinance, Section 2.4.5.6.7.3 concerning Indemnification. She noted we asked the previous application to sign a statement of indemnification. Mr. Berry said he has no issue with that.

6:22 Open meeting to public hearing

Mary Ann Johnson said she received a letter as an abutter and was interested in the issue and process. She has no concerns.

6:24 Closed public hearing.

CEO Skelton asked the members to determine the Finding of Fact and Conclusions of Law. Members went through the Notice of Decision document and in addition to granting the variance for the reasons noted above, they would add the condition of indemnification.

Charles Betit moved to grant the Floodplain Variance. Ted Potter seconded the motion.

Vote: 4 in favor. 0 opposed. Motion passed.

Kevin Sullivan moved that the requirement set forth in the Gardiner Land Use Ordinance, Section 2.4.5.6.7.3 be applied to this Variance. Ted Potter seconded the motion.

Vote: 4 in favor. 0 opposed. Motion passed.

5.) Adjourn

Ted Potter moved to adjourn the meeting in memory of Charlene Kinnelly. Kevin Sullivan seconded the motion.

Vote: 4 in favor. 0 opposed. Motion passed.

Meeting adjourned 6:43 pm