



CITY OF GARDINER BOARD OF APPEALS

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VARIANCE APPLICATION

Type of Variance:

- Standard Variance Dimensional Requirements Variance Disability Variance
 Floodplain Historic Preservation Commission Shoreland

Applicant Information:

Name: *John Donohoe* Tel #: 207-680-0331
Mailing Address: 521 Water St. Gardiner ME 04345

Property Owner Information

Property Owner as evidenced by deed recorded:
Deed Book Number 12985 Page 75 Dated 08/03/2018
Name: *John Donohoe* Tel #: 207-680-0331
Mailing Address: 521 Water St. Gardiner ME 04345

Property Information:

Location: 728 River Ave. Gardiner ME 04345
City Tax Map: 040 Lot: 048 Zoning District HDR
Lot size (acres): .07 Road frontage: 75' Shoreland frontage: N/A'
Existing use of property: currently vacant

Abutting Property uses:

North: _____ South: _____
East: _____ West: _____

Variance Description:

Describe variance request in terms of distance, height, lot coverage, lot area & frontage: to build a 28'x38' Cape Style home. Edge of house 50' from center of road. 11' from abutting neighbor

Applicant's Signature: _____ Dated: _____

Property Owner's Signature: _____ Dated: _____

The following information is required for your variance appeal:

- Location Map Plot Plan Engineered Building Plan
- Contour Plan Drainage Plan Non-Engineered Building Plan
- Landscape Plan Street/Road Plan Other _____

SECTION 2 ADMINISTRATION AND ENFORCEMENT

2.4.4 Appeal Procedure

2.4.4.1 In all cases, a person aggrieved by a decision of the Code Enforcement Officer or Planning Board shall commence his/her appeal within 30 days after a final decision is made. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

2.4.4.2 Following the filing of an appeal, the Board of Appeals shall hold a public hearing on the appeal within 45 days. The Board of Appeals shall notify the Municipal Officers, Code Enforcement Officer and the Planning Board, at least 14 days in advance, of the time and place of the hearing. The applicant shall publish notice of the hearing not less than 14 days in advance in a newspaper of general circulation in the area.

2.4.4.3 The applicant shall notify the Code Enforcement Officer and by certified mail the owners of all property within 100 feet of the property involved if the property is in a Residential or Central Business district and 200 feet of the property in all other districts, at least 14 days in advance of the hearing, of the within nature of the appeal and of the time and place of the public hearing, and shall furnish proof of such notification.

2.4.4.4 The owners of property shall be considered those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

2.4.4.5 At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause.

2.4.4.6 The Code Enforcement Officer or designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he/she deems appropriate for an understanding of the appeal.

2.4.4.7 The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

2.4.4.8 Within 20 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the appellant, the Code Enforcement Officer, the City Manager, the Mayor and the Chairman of the Planning Board.

2.4.4.9 Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall forthwith issue a building permit in accordance with the conditions of the approval.

2.4.4.10 A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within 1 year of the date on which the appeal is granted, and if the work or change is not substantially completed within 2 years of the date on which the appeal is granted.

2.4.4.11 If a variance expires, to continue work in progress or to commence construction, a person shall apply for a new variance or the person shall be in violation of this Ordinance.

2.4.4.12 A variance granted by the Board of Appeals shall be recorded in the Kennebec Register of Deeds within 90 days of the date of written approval of the variance pursuant to 30-A M.R.S.A. Section 4353, Subsection 5. The variance is not valid until it is recorded.

DIMENSIONAL REQUIREMENTS VARIANCE

The Board of Appeals may grant a variance from the dimensional requirements of the zoning ordinance when strict application of the ordinance to the petitioner and petitioner's property would cause a practical difficulty and when the following conditions exist.

Please give evidence below that your request for a variance meets each of the six criteria listed below.

- 1.) The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;

The current setback would not allow this to be a buildable lot.

- 2.) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

The design of the home was carefully done to fit into the neighborhood. Elevations were set to allow a more aesthetic view for the neighborhood.

- 3.) The practical difficulty is not the result of action taken by the petitioner or prior owner;

The issue is strictly about the size and shape of the lot.

- 4.) No other feasible alternative to a variance is available to the petitioner;

None- size/ shape prohibition.

- 5.) The granting of a variance will not unreasonably adversely affect the natural environment; and

As stated in #2 the earthwork was done to look better, as well as allow a natural run off, opposed to a low area.

- 6.) The property is not located in whole or in part within the Shoreland areas as described in 38 M.R.S.A. Section 435.

As used in Section 2 of the Gardiner Land Use Ordinance, "dimensional requirements" means and is limited to zoning ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in Section 2 of the Gardiner Land Use Ordinance, "practical difficulty" means the strict application of the ordinance to the property precludes the ability of the petitioner to

pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Existing, nonconforming buildings within the Cobbossee Corridor District shall not be required to meet the dimensional standards contained in the Gardiner Land Use Ordinance due to change of use or other circumstances requiring review by the City or the Planning Board. Existing buildings cannot be made more nonconforming.

STANDARD VARIANCE

The Board of Appeals shall hear and decide, upon appeal, in specific cases where a relaxation of the requirements of this Ordinance would not be contrary to the public interest and where a literal enforcement of this Ordinance would result in undue hardship.

Please give evidence below that your request for a variance meets each of the four criteria for undue hardship. An undue hardship shall mean:

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

The lot would be non-buildable, lowering the value to strictly vacant lot.

- 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; and

Size and shape of lot.

- 3.) That the granting of a variance will not alter the essential character or the locality;
and

The structure is designed to fit in with the existing structures in the area, and increase neighbor's values

- 4.) That the hardship is not the result of action taken by the applicant or a prior owner.

Size and shape of lot are what caused this.

A financial hardship shall not constitute grounds for granting a variance. A variance shall not be justified unless all four elements of an undue hardship are present in the case. As used in this Ordinance, a variance is authorized only for height, area, and size of structures or size of yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

47

60

75'

14 feet

28

34 feet

48

35 feet

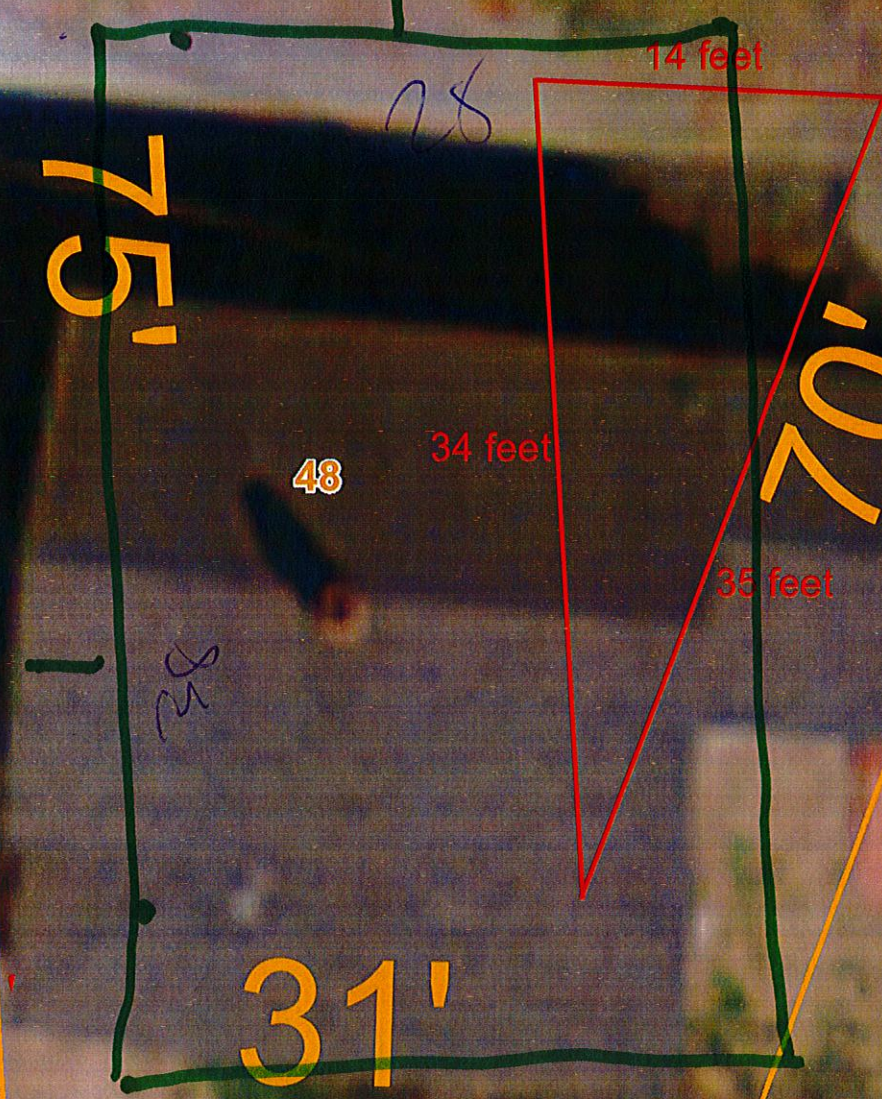
70'

32

31'

30

1
1
go from 1/2 acre





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 Mailing Address: 521 Water Street Gardiner ME 04845

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Applicant's Signature: _____ Dated: 3-9-21
 Property Owner's Signature: _____ Dated: 3-9-21