



## CITY OF GARDINER BOARD OF APPEALS

MEETING MINUTES  
Monday April 12, 2021  
6:30 PM  
Via Zoom

*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*

Call Meeting to Order- Chair Potter called the meeting to order at 6:30pm and determined that we have a quorum.

Roll Call Guy Ferriss, Carrie Arsenault, Rusty Greenleaf, Kevin Sullivan, Glenn Glazier, Chair Ted Potter, Kris McNeill, Ericka Albaugh, Dirk Kokmeyer, and Angelia Christopher

**Dimensional Requirements Variance-Public Hearing-** *This application was not heard due to public notice requirements not being met.*

John Donohoe submitted a Dimensional Requirements Variance application for property at 728 River Ave. He was requesting a variance to build a 28'x38' Cape style home 50' from the center of the road and 11' from an abutting neighbor. This property is in the High Density Residential (HDR) Zoning District, City Tax Map 040 Lot 048. Mr. Donohoe did not follow public notice requirements, so the meeting will need to be rescheduled. The Board and Applicant set a date for May 6, 2021 at 6pm.

**Administrative appeal- Public Hearing**

Ericka and Jason Albaugh have submitted an Administrative Appeal for their property at 41 Maple St. to convert this single family home to a 4 unit multifamily. The Code Enforcement officer, Kris McNeill, denied the property owners application for a four unit building due to the lot size being just under 17,000sf. A four unit residential building requires a lot size of at least 20,000sf. This property is in the High Density Residential (HDR) Zoning District, on City Tax Map 030, Lot 057.

Mrs. Albaugh is here to present her application. She tells the board that this has nothing to do with the Code Enforcement officer, Kris McNeill. She states that she and her husband want to get the most out of the property, and feel that the home will easily allow four units by dividing the fourth unit into two smaller units.

Chair Potter asks Board members if they have questions. Guy Ferriss asks if the applicants have ever been landlords. Mrs. Albaugh tells the board that she owns an older home in Brunswick that has rental units in it, and she has had those apartments successfully rented for at least 10 years. This proposed multi-unit would be the second rental property for the Albaugh's.

Due to the size of the proposed units, the property owners are considering limiting occupancy to one person, with one car per unit. There is an older access point, at the rear of the property. Opening up this former entrance Board of Appeals Draft Meeting Minutes (not-approved) 04/12/2021 AMC

would require a curb cut, as there is a sidewalk there now. Rusty Greenleaf states that he is concerned about tenants safely backing out onto Washington Ave. Kris McNeill states that there is enough site line in that area for tenant traffic to enter Washington Ave. safely. Mrs. Albaugh mentions making a turnaround type of parking spot on the property, so that residents would not have to move out.

Kevin Sullivan asks the applicant, why she feels that the Board has the authority to allow something that is not permitted by the City Code. Chair Potter reminds Mrs. Albaugh that the board is meeting to decide if the Code Enforcement officer gave an incorrect decision, not provide a variance. Code Enforcement officer, Kris McNeill states that there is a provision in the ordinance for fractional dwelling units. Kris fractional dwelling units, but this does not apply in HDR. Mrs. Albaugh states that she is merely appealing to her point of view, and there could easily be 4 units in this building.

Chair Potter opened the Public Hearing at 7:00pm. There was a verbal comment about the application at City Hall, and two letters were submitted. Mr. Jaroz submitted a letter, but was unable to attend the meeting. Mr. Dirk Kokmeyer is here to speak about the project. He states that he is very pleased that the Albaugh's have purchased this home and are working to restore it after years of neglect. He goes on to say that he is concerned about having another multi-unit in the area, which will increase people, traffic and potential hazards, specifically traffic hazards. There was another meeting attendant that was participating by phone, but the connection was lost before she was able to speak about the application. Chair Potter closed the public hearing and started Board deliberations.

Kevin Sullivan states the only way that the Board could allow this request is if there were an error in the ordinance. Rusty Greenleaf states that he thinks this project is great, and is looking forward to seeing the improvements with the home, however this Board is tasked with following the ordinance. Fractional units were specifically not in HDR unless there is an error, there is nothing they can do to approve this.

**Decision:** Chair Potter asks for a motion on this appeal. Guy Ferris makes a motion to uphold the code enforcement officer's decision. Glenn Glazier seconds the motion. Roll call vote- Guy Ferris-yes, Carrie Arsenault-yes, Rusty Greenleaf-yes, Kevin Sullivan-yes, Glenn Glazier-yes, Chair Ted Potter-yes. All regretfully vote to uphold the code enforcement officers decision.

Mrs. Albaugh thanks the Board for reviewing her application, and states that the property will still be beautiful with three units.

### **Adjourn**

Chair Potter asked for a motion to adjourn. Rusty Greenleaf offered a motion to adjourn at 7:30pm. Carrie Arsenault seconded the motion. Roll Call vote- Guy Ferris- yes, Glenn Glazier- yes, Kevin Sullivan- yes, Rusty Greenleaf- yes, Carrie Arsenault- yes, Chair Ted Potter- yes. All in favor.