

Town of Gardiner: March 29 2018 – ZBA Meeting Minutes

Meeting was opened by ZBA Chairman David Gandin Three (3) members of the Five (5) Member Board are present so we have a quorum.

Application for tonight is Christopher Martinez 246 Farmers Turnpike, from a determination rendered by the code Enforcement Officer Andrew Lewis that he needed a variance as part of an application before the Planning Board to subdivide an approximate 10 acres lot for the purpose of building a residential structure attached to a barn that has existing septic system.

Chairman Gandin reads from the documents at hand for the record.

Mr. Gandin: I have a 4-page application from Mr. Martinez received by Planning / Zoning Board Clerk on March 8 2018. I have a 2- page letter from Andrew Lewis to members of Gardiner Planning Board undated but received stamped on Feb 13 2018 with respect to the application before the Planning Board. I have a letter to this Zoning Board from the Code Enforcement Officer, Andrew Lewis dated March 1 2018 explaining his determination that the property lies within a FEMA Floodplain zone and that under Section 220-13 of the Gardiner Zoning Law, “no new structure intended for residential use and no new septic tank, leach field, or other sanitary sewage system shall be located within the Floodplain Overlay District. This shall not prevent the replacement of existing facilities”

Mr. Gandin: I also have a letter from A. Diachishin and Associates, P. C. Engineering and Land Surveying firm dated Feb 1, 2018 to Chairman of Planning Board, Paul Colucci, outlining the proposed subdivision. I have a rough drawn map of the two parcels.

This meeting was duly noted and published.

Applicant Christopher Martinez and Consultant Robert James, from A. Diachishin and Associates approach the Board.

Mr. Martinez explains that he would like to put an addition on the existing barn and subdivide the property into 2-Lots.

Mr. Gandin: I received a copy of a memo today dated March 23 2018 from Town Planner James Freiband to the Planning Board outlines the procedural history and his take on the Gardiner Code with respect to this application.

Mr. Martinez: Building is existing and the septic system is existing, everything is already there so we are not adding like that to it. I'm going to add an addition to the existing building/barn.

Discussion with Board Members and Applicant concerning floods from Hurricane Irene and Tropical Storm Lee.

Chairman Gandin opens meeting up to the public for comment. No public comments received. Chairman Gandin closes the public comments.

Board discusses Section 220-13 of the Zoning Code and Chapter 121 of the Town Code. Chapter 121 is clear that the Town contemplates allowing new construction in a floodplain provided you meet all the requirements of that subsection.

Mr. Gandin: Chapter 121 was drafted after Section 220-13 of the Zoning Code provision. My opinion is that you do not need a variance and that Chapter 121 controls. You as the applicant just have to comply with all the requirements of Chapter 121. If there is something within that Chapter 121 that you do not want to comply with then you could come to the ZBA for a variance.

- Mr. Gandin - Motion that we render this application as an application to interpret the inconsistencies between Section 220-13 and Chapter 121 of Town Code. Based upon the inconsistencies and the fact that Chapter 121 was drafted after Section 220-13 that the applicant does not need a variance but must abide to all the requirements of Chapter 121 of Town Code.
- Mr. MacElhiney - Seconded

Vote: Mr. Gandin: Aye
Mr. Katz: Aye
Mr. MacElhiney: Aye Motion Passes

- Mr. Katz – Motion to Adjourn
- Mr. MacElhiney – Seconded

Vote: Mr. Gandin: Aye
Mr. Katz: Aye
Mr. MacElhiney: Aye Motion Passes

Respectfully submitted,

Maureen Vickner TerBush
Planning Board Clerk

Approved:
Filed:

DRAFT