



CITY OF GARDINER BOARD OF APPEALS

Meeting Minutes Tuesday September 7, 2021

Call Meeting to Order- Chair Young called the meeting to order at 6:00pm.

2. Roll Call- Board Members- Guy Ferriss, Kevin Sullivan, Ted Potter, Chair Lester Young, and Glen Glazier- via phone. Kris McNeill- Code Enforcement Officer, Tracey Desjardins- Economic Development Director. Applicant John Donohoe. Kris, Tracey, John Donohoe. There was a couple present, who live at 726 River Ave who did not give their names.

3. Review of the July 1, 2021 minutes- Chair Young asks for any corrections or comments. There are none. Kevin Sullivan moves to adopt the minutes from July 1, 2021. Ted Potter seconds the motion. All in favor of passing these minutes as written.

4. Public Meeting- Consideration of Gardiner Remote Participation Policy- Approving this policy would enable board members to participate remotely, if needed. Chair Young asks for a motion to approve. Kevin Sullivan moves to accept the policy as presented. Guy Ferriss seconds the motion. All board members in favor. Policy passed. Glen Glazier is now active in the meeting, with this policy change. This will enable board members to participate remotely. Guy asked why it needed to be live, the governor's orders. Need to be in public. Glenn can now participate in the meeting.

5. Dimensional Requirements Variance-Public Hearing- John Donohoe has submitted a Dimensional Requirements Variance application. He is requesting a variance to build a 28'x38' Cape style home 50' from the center of the road and 11' from an abutting neighbor. The property is in the High Density Residential (HDR) Zoning District, City Tax Map 040 Lot 048.

John Donohoe introduces himself and presents his information. He explains that since he has purchased this property, the grandfathering timeline has expired. When asked about why he missed the deadline, he explains that he spent a fair amount of time, trying to figure out how to build on this lot, and trying to meet code regulations. Because of the size of the lot, it will be a challenge to fit the house that he needs on the property. He explains that he is in the process of purchasing more land from DOT, so that he will have a bigger piece of land to work setbacks with. Purchasing land from DOT is a long process, but he tells the board that he has worked out a deal to lease the land until the sale can go through.

Mr. Donohoe has presented drawings of where he wants to put the house to the Board. He is proposing to have the road/front setback 50' from the center of the road, which is the original set back.

Chair Young opens the Public hearing, and asks if there is anyone that would like to speak.

There is a couple, whose names were undetermined, that live at 726 River Ave. They state that they will welcome a house if the appeal is approved, but what they really want right now is for the hole for the foundation

to be secured. She would like to see the area secured with a fence until work is done. She is concerned about the safety of the area. Code Enforcement Officer Kris McNeill, agrees that a fence does need to secure the area. He has discussed this with Mr. Donohoe and will follow up with him. Mr. Donohoe states that it will take time to get a foundation poured. The forms can be up in a week, but then he needs to be added to the schedule of work.

Mr. Donohoe explains that the former house was 28x36 with multiple additions added over time. Some of these additions spilled over onto DOT land. The former house sat on dirt, with no foundation. It is reported that the house was full of lead paint, asbestos, and was caving in on it itself. There was no way to save it and rehabilitate it.

Chair Young closed the public hearing as there was no one else to speak.

Kevin Sullivan asks Kris McNeill, if the applicant would still need the variance, once he acquires the land from DOT. Kris McNeill states that even with the extra land, a dimensional variance would still be needed. He could build something, but it would not be the size he wants/needs. Because this property is in Shoreland Overlay, a tiny house could go here. The applicant wants to use the property as his home, and a tiny house would not fit his needs. Guy Ferris asks the applicant if his original intention was to tear down the original house. Mr. Donohoe answers that when he bought the property, the City had intentions of tearing it down anyway. With the purchase of the property, Mr. Donohoe's plan was to build a home with the same dimensions of the original structures, which in fact encroached on DOT's land.

Kris McNeill states that Mr. Donohoe bought the property, with the plan to tear down the original dwelling, and rebuilding. The former CEO issued a permit that eventually expired. Mr. Donohoe reports that he tried to figure out to make it work, and then he realized the grandfathering time period was running out. He has been working with the Code Enforcement Officer to make this work, and there is building permit on file. Kris McNeill denied this new permit because the dwelling in the designs was sitting on land that was not Mr. Donohoe's. Kris McNeill informed Mr. Donohoe that he would need more land, to approve the designs that he had submitted. Mr. Donohoe has submitted his purchase request to DOT and should be able to purchase the land in May of 2022. Kris has spoken with DOT regarding this, and while there is no documentation, the deal is on schedule to be processed. Kris states that he would not issue a building permit, until he received some kind of documentation from DOT about the extra land. Kevin Sullivan points that even with the extra land, Mr. Donohoe would still need a variance to build the home he needs..

In order for this variance to be granted, the application needs to pass the four major conditions for approving a variance.

Chair Young asks for a motion to vote on all 4 criteria.

Members agree that the land in question cannot yield a reasonable return unless the variance is granted.

Kevin Sullivan moves that they vote on all four criteria with a separate vote. Ted Potter seconds the vote. All in favor.

Criteria 1- This land cannot yield a reasonable return unless a variance is granted. Guy Ferriss- no Kevin Sullivan-yes. Ted Potter- no. Glen Glazier- yes, Lester Young- yes. 3-2- criteria 1 approved

Criteria 2- The need for a variance is for the unique condition of the property, and not the neighborhood. All five board members agree yes. Criteria 2 approved

Criteria 3. The granting of the variance will not alter the appearance of the locality.

All five board members agree yes. Criteria 3 approved

Criteria 4- Hardship is not a result of the action taken by the applicant or the prior owner. Ted Potter- no, Glen Glazier- yes, Guy Ferriss- yes, Kevin Sullivan- yes, Chair Lester Young- yes.

Criteria 4- 1 no 4 yes. Criteria 4 approved.

Based on the fact that the conditions have all been met, the variance will be granted. Kevin Sullivan moves that we grant the variance application. Guy Ferriss seconds the motion. No further discussion. All in favor. Variance granted.

6. Other- There will be another Board of Appeals meeting on 9/13/2021- in the City Council room.

7. Adjourn- Chair Young asks for a motion to adjourn. Kevin Sullivan moves that the board adjourn at 6:47pm. Guy Ferriss seconded the motion. All board members in favor.

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