

22 November 2003

MEMORANDUM

**TO: Michael Beck, Chairman
Zoning Board of Appeals
Town of Gardiner**

**FROM: Paul Muessig
20 Campfire Road
Wallkill, NY 12589**

**SUBJECT: Appeal of Interpretation of Zoning Regulations Relative to
Application of Awosting Reserve for Use of Central Sewer
System in ARR-200 Zone**

Mike, I would like to start by commending you on the way the 20 November ZBA meeting was conducted, particularly considering the two potentially contentious topics on the agenda (Bunks in the Gunks and Awosting Reserve). Unlike many of the meetings related to Awosting Reserve that I have attended over the past year, the meeting started off on the right foot with your clear explanation of the purpose, process, and schedule and continued in a calm atmosphere with all parties provided fair opportunity to be heard.

In the continuing consideration of the issue before you and the ZBA, I urge you to keep in mind the clear focus of the issue that you defined at the beginning of the 20 November meeting. There are numerous issues, concerns, and permits related to Awosting Reserve, LLC that will need to be addressed over the coming years before various Boards of the Town of Gardiner, Ulster County, and New York State. However, the appeal before the ZBA at this time is very narrow and specific and should be reviewed within this context without consideration of all those other issues.

Awosting Reserve, LLC, as a follow-up to the interpretation provided in September by the Town Building Inspector, Don Otis, has requested that the ZBA provide an official interpretation of the Zoning Laws with regard to the permissibility of central sewers and treatment in the ARR-200 zone of the Town of Gardiner. Consistent with the ZBA's authority, the purview of the Board's discussions and findings should be focused on spirit and letter of the Zoning Regulations in this regard.

I believe that within the somewhat convoluted legal format and structure of the Zoning Regulations, by allowance of sewers in CLI and HC and exclusion from the variance table for ARR-200 the use of central sewers and treatment is prohibited for the proposed Awosting Reserve. Reviewed in conjunction with the Town's Comprehensive Master Plan, it appears clear that the objective of the two documents is to limit the density of development on the ridge where steep slopes and thin soil cover present severe site condition that should restrict development.

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Within the context of these two documents, this is accomplished through a combination of large lot area requirements and a prohibition on central sewers that might otherwise allow lot subdivisions where site conditions are too restrictive for onsite septic systems to accomplish waste treatment.

For these reasons, I urge the ZBA at this time to confirm the interpretation provided by the Building Inspector and in previous comments submitted by David Clouser, PE. Soil assimilation capacity, perc testing, the pros and cons of various in situ and central treatment technologies, permitting of waste treatment, and buildable lot counts are all critical issues that will need to be addressed by Awostring Reserve and the various regulatory boards and authorities. While the ZBA's interpretation or Zoning Regulations will affect how some of these issues are resolved, these issues and their resolution are not within the purview of the ZBA at this time.

Thank you for your consideration of these comments.