

**Ashland Zoning Board of Adjustment  
Minutes  
October 25, 2017**

**ZBA Members Present: Eli Badger, Susan MacLeod, Tim Sweetsir, Michele Fistek**

Public Present: Ronald and Leona Grenier, Kevin Grant, Mr. and Mrs. Brian Chalmers

The meeting was called to order by Chair Eli Badger at 6:00 pm, in the Ashland Elementary School Library.

At the opening of the meeting, the Chair advised the applicants (Ronald and Leona Grenier) that only three members were present (Badger, MacLeod, Sweetsir) and, by RSA, a majority (3 members) of a full board (5 members) must agree in order to approve the variance request. Therefore, all three members present must agree. The Chair offered the applicant the option of waiting for arrival of a fourth member of the Board or the constitution of a fuller Board (i.e., 5 members). The applicants agreed to proceed. Partway through the hearing, a fourth member of the Board (Fistek) arrived.

**Case #2017-02: Request by Ronald and Leona Grenier of 24 Squam Shore Drive for a variance from Section 2.3c of the Ashland Zoning Ordinance for the construction of a building on their property (TML 013-001-016) located at the intersection of Squam Short Drive and Squam Lane in the Rural Residential Zone. The applicants wish to construct a 26' x 40' garage within the setback from Squam Shore Drive and within five (5) feet from the boundary line.**

**A motion was made (MacLeod) and seconded (Sweetsir) to accept the application as complete. The motion was approved unanimously by roll call vote (Sweetsir, MacLeod, Badger).**

**Public Hearing**

The applicants in attendance (Ronald and Leona Grenier) allowed their son-in-law Kevin Grant (also an abutter) to present information regarding their request, both in written form and verbally.

Kevin Grant stated that the Greniers wish to place a garage at one corner of the small triangular lot, with one corner of the garage being 5 feet from the Greniers' property line. They would like to possibly put a house on the lot in the future. If they were to stay within 25 feet of each side of the triangle, it would put the garage in the middle of the lot. There is an area, a "no man's land," on one side of the triangle which was originally going to be a road; it is not owned. Placing the garage on that side of the triangle will still allow it to be more than 25 feet from the neighbors' (Jones) boundary. No trees will be cut so the garage will not obstruct anybody's view. It is also away from power lines.

Susan MacLeod noted that the “no man’s land” was intended to be a “to standard” road. In 2000, the town voted that they would accept the roads in that area if they were brought up to town standards. The roads are all very narrow and not up to standard. Mr. Grant said there is no intention by the small association to bring them up to town standards; the association maintains and plows all their own roads. The triangle was going to be a pump station and is no longer needed for that purpose. The access road on the far side of the triangle was not put in and is only a driveway to the neighbor house. It was confirmed that the area does not encroach on anything that will ever be a road that would be plowed or maintained.

The applicants submitted written comments for the variance criteria

1) *The variance will not be contrary to public interest:*

Applicants’ written comments: “The variance to move the garage inside of the 25ft setback will not be contrary to public interested because the boundary requested to be encroached on does not boarder a public road or public area (see enclosed survey plot plan for the supporting evidence).”

2) *The spirit of the ordinance is observed:*

Applicants’ written comments: “The spirit of the ordinance is observed by way of the additional land that is between my lot and the abutting lot that I wish to encroach on the boundary of. This additional land is shown on the survey plan and is not owned by either property owner and this additional land creates a buffer in excess of the necessary boundary line setback allowing for the spirit of the ordinance to be observed (see enclosed survey plot plan for the supporting evidence).”

3) *Substantial justice is done:*

Applicants’ written comments: “The requested variance does not negatively impact the public community or the property abutters. The additional land mentioned in #2 above will give the appearance that the garage is well within the ordinance requirement so the look of the land will be inline with the other properties in the area. Allowance of this variance will increase the property value of my property by giving it more build-able land for better resale value (see enclosed survey plot plan for the supporting evidence).”

4) *The values of surrounding properties are not diminished:*

Applicants’ written comments: “Approval of this variance will not diminish the value of the surrounding properties. There are no trees in the area that we wish to put the garage so visibility of the structure will be the same whether the variance is approved or not. Also, the additional land mentioned in #2 leaves a substantial buffer between the garage I wish to build and the abutting property (see enclosed survey plot plan for the supporting evidence).”

5) *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:*

Applicants’ written comments: “My land is a small triangular shape property with little area to build on. If the 25ft side setback is enforced there will be minimal room left on the property to build a house in the future which would diminish the value of my land. Allowing for this variance will allow me to leave room in the build-able zone for a potential future house of reasonable size (see enclosed survey plot plan for the supporting evidence).”

## Abutters

Brian Chalmers, abutter, spoke in favor of the project, stating that the situation gives them plenty of buffer between them and the actual neighbor's property line, and that it fits the neighborhood.

Kevin Grant, speaking as an abutter, noted that he lives across street and, because of the tree line around the property, the garage will allow not stick out any more than anything else around.

Chair Badger noted that putting the garage and storage shed as far back as possible will make it easier when they come to ZBA to propose putting the house on the property and will make it easier to meet setbacks. Kevin Grant stated that there is no plan at this time for a house, but the property will have a much higher resale value if someone can put a house there without seeking variances.

EB noted that the Greniers had submitted a written statement addressing the 5 variance criteria. The applicant had no additions to their written statement. At 6:11, the public hearing was closed and the ZBA members discussed the criteria for a variance relative to the present case.

## Deliberation

- 1) *The variance will not be contrary to public interest:* The encroachment on the boundary does not encroach on a public road or public area. It does not encroach on anything other than the unowned land. The existence of the buffer ("no man's land") makes all the difference. It is way beyond what the setback requirement would be from the abutter's property.
- 2) *The spirit of the ordinance is observed:* The area that is not owned by anyone creates a natural buffer between neighbors and creates a better managed, well-thought-out space between neighbors, in accordance with the spirit of the ordinance.
- 3) *Substantial justice is done:* There is a balance between not being more of a benefit to the applicant as opposed to the abutters and the public. It is within that definition.
- 4) *The values of surrounding properties are not diminished:* It improves the value of other properties, by giving more homes well situated away from others and creates privacy between neighbors. The balance of the property becomes a buildable lot.
- 5) *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:* Many of the lots in this area have previously been before the ZBA. The lots were created in the 1970's, before zoning (1986), and have been sold and taxed as buildable lots. The lots are pre-existing, non-conforming lots. This is a reasonable use of the lot and is the best, most usable configuration of an odd-shaped lot by allowing the garage to be placed in this location. This allows the Greniers the proper use of their buildable lot.

## Decision

**Criteria 1 – All 4 Board members agreed by roll call vote (Sweetsir, Fistek, MacLeod, Badger) that this criteria is met.**

**Criteria 2 -- All 4 Board members agreed by roll call vote (Sweetsir, Fistek, MacLeod, Badger) that this criteria is met.**

**Criteria 3 -- All 4 Board members agreed by roll call vote (Sweetsir, Fistek, MacLeod, Badger) that this criteria is met.**

**Criteria 4 -- All 4 Board members agreed by roll call vote (Sweetsir, Fistek, MacLeod, Badger) that this criteria is met.**

**Criteria 5 -- All 4 Board members agreed by roll call vote (Sweetsir, Fistek, MacLeod, Badger) that this criteria is met.**

**Chair Badger announced that the variance was approved and granted.** Written notification will be sent to the applicant, the building inspector, the Board of Selectmen, and any other appropriate officials.

The meeting was adjourned at 6:22 pm.

*Minutes submitted by Mardean Badger*