

Ashland Zoning Board of Adjustment Meeting
Minutes
April 13, 2017
Ashland Elementary School Library

Members Present: Eli Badger, Susan MacLeod, Tim Sweetsir, Michelle Fistek

Others Present: Jeanette & Rick Fecteau, Jack McCormack, Joseph Bartoszewicz, Richard Cushing, Tejasinha Sivalingam

The meeting was called to order at 6:30pm by Chairman Eli Badger. All Board members were present by roll call.

Public Hearing

Case #2017-01, Fecteau Variance Hearing for relief from setback/dimensional requirements of Zoning Ordinance Section 2.3 for property located at 16 Candle Shores Lane, Tax Map/Lot #013-004-005.

Attorney Jack McCormack, representing applicants Jeanette and Rick Fecteau, reviewed the request for relief from front, side and driveway setbacks for a house to be placed on the lot. A previous application for a variance was denied in December 2016. This proposal is for a slightly smaller house (933 square feet) and the proposed setbacks are less non-conforming than those in the previous proposal. The proposed setbacks in this application are: front left 15.3 feet and front right 16.4'; side left 23.1' and side right 23.2'; and driveway 8.2' from left boundary. Setbacks required by the Zoning Ordinance in the Rural Residential Zone are: front 35'; side 25'; and driveway 15'.

Exhibit A (attached to the application and reviewed by Attorney McCormack) addressed each of the points necessary for consideration of the variance. In summary:

- (1) Granting the variance does not alter the basic character of the locality and does not adversely affect the public interest.
- (2) The lot was lawfully created (pre-zoning), is taxed as a buildable lot, and the proposed location of the house on the lot is less non-conforming than many of the other surrounding properties. The proposed use and variance preserves the value of the property and observes the spirit of the Zoning Ordinance.
- (3) Substantial justice is done, in allowing the applicants to construct a home which is in keeping with the residential intent of the original subdivision and in keeping with the surrounding area.
- (4) The structure is in keeping with the character of the area, and has more significant setbacks than some surrounding properties. The house will be a positive addition to the neighborhood.
- (5) The lot was established under prior subdivision regulations and has been taxed as a building lot since. It is virtually impossible for the property to be reasonably used in strict conformance with the current Ordinance. Therefore, a variance is necessary to enable a reasonable use of it.
- (6) The property use is consistent with historical uses in the area and the structure will comply to a greater degree than structures on surrounding properties.
- (7) The proposed use creates a reasonable balance between the ordinance and the need for a dwelling. The proposed land plan is a reasonable use and is in keeping with the spirit and intent of the ordinance.

A motion was made (MacLeod) and seconded (Sweetsir) to accept the application as complete. The motion was approved 4-0 by roll call vote (Fistek, Sweetsir, MacLeod, Badger).

The applicants, Jeanette and Rick Fecteau, stated that they had taken the comments from their previous denied application (December 2016) and used that input to improve their plan.

Members of the ZBA had no additional questions.

Abutters Richard Cushing and Joseph Bartoszewicz both commented that the proposed plan was an improvement from the previous one and that it would enhance the community.

The public portion of the hearing was closed at 6:44pm and the ZBA commenced their discussion of the application.

- (1) The plan is not detrimental to the abutters or the general public at large. The proposed house and location is characteristic for the surrounding neighborhood and does not negatively impact the community.
- (2) The plan is well laid out and the applicants have done the best to deal with the setbacks, especially with the side setbacks as they affect the neighbors. It is the best use of the property.
- (3) The proposal is the best use of this property, allows the applicants to get the maximum enjoyment of their property and is balanced with the neighbors relative to setbacks.
- (4) The proposed plan will result in a well laid-out plan for a new house, which will improve property values and will not be detrimental to the surrounding properties.
- (5) Denying this best use of the property would result in an unnecessary hardship and would deny the property owners the fair use of the original intent of the lot.

Deliberation by the ZBA of the application for a variance:

- (1) **A motion was made (Sweetsir) and seconded (Fistek) that granting the variance would not be contrary to the public interest. The motion passed 4-0 by roll call (Fistek, Sweetsir, MacLeod, Badger).**
- (2) **A motion was made (MacLeod) and seconded (Sweetsir) that the spirit of the ordinance is observed. The motion passed 4-0 by roll call (Fistek, Sweetsir, MacLeod, Badger).**
- (3) **A motion was made (Fistek) and seconded (Sweetsir) that granting the variance would do substantial justice. The motion passed 4-0 by roll call (MacLeod, Badger, Sweetsir, Fistek).**
- (4) **A motion was made (Sweetsir) and seconded (MacLeod) that the value of the surrounding properties would not be diminished. The motion passed 4-0 by roll call (Fistek, Sweetsir, MacLeod, Badger).**
- (5) **A motion was made (Sweetsir) and seconded (MacLeod) that denial of the variance would result in an unnecessary hardship. The motion passed 4-0 by roll call (Sweetsir, MacLeod, Fistek, Badger).**

The variance for relief from setbacks for Tax Map/Lot # 013-004-005 was granted.

Board Re-Organization

- **A motion was made (Sweetsir) and seconded (Fistek) to elect Eli Badger as Chair of the ZBA for the ensuing year. The motion passed, 3 ayes (Sweetsir, MacLeod, Fistek) and 1 abstention (Badger).**

Other Business

- Information about the upcoming Spring Planning and Zoning Conference (April 29, 2017) was distributed. Registration forms are to be submitted prior to April 21 to Patsy Tucker at the Town Office.

The meeting was adjourned at 7:01pm.

Minutes submitted by Mardean Badger