

**Ashland Zoning Board of Adjustment
Ashland Planning Board
Joint Meeting Minutes
Wednesday, April 14, 2021**

CALL TO ORDER: David Toth, Chair of the Zoning Board, called the meeting to order at 6:30 PM. The meeting was conducted via Zoom video and teleconference.

PLANNING BOARD
MEMBERS PRESENT:

Mardean Badger, Kathleen DeWolfe, Paula Hancock, Andrew Fitch, BOS representative and Susan MacLeod, Land Use Assistant

ZBA MEMBERS
PRESENT:

David Toth, Charles Bozzello, Mardean Badger

OTHERS PRESENT:

Micheal Latulippe, applicant, Nick Byars and Amy Ober, Owl Brook Builders, Atty. Jack McCormack, agent for the applicants, Tony Randall, surveyor, Lisa and Chris Weiss, abutters Eileen and William Torrey, abutters, Anna and Arvid Swanson, abutters

RIGHT TO KNOW LAW: Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

David Toth: I want to call this meeting of the Ashland Zoning Board to order at 6:30 PM with a roll call vote. Mardean Badger: here; Charlie Bozzello: here David Toth: here. For purposes of our meeting, I will appoint alternate Alan Cilley to the Zoning Board of Adjustment for tonight's discussion and decision.

David Toth: Mardean do you have the case number and other information

Mardean Badger: Yes, I do. It is ZBA Case 2021-02. The applicant is Micheal Latulippe and Owl Brook Properties. It is being presented by Jack McCormack attorney. It is for a variance for lot (TML 12-002-023).

David Toth: At our last meeting we decided to continue the discussion of the case pending the appointment of Alan Cilley to the board for tonight at the request of Attorney Jack McCormack. I want to continue the discussion this evening. We had discussed each of the criteria the last time. Would it be helpful Alan if we continued that discussion?

Alan Cilley: I looked at the minutes. I didn't get a chance to watch the recording. I believe I can go forward with you guys with a little help. The only thing I don't have is paperwork in front of me to goby. I think I can handle it.

David Toth: Mardean can you put up the application so Alan will be able to see that?

Mardean Badger: Yes, I will do that. First of all, this is the application; what do you wish to review on this?

Alan Cilley: I haven't seen this online. We don't have to go through this. If we talk about anything in particular, obviously I am not on my computer to bring this up.

Mardean Badger: OK

Alan Cilley: If I have a question, I will definitely let you know.

Mardean Badger: I can bring up any of the documents.

Alan Cilley: Thank you.

Lisa Weiss: May I ask a question? Alan was not able to watch the Zoom.

Alan Cilley: That is correct.

Lisa Weiss: My understanding was you would; that the continuation would be as if you were at that meeting? And had watched the Zoom. So, I am just wondering, did you have a chance to read the abutters statement?

Jack McCormack: Lisa, under the rules we can't speak now.

Mardean Badger: We are in the ZBA deliberation period. Alan did say he has read the minutes.

Alan Cilley: Yes, I have.

Mardean Badger: And the minutes were pretty much the transcript of the meeting.

Alan Cilley: They were pretty precise.

Mardean Badger: Yeah.

David Toth: As I read the minutes, I think the positions expressed by the abutters were clear in the minutes as well as the applicant. I am comfortable going ahead with this at this time. Perhaps we could review our discussion a little bit on the criteria and then we can hold the vote. Is that agreeable to everyone?

Mardean Badger: Yes, it is to me.

David Toth: OK. On the first criteria: Granting the variance would not be contrary to the public interest.

Mardean Badger: A couple of comments from me. I do believe the proposal will retain the rural look of the area. It does not have any more impact on the area...any more impact than the allowed uses within that zone would have, anywhere from single family homes to agriculture, forestry or farming impact.

Charlie Bozzello: I will comment that it is generally not in the public interest to offer a variance in a residential zone for commercial business when the local residents, abutters would find that that compromises the residential nature of their investment.

David Toth: I am concerned about the abutters concerns but I believe that had sufficient answers to

those concerns that those concerns were addressed both by Mardean in terms of planning and also by Mr. Byars and by the applicant. Alan, did you have any response?

Alan Cilley: I just have a quick question -- how many abutters are there, in total?

Mardean Badger: I will bring up the Site Plan.

Alan Cilley: I am familiar with the area so to speak.

Mardean Badger: Yeah. The abutters are Mike Latulippe on this side, Richard and Abigail Sampson on this side. Across the street Arvin and Anna Swanson, also across the street Lisa and Chris Weiss and the Torreys in the same residence.

Alan Cilley: Right.

Mardean Badger: So, there are four abutting lots.

Alan Cilley: OK. Thank you.

David Toth: If there are no more comments on the first criteria, we can go on to the second criteria: The spirit of the ordinance is observed.

Mardean Badger: OK. I feel it is low impact use. The applicant has shown intent to respect the nature of the lot, the environment. Though it does not impact . . . the potential impact is no more again than what could be allowed in the area from single residence to agriculture, farming and forestry use. There is no threat to the health, safety and welfare of the public.

Charlie Bozzello: The spirit of the ordinance is clearly not observed in that it creates an expectation for a residential neighborhood going forward and that future development would be residential. I think the people in the area have the right to expect that will be the way the town sees this. Giving this variance without really substantial reason. I think in this case to get this variance you need to show there is a very significant benefit and/or mitigating the hardship. Neither of those conditions apply. This is not the spirit of the ordinance.

David Toth: I would agree more with Mardean. I think the ordinance allows for other uses of the land agriculture in particular and our ordinance also allows for variances to make adjustments for real world situations. If this were an intensive commercial operation, I would say that would not meet in my mind the spirit of the ordinance, but this is a very low impact use of the land. I would also say it also fits in with other mixed uses that surround this property. I would agree that it meets the spirit of the ordinance.

Alan Cilley: This is a very unique situation obviously having multiple uses already existing or have existing in a sense, in some cases gone away. If we were looking at any other site besides this one it would be an acceptable use.

David Toth: OK. If there is no further discussion on that we can go on to the next criteria which is: Granting the variance would do substantial justice. Mardean?

Mardean Badger: It is not substantially inconsistent with other uses in the area. Again, it is a small building relatively small building. It is respectful of the environment the way it is laid out. It is

consistent with or less impactful than the other commercial uses on either side.

Charlie Bozzello: I would say that justice is achieved by respecting the expectations of the current zoning regulations and the expectations of the current residents.

David Toth: I would cite the “any loss to the individual does not outweighed by the gain by the public.” I don't see that this goes against any public or loss to the public because it is a low impact use of the property.

Alan Cilley: I believe it meets the criteria.

David Toth: If there is no more discussion lets discuss criteria #4: The values of the surrounding property will be diminished.

Mardean Badger: While neither party the applicant and the abutters didn't supply any specific data relating to property value again the type of building and the location of the building is no more than what you would find in a house put on that lot. It is shielded by vegetation around it. It is probably less of a structure on less of a use than the construction on the lot next to it. I don't believe it is going to impact the property values much one way of the other.

Charlie Bozzello: I would say that any time you create uncertainty in the market in the case a residential property market it closes potential buyers to hesitate and that naturally causes a reduction in value. I think that this is the situation this is.

David Toth: Because it is such a low impact use and because it is not visible, I don't see it detracting from property values in that area.

Alan Cilley: It is very easy to say low impact, but it does make a difference to the neighborhood in general. Here again, if we were looking at another piece of property, we could look at it differently. I am going to say that this meets the criteria.

David Toth: Going on to the next criteria: Denial of the variance would result in an unnecessary hardship.

Mardean Badger: I think we need to put that together with the other pieces. I think we need to talk about this as a whole. No substantial relationship and the proposed uses reasonable. I think we need to talk about that altogether.

David Toth: OK

Mardean Badger: I don't see that there is. If we were to deny this, I don't think that there would be a hardship on the applicant. I think there is a balance between the use of the property and the public because it is a reasonable use of the property. Again, the structure is no larger than a house that could be put there. The type of structure they have tried to respect the environment it is in the layout of that particular lot. They intend to leave as much vegetation as they can. I don't feel there is a hardship. If we were to deny this, I don't feel there is a hardship to the applicant. At the same time if we were to approve this variance, I do not think it is a substantial hardship to the abutters and to the neighborhood.

Charlie Bozzello: Yes, I agree with Mardean that it would not be a hardship to the applicant. I think it

may be an inconvenience. The applicant has many options in locating his business and I think if they were to look at it, it might be economically advantageous other than to use the private property that he is proposing.

David Toth: I don't see that denying the variance would be a substantial hardship. It would provide substantial hardship to the applicant. I think there are other properties in town that are zoned for this type of business and so I think that the applicant has other options than to use this property.

Mardean Badger: Alan? Any comments?

Alan Cilley: I really can agree with everybody with what they have already said. My decision: I am not sure what I am going to do but anyway I am taking into consideration how the abutters feel than anything at this moment.

David Toth: Is there any more discussion from the members of the board on any of the criteria? If not, we can move to a vote. We will be voting on each of the criteria. When we vote we need to give the reason either for or against so those reasons can be recorded in the minutes. That's really important in case there is an appeal or a court case resulting from the decision of the board. So, with that, I would like to proceed with question one.

ZBA Criteria for Variance

Criteria 1: Granting the variance would not be contrary to the public interest because: "It does not alter the basic character of the locality or threaten public health, safety or welfare".

Badger – Y Bozzello – N Cilley – Y Toth – Y Yes – 3 No - 1

Mardean Badger: On criteria 1, I am going to say yes. I am going to say yes because I do believe that the impact on the public would be minimal because of the particular use. It is a low impact and it is no greater impact than other allowed uses would be on the property. It will also maintain the rural look of the area.

Charlie Bozzello: Providing the variance without significant reason to mitigating the reasonable hardship is not in the public interest when it deals with providing commercial uses in a rural residential zone. I vote no

Alan Cilley: I am not going to get into a lengthy dissertation. I believe it meets the criteria and I vote yes.

David Toth: Alan, you have to provide a reason.

Alan Cilley: It is acceptable under #1.

David Toth: The reason has to explain why you think it is acceptable.

Alan Cilley: I am not prepared to do that. It meets the criteria as far as I am concerned.

David Toth: I vote yes. It does meet the criteria. It is a low impact use. It blends into the surroundings. There will be very little traffic impact; little or no noise impact and the impact is less than if it were to

go to agricultural use.

Criteria 2: The spirit of the Ordinance is observed

Badger: Y Bozzello: N Cilley: Y Toth: Y Yes – 3 No – 1

Mardean Badger: I will say yes. Again, it does not provide any detriment to the health, safety or welfare of the public. It is respectful of the nature of the property in that area. Respectful of the environment the way it is laid out. It is not I don't believe it will have any more impact on the neighborhood than some of the other uses might. So, I will say yes.

Charlie Bozzello: The spirit of the ordinance is to protect the residential interests in a rural residential zone. This at face value does not uphold the spirit of the ordinance. I vote no.

Alan Cilley: This is one I am having a little trouble with. I am going to vote yes. It meets the majority of the criteria.

David Toth: I will also vote yes for many of the same reasons that Mardean stated. Basically, the ordinance is designed to protect the rural residential character of the neighborhood. Because this is a low impact use, I do not see that it will significantly alter the rural residential character of the area.

Criteria 3: Granting the variance would do substantial justice

Badger: Y Bozzello: N Cilley: Y Toth: Y Yes – 3 No -- 1

Mardean Badger: I will say yes. It is consistent with other uses in the area.

Charlie Bozzello: Granting the variance would have no justice associated with it and it would be an imposition to the abutters. I vote no.

Alan Cilley: I am going to vote yes. It meets the criteria.

David Toth: I am also going to vote yes for the same reason that Mardean did.

Criteria 4: For the following reasons, the values of the surrounding properties will not be diminished.

Badger: Y Bozzello: N Cilley: Y Toth: Y Yes – 3 No -- 1

Mardean Badger: I will say yes primarily because I do not have any significant justification that it will diminish the surrounding property values.

Charlie Bozzello: The variance would create a lack of certainty that residential buyers in the immediate area. I also believe on a broader scale that this type of granting of a commercial variance in a rural residential zone without significant benefit or mitigation of a hardship could suppress residential values in that part of town. I vote no.

Alan Cilley: To me this is always a best guess situation. From what I have seen and read there is no evidence presented that would indicate that values would decrease if this was allowed. Therefore, I will

vote yes.

David Toth: I will also vote yes because, again, there is no evidence presented that this would decrease property values.

Criteria 5: Owing to special conditions of the premises that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship

Badger: Y Bozzello: N Cilley: Y Toth: Y Yes – 3 No -- 1

Mardean Badger: The property is not particularly unique in comparison to any other property around. I don't see any drawback to this variance on this particular piece of property. I am going to say yes.

Charlie Bozzello: There is no identifiable hardship to the applicant maybe an inconvenience and alternatively could be an economic development to not provide the variance. So, I vote no.

Alan Cilley: This is always the hardest one to deal with. I am going to vote yes. There is some reason of concern obviously to the abutters which I take very seriously. It is very easy to say that this business could go elsewhere. It is probably very well suited there. There is going to be. I am going to leave it at that. I believe there will be no hardships there at all once it is there. I am going to vote yes.

David Toth: I am going to vote yes, also. Yes, the business could be relocated someplace else. The land however is not well suited for other residential uses. This use while minimally commercial will not really disturb the rural residential character of the neighborhood. So, I am voting yes.

David Toth: So, the variance is granted.

Mardean Badger: Do we want to make a motion, you think?

David Toth: Yes, do I have a motion to grant the variance?

Mardean Badger: Based on each of the criteria receiving the minimum requirement of three yes votes, I will make a motion to approve the variance for this commercial use on this piece of property.

David Toth: Is there a second?

David Toth: I will second that motion. All in favor?

Roll call vote: Mardean Badger: Yes; Charlie Bozzello: no; Alan Cilley: yes; David Toth: yes.

David Toth: So, the variance is granted.

David Toth: Do we want to discuss any special conditions that the ZBA would like to make? And communicate to the Planning Board?

Mardean Badger: I considered doing that, but I already have in mind some conditions I will be proposing with the Planning Board Site Plan approval process. Those will include a variety of things to address some of the abutters' concerns. At this point, I am going to leave it to the Planning Board to assess what conditions would be appropriate for this project.

David Toth: I know all of us are concerned about the abutters and the concerns that they expressed. Charlie and Alan, do you have any conditions or recommendations you want to make to the Planning Board?

Charlie Bozzello: I will let the Planning Board do their work.

David Toth: OK, Alan?

Alan Cilley: I have no conditions.

David Toth: I do not either.

David Toth: So that concludes our deliberations. I will call the meeting of the ZBA to a close at 7:13 PM.

Mardean Badger: I would like to call the Planning Board meeting to order at 7:13 PM.

Mardean Badger: Roll call vote: Kathleen DeWolfe – present; Paula Hancock – present; Andy – present. Just a note, Andy is now the Board of Selectmen representative to the Planning Board. I am present, Mardean Badger, the chair. We now have before us because the variance was granted for this particular piece of property. We, the Planning Board, have an application for Site Plan Review before us for this property and for this use. It is, again, the applicant Micheal Latulippe, the agent representing him is Jack McCormack and it is for a business, Owl Brook Builders, which is Nick Byars and Amy Ober. It is Site Plan Review Application Case 2021-02. At this point I will entertain a motion to accept the application as complete. Kathleen DeWolfe makes that motion. A second? Paula Hancock seconds the motion. Again, just for public reference, accepting an application as complete is not a ruling on the application; it indicates there is sufficient information in the application to proceed with the process. Roll call vote accepting application as complete. Paula Hancock yes; Kathleen DeWolfe yes; Andy I will recuse myself. I haven't seen any of the paperwork yet.

Mardean Badger: OK. I will vote yes on this also. At this point I will open the Public Hearing at 7:15 PM.

Mardean Badger: I know, Jack, you presented most of the applicant's information during the ZBA variance process. I know that Kathleen, Paula and I were present for the entire thing. Andy was not. Would you like to still summarize briefly; then we will get into our questions.

Jack McCormack: The Site Plan shows a lot. It shows the parcel in question, the location of the proposed building and lines and that sort of thing and maybe it would be helpful.

Mardean: If you show Andy the renderings of the proposed building to be constructed

[Displayed on the screen: views of the proposed building]

Mardean Badger: Do you want to explain the views as I scroll through them?

Jack McCormack: I'll let Tony Randall speak about that.

Tony Randall: Looking at the first view you have up there that would be the end of the building where on the plan is the covered entry. That coming down the driveway that is what you would see.

Tony Randall: The view down below it is also. It is just a different angle of the same view.

Mardean Badger: Then the one at the top?

Tony Randall: That one at the top would be on the side away from the road.

Tony Randall: That would be a roofed storage area for some of Nick's lumber and stuff. So that helps shield it from the road. Any materials and like that onsite.

Tony Randall: The one down below that, you'll see that you have doorway there so when you get a delivery, they can bring it back into the building.

Tony Randall: Like you said the deliveries would be very minimal and the doorway will be used when he has his cabinets made for his customer for him to back in there load them up and transport them out of there. So, we have left enough room around the back to get in there.

Mardean Badger: And there's that end and this last image.

Tony Randall: This last image here will be facing toward the road. And they have it with some earthtones, so it is not going to stick out. With the tree buffer and everything that's there it helps shield it to make it not look like any construction building if you will.

Mardean Badger: Can I put up this Site Plan and show the proximity. The building we were looking at is here.

[Displayed on the screen: proposed site plan]

Tony Randall: It [the building] is magenta colored. We put the setback lines there. The side and rear of the lot is 25'. At the roadside is 35'. You'll see that the building is tucked to the backside of the lot and off to the right where there is a buffer that Mike Latulippe owns out by his driveway. It would help shield it. If you notice the driveway where it comes in. We didn't have driveway come in straight so someone driving by can look down the driveway and see the building. We are trying to take into consideration in doing this project about the neighbors and abutters. On the lot next to this, where the Sampsons live, big garage and house and you can see that really more than anything on the street when you drive by. There are no protective barriers from people seeing his place. We have decided to do a better idea and shade it. We want the neighbors to make it feel like it's their residential neighborhood. I don't actually live in that neighborhood. I drive by there every day. I see where people have vehicles parked; that's their thing to do. We have taken that into consideration to keep everything back away from the street, so it doesn't affect people when they are driving by or for the neighbors when they get into their cars to leave their homes. That was a lot of our big thought process. Nick is not going to have any outside lighting on the building at all. If he does, we will shield it in a downward position. When he's not there I am sure there is not going to be any lights on. He doesn't plan to be there at night. I think the lighting part of it is a moot point. He also is not going to have outside solid waste disposal. He is going to have it inside the building. All his scraps would be inside the building until he goes to the solid waste facility or wherever he takes it. It won't be seen outside. So that is a big consideration for

him when we were putting this proposal together. As you will notice from those renderings, some of the sides there are no windows so when he is in there no one is going to see lighting coming out toward the street. We know in the wintertime it gets darker earlier and sometimes he's there and it's dark. He works all day and he needs to take care of some work at night or later in the evening. That was a consideration for that side of the building when we were working on that.

Mardean Badger: Are there any windows on any of the other sides?

Tony Randall: Yes, there are. Let Nick speak to that.

Nick Byars: I do not have the renderings in front of me. But there are two windows on the front as you come in, there is a small office. Just to let some natural light in there.

Mardean Badger: Let me pull it back up.

[Displayed on the screen: views of the proposed building]

Nick Byars: There are two small windows in the front.

Mardean Badger: There is the door and the two small windows there.

Nick Byars: That is just a small office area for my wife and I to confer with a prospective customer or to go over some plans real quick, the use of that front space. The rest of the space is used as a workshop area small tool storage.

Nick Byars: This is not an everyday use. It is a place I myself will stop there 3-4 times a week, work out of there a couple days, not full days; my hours are not 7-4 or 5. I am out at sites and stop there after work, a couple of hours working on some cabinetry or small piece of furniture or something a few hours during weekend days, but it is not an everyday use area. There is a light over the door at the rear of the building. There is a window near the rear door. That would be a solid door.

Mardean Badger: I'll come back to the Site Plan. Will there be restroom facilities inside the building?

[Displayed on the screen: proposed site plan]

Jack McCormack: Yes.

Mardean Badger: So, you'll be putting a well in and a septic system?

Jack McCormack: Yes.

Mardean Badger: Jack, Tony, Nick -- is there anything you want to explain before I allow the abutters to ask questions?

Jack McCormack: I should point out to you. The lot coverage is very, very, very small compared to a house would be. It is a lot smaller. Its impact would be less than a house would be. We discussed before, I have neighbors next to me with their cars coming and going all the time. This is minimal. Not even every day necessarily. All I am saying is, you can't legislate common sense. This is a good effort. His current location for his shop, doing the same thing he is presently doing now, the area next door

with a common wall is a yoga studio. Nick's work is so quiet that they have had no discussions about noise. His equipment is high tech and its very quiet. With soundproofing and a long way from the road.

Tony Randall: To the road is 100'. 110' from the road to the closest point. It does get back to 160'. If you look at the Google Earth map, I showed where the site for the woodworking shop would be. I put all the distances relative to everybody's residence due to the GPS information (data) I got.

Mardean Badger: Is that visible to everyone? Can everyone see Google Earth right now.? Just a moment.

[Displayed on the screen: Google Earth view of the site and abutters]

Jack McCormack: Thank you.

Tony Randall: So, as you look at it, you'll see where it says proposed woodworking shop. If you go off in a northeast direction on the right, you'll see the Weiss dwelling. It is 320' from the shop to their dwelling. Then if you look to the left across the street, the Swanson dwelling. I think that is even further away, 350'. The closest one is the Sampson's and they are 270'. I don't know if they attended these meetings or if they have a concern. They don't seem to have concerns about it that I know of. The only other thing I would like to point out, in the regulations you can cover your lot by 35% coverage. If you look at my plan in the lower left-hand corner, I actually include the driveway and the house, and the total is about 20.9%. So, we are under any lot coverage that could be on issue if someone were to build a house there.

[Displayed on the screen: proposed site plan]

Mardean Badger: I am going to leave the plan here for the time being. Are there questions or comments from abutters?

Lisa Weiss: Thank you for the deliberations and the presentation. I do just want to say I can't agree with you more that there are many worse possibilities/uses and I do agree that the size of this facility and the thoughtful design is good. And I'll just repeat what I said last time. I do completely support the notion that the day one intentions of what Nick and Amy are planning are, I mean they sound in Jack's words, fairly benign. I still worry about the sawing and pounding. Just listening to Arvid do it for a little while on his shed that was 350' away. I was thinking we are dealing with that every day. But I do agree with you that the insulation and indoors is a different situation then Arvid being outside. That said, the variance has passed and so my concern and request to the Planning Board is more related, is not Nick and Amy's intentions on day one, but really what, Mardean, you stated the Planning Board can set conditions of operational use and I think both the ZBA decision was based on that operational use as it was described by Jack and Nick at that time. He didn't mention it today, but things like in the last meeting there would be no hazardous materials and two people working 7:30-3, minimal clearing, vacuuming sawdust and today he mentioned outdoor lighting at night. I fully trust that is what Nick and Any are planning. And I know when I mentioned this last time, and Arvid did too, about our concerns about the future. This paperwork is permanent. I do fully recognize that if he were to want to expand the facility or parking lot or something very objective like that, they would have to go back to the ZBA. Granted that variance is not against a residential property. It is against a commercial property. So, the incremental variance over a commercial property and it will be easier to meet those five criteria than if it were residential. So I guess what that translates to for me is, first you know better than I do what matters when a future owner comes in, not Nick and Amy, but a future owner comes in because they

might want to stay there forever. What matters is what is on paper. And so, I think the conditions that you could set forth on paper will help preserve the intention that Nick and Jack have described. And then also make that next the future owner whoever it might be. Five or ten years, that incremental request for a variance will be a little bit higher of a bar if there were conditions set that would help maintain the intention of working in a very respectful way in a rural residential neighborhood. So, again I just want to state it is not your current intentions. I do believe and trust what you are saying. I would like to get on paper as much as we can and for the future owners that will be buying this or requesting further incremental variances over time. Thank you.

Mardean Badger: Jack, any response?

Jack McCormack: I am hearing what Lisa says and appreciate her positivity. It is hard to quantify these sometimes. The ordinances apply to rural residential mixed use. My take is, it would be hard to see the property or hear the property. I am personally not for over-lawyering or encumbering anything. I like to have people use common sense. I think you need a baseline which we did today. Basically, we approved a woodworking shop with an office. It is not hard to quantify what we have done today. I don't know what conditions the board has in mind today. I think this is all very positive. I thank Lisa for her positivity. I have faith in the process. I have no doubt the ZBA will hear it or the Planning Board will hear it.

Lisa Weiss: I agree with you, Jack, that in a perfect world to rely on common sense. I completely agree with that for the current time. I think we have to picture the next person who comes in and wants to buy it and use it for its current use. If there are no other conditions set, I don't plan on trying to monitor that and make sure Nick isn't coming in at 7:37. My intent is the paperwork. I've seen so many times with other contracts. This is not my area of expertise, but what's not written makes it for the next guy who is not the nice person. We just have to imagine that person coming in buying the property and not expanding the facility but other people pieces of the operational use.

Jack McCormack: I am not suggesting for a moment that you monitor. I can understand if a new used car lot went in there, you could overreact to that.

Mardean Badger: Planning Board members, any comments? Andy, any questions comments? Welcome, you are an official member of the Planning Board.

Kathleen DeWolfe: Mardean, I would like to see that all the roadside trees except for the driveway cut remain in place for a buffer.

Jack McCormack: We planned on doing that.

Kathleen DeWolfe: I see there are only three parking spots; that is doesn't expand beyond that.

Jack McCormack: The three parking spots for vehicles. Anything as we discussed, any parking for the business would be behind the building and out of sight.

Kathleen DeWolfe: I don't know if this is a condition, but if I was an abutter I would like to see the building painted, and any trim, in a muted tone a brown, a tan, a green, so it blends in with the vegetation when it is there and when it isn't. So, as you drive by, the red roof that might catch your eye if you drive by slowly, to have it in muted tones so it blends into the surrounding area.

Nick Byars: We can address that if you want. We have already taken that into consideration. We plan on the building being more brown, an exterior wainscoting natural stone, and then with the natural surroundings. So, all these points I've made. We have already considered and that was our intent.

Kathleen DeWolfe: It is the red trim on this rendering that jumps out, if it was more earth tone it would . . .

Nick Byars: The architect that we hired. It is a natural wood structure, maybe cedar. It will be a light brown color in its natural state.

Kathleen DeWolfe: You may have a thing for red trim.

Nick Byars: I promise you, we don't.

Nick Byars: The wood on the front will be a natural color wood finish, being light brown in color and natural state.

Kathleen DeWolfe: The only other thing I would like to mention is signage. Perhaps it could be just the street number to comply with 911. Not the name of your business, just a sign with the number so when you have deliveries that is where they will go, whatever number Owl Brook Road that is, and that way it won't jump out to anyone in the area that you do have a business there. I don't know if that is a condition we can set, but that way people would drive by thinking there was a home down that driveway.

Nick Byars: Again, our intent is to have a street number at the road, no signage at the road. There would be small lettering on the front door. I don't have any other remarks.

Paula Hancock: Two questions occur to me. The first is, how do you get the delivery trucks around to the back? Do you have enough room to get around the building?

Nick Byars: On Tony's site plan, as the driveway comes in, you would go to the back by the covered storage area. It will be a gravel driveway giving us 15' of clearance around the covered storage area to receive a delivery at the back door.

Mardean Badger: The end of the building I am pointing to is where your overhead door is correct?

Nick Byars: Correct.

Mardean Badger: So, the vehicles would come across the front to this end.

Nick Byars: Correct.

Paula Hancock: My second question talks about noise level. I know we've talked about noise level. But I wasn't sure with the foam insulation you're proposing whether that will mute the noise enough.

Nick Byars: Absolutely. From outside our shop area, you will not hear us. The small tools we use inside are not very loud. We have a dust collection system that obviously will take care of any pollution that keeps the shop neat and clean. The current shop I am in has no insulation in it and it is a brick building, and we are connected to a yoga studio there. We do not disturb them with a single wall. A tree buffer

will still be there around the property. I don't see how the noise will be heard outside the building.

Mardean Badger: Andy?

Andy Fitch: Is your dust collector going to be vented outside or is it all vented inside?

Nick Byars: It is all self-contained inside. It is construction hose to each machine I use. It self-collects into a large plastic bag which then, once filled, I remove, move off-site and put a new one on. It is all self-contained within the shop area.

Andy Fitch: Thank you.

Nick Byars: Yes sir.

Nick Byars: This is not an everyday use, an everyday cabinet shop. This is a few cabinets made every month maybe. Small piece of furniture for a homeowner. This is not an everyday use making kitchen cabinets every day. It is a by-the-order for a home we happen to be building, so a bookshelf, stuff like that.

Paula Hancock: To follow up on that, can you give us some idea of your concept of what a business week would look like say a Monday to Friday?

Nick Byars: Not really. It is not a Monday to Friday thing for me on an everyday use; more of I'll be at a job site from 7:30 to 3:30 or 4 or 5 PM. On my way home, I'll stop, maybe work for an hour on a piece or on a Saturday or Sunday. I would go down there for an hour or two to work on a custom piece. It is not a set time. I'm not there during that 7 to 3 time-frame, because we are out on-site, building homes, maybe a quick stop in the morning to grab a tool, in there for five minutes and out. No set schedule at all. It is hard to give you a weekly schedule.

Paula Hancock: The whole idea that you will be offsite most of the day fills in the question that I had. So, basically you are using your workshop for custom-made cabinets or particular pieces that you are working on, so you drop in after work. But from the description of your work, it sounds like all the work will be done inside. You have taken care of the noise factor and the cleanliness factor. So, there would be a minimum of noise and people wouldn't know you are there, and that answers my question.

Mardean Badger: There was something, I thought I read somewhere in one of the documents, I don't remember if it was something Jack put together or it was part of the application, but it mentioned something about working there during the day. I remember something being said that you would be there more during the day and now some reference to not during the day, but a few hours after the regular workday. So, I am sensing a conflict here.

Jack McCormack: I am looking at the application submitted for the Site Plan Review. It isn't there.

Mardean Badger: I am wondering if it was mentioned at the meeting last week.

Paula Hancock: I think it may have been mentioned at the ZBA meeting we had last week.

Jack McCormack: I don't remember much of a discussion of the hours. I don't know when he will work because there is no set schedule. I just don't know. He's in there making custom items and, if not, the

items could be bought off the rack.

Lisa Weiss: It was long. Nick was just describing that he works 7:30 to 3 on job sites.

Mardean Badger: That was where my confusion was. You were referring to your regular day onsite.

Mardean Badger: Yes.

Susan MacLeod: I am not sure how your motion for the variance was granted for specifically the woodworking shop. I think the clarification needs to be that it is an adjunct for his building company and that it is not going to be retail. So, there are no customers in and out. It is not a retail shop, that he is custom making cabinets for anyone who knocks on the door. So, I think you really need to clarify the function of this and that is then tied to the hours that he might possibly be using it. And so if you make a condition, something about any kind of hours or any kind of noise, that if there are noise issues that then he will follow up on noise abatement whether it is adding materials or something else. It shouldn't be a problem, but I remember a similar case with noise as an issue. There was a lot of discussion about if there was something did not work, further abatement would be addressed. Just to clarify all the different things that come into play on this. It doesn't expand to be anything further than an adjunct to his building construction and that it's always offsite and that no retail or other activities would be involved in this particular use of the building.

Mardean Badger: Ok.

Jack McCormack: We think that's fine, to have it granted for a woodworking shop and small office and for his business. It is not intended to be retail in nature. It is simply an adjunct to his business. That is very good, Susan.

Mardean Badger: Yes. One other thing I have a concern about is I understand that the building is set back a good distance from the front of the lot and do have vegetation buffers around it. I would assume some of that may be a mix of year-round vegetation and seasonal vegetation. Is that correct?

Jack McCormack: Yes.

Mardean Badger: I would like to see something, and I'm not sure quite where, to lessen the view from the road especially in the wintertime. What I am thinking, especially the views from the road from this side of the driveway in the direction of the building, to have a little more year-round type of vegetation to shield the view especially during the wintertime. I think that would be advantageous to the neighbors, especially the neighbors right across the road. Is that something that could be possible?

Tony Randall: The only thing I will caution you on is the trees in there are very big. What happens is those bigger trees help block the view from the road, but it also keeps the understory from growing. If you were to plant some balsam fir, some hemlock, in that understory, there would be a very slow growth because there would be no sunlight that would be required. I would be hesitant to cut down those bigger trees.

Mardean Badger: I am not saying cut anything down.

Tony Randall: You can plant trees there, but they will grow very slowly because of the lack of sunlight needed. And. Certainly. he can throw some in there and see what happens. It is that they are not going

to grow at a rate that will be of benefit I don't think.

Kathleen DeWolfe: Tony is correct in that comment. The other thing I considered was the discontinuance of the "woods road." That, perhaps where that opening is, some vegetation is planted there so no one thinks it's a second driveway. I don't know the condition of it.

Mardean Badger: That actually goes across Mike's property there. What is going to be done with that?

Tony Randall: I think it's a great idea to plant some smaller softwood trees in that, so it helps block the straight view down that road. It doesn't encourage anyone to go in there.

Kathleen DeWolfe: That was my concern, that someone might think that it was a driveway a second driveway.

Tony Randall: That is a good point, Kathleen. They can make that happen.

Kathleen DeWolfe: Even if it is at the parking. Part of the parking will be taken up with the "woods road." Woods roads are very attractive to some people. They'll see an opening and say "let's check this out." So even if it is at the property line, a row of white pines or hemlocks if the surrounding trees aren't too big might be put there. And even if they are slow growing or even rocks, boulders so it won't appear to be an access.

Jack McCormack: I talked to my clients and giving up right to the woods road would mean basically a novelty and rocks in front would. Maybe some trees. We could do something on that score.

Mardean Badger: Kathleen, Paula, Andy, Susan comments?

Susan MacLeod: I think the point made by the abutter is clear that everything should be documented for any future. It is clear that the variance was done for a woodworking shop in the scope it was presented at, although there are abilities to expand things that have been approved. If you clearly define what has been approved, then anything that is changed would still have to go through some kind of process. So whether a new owner or new use of the building or a greatly expanded use of the building, it would have to go through the whole process again. For everybody's peace of mind, it should be as clear as possible as to exactly addressing the intents of the request at the moment and think about the future possibilities might be in order to make it clear for everyone involved what is being approved and not much out of expansion that would be too much for the property itself.

Mardean Badger: Susan, when we say document as much as possible what we are approving, can we even go to the point of specifying the size of the building or would reference to the submitted plan be sufficient to that question?

Susan MacLeod: I think approving the plan as submitted with all the dimensions that are mentioned and the layout itself. I know sometimes when you're building, things might need to be tweaked just a little but if you hit ledge or whatever else, but the basic idea is what is being approved is this particular size building and the use that is being asked of it. I think approving this Site Plan is probably sufficient. If you want to make additional conditions, such as, is it more of the noise problem than anticipated, then further abatement would be in order. And any other things you can think of in that direction. Again, Kathleen's suggestion to make it clear that the woods road is not an access point, that the Site Plan does refer to buffers, particularly when you are approving a non-conforming use in a residential

zone, that you are very clear on the buffers that you are specifying. Sometimes people need to take more trees than they have to for access and whatever else, but just to make it clear everything will meet the regulations and that the Site Plan is approved as presented.

Mardean Badger: Any other comments? Planning Board members, any other questions for the applicant, either from the Planning Board or the abutters before I close the Public Hearing?

Lisa Weiss: I had a question to Susan's last point about documenting. Is it possible or have you seen suggestions like generally say again about a future buyer coming in, that the uses are in the spirit of the intentions described in the minutes? Because we have talked about a lot of things. To Jack's point, I don't want all this documentation about restrictions. There was a clear intention that Nick has described in both meetings that I would love to have the spirit of that be maintained if a future owner comes in. I don't know if you can refer to that spirit in the minutes for the Planning Board?

Mardean Badger: We can, obviously, if we approve the plan presented with the building and layout as presented and what other conditions, any future deviance from that is going to require coming back to both the ZBA and the Planning Board.

Lisa Weiss: I was referring to the operational use or then the objective use.

Mardean Badger: That it is a woodworking shop and an adjunct to the offsite construction business? Is that what you are referring to?

Lisa Weiss: Again, we talked about so many things in both meetings. I didn't know if you could refer to the intention in describing the meeting, you know, no hazardous materials, hours, couple of people working there, small projects. I didn't know if we could refer to it as intended.

Mardean Badger: We will consider some of these things.

Mardean Badger: I have one question for Nick that just came to mind. You talked about more likely coming in for a couple of hours at the end of the day to do some work or a few hours on the weekends. When would deliveries be likely made?

Nick Byars: Deliveries would be Monday through Friday, 8 to 3. Like I said to the ZBA, if I got a delivery it would be one, small, ten sheets of plywood, that is maybe once a month. That would be on the high end of things. But a very small truck during regular business hours Monday-Friday from a supply company.

Mardean Badger: Thank you.

Susan MacLeod: I would like to caution here, although you can set conditions and limits on the commercial use in a rural residential zone, you have to be careful not to step over the line or that you restrict what would be allowed to anyone else in the rural residential zone. So again, as far as hours go, obviously it would be tied to the noise ordinance that is in place in town that anybody else has to adhere to. Whatever noise anyone is making on any property; you can't say you can't make noise after 6 PM when anybody else in the zone can, so just be very mindful that you can't overstep and be more restrictive than is allowed to anyone else in the zone. Just be mindful of what everyone has to adhere to.

Mardean Badger: If there are no more questions or comments, I will accept a motion to close the hearing.

Kathleen DeWolfe: I will make that motion.

Paula Hancock: I will second it.

Roll call vote: Kathleen: aye, Paula: aye, Mardean: aye.
The Public Hearing portion of the meeting is closed at 8:10 PM.

Mardean Badger: Now we, as a Planning Board, need to make some decisions -- ultimately whether we are going to approve the Site Plan or not and, in addition, whether we are going to attach some conditions to that approval.

Mardean Badger: Kathleen, first -- suggestions, reactions, recommendations?

Kathleen DeWolfe: Since I brought up about the woods road, at least on the property line, we need a barrier so it can't be accessed by Owl Brook Road. Since we accepted the Site Plan, some of the questions were on the Site Plan, such as the downward lighting, the parking, waste bins and within the narrative from Exhibit A some of the other issues: vehicles behind fence, landscape behind structure; no signs located on property, no commercial lighting. That is within what came to the ZBA. I don't know can we put that as Exhibit A from the ZBA or do we have to spell it out?

Mardean Badger: I would rather see us establish our own wording.

Kathleen DeWolfe: Ok, and conditions.

Kathleen DeWolfe: Ok. Parking of vehicles and equipment behind fenced or landscaped barrier will occur behind the structure.

Mardean Badger: Parking as designated on Site Plan. If we talk about accepting the Site Plan as presented, including location of the parking to three spots.

Kathleen DeWolfe: No signs will be located on the property. No commercial lighting.

Mardean Badger: Location of parking, location of the building, no commercial signage, no sign with time or temperature, waste storage contained inside. Going back to what Susan said, if it has to be outside, it has to be enclosed with fencing and vegetation, so it is not visible.

Kathleen DeWolfe: We can't make this more stringent than what a homeowner can do on their property.

Mardean Badger: That is why I was concerned about the wording for the waste storage.

Mardean Badger: Ok Susan.

Susan MacLeod: Yes?

Mardean Badger: Regarding wording on waste storage. You mentioned not more restrictive. They did talk about containing the waste within the building. That is more restrictive than a homeowner in the

neighborhood would have to abide by.

Susan MacLeod: It is also within the Site Plan regulations that dumpsters even downtown have to be shielded. It wouldn't be excessive for the intended use.

Mardean Badger: So if the waste storage is not inside, if it is outside, it should be shielded from public view.

Susan MacLeod: And with the noise you can't restrict him by saying he can't go into his shop at night if he wants to. The only thing would be if the noise did appear to be excessive in some way, then they have to follow noise ordinance in town. The hours do not have to be dictated by any means. If they interfere with making noise or whatever else. It doesn't appear that that would become a problem.

Mardean Badger: Paula, Andy any other input?

Mardean Badger: Let us review. We talked about the Site Plan as presented indicating location of the structure, location of parking, location of driveway access. We've mentioned establish a barrier on the woods road on property line to prevent public access. We've said no commercial lighting; no commercial signage; waste storage either inside or enclosed and not visible to the public outside. If the noise appears excessive or contrary to Town of Ashland Noise Ordinance, that additional sound remediation will be done.

Paula Hancock: What does the ordinance say about inspection by health/safety officer? As far as in terms of other business in the area?

Mardean Badger: I think we would want the fire chief to address life/safety issues in conjunction with the Building Inspector.

Mardean Badger: There is standard wording that we put on documents recently dealing with inspections and life/safety issues and Building Inspector, that whole process.

Kathleen DeWolfe: Once he applies for his building permit, then the Building Inspector will be part of the process.

Mardean Badger: Right.

Paula Hancock: Are there rules in place for annual inspection?

Kathleen DeWolfe: Life and safety issues?

Mardean Badger: Not life safety issues.

Kathleen DeWolfe: We have no ordinance addressing that.

Susan MacLeod: Usually the fire chief likes to check the access, for the fire truck to be able to access the building.

Kathleen DeWolfe: Emergency vehicles.

Mardean Badger: Right

Susan MacLeod: Other than that, life safety is up to the employer when they have an employee and have to deal with the Feds on OSHA issues or whatever else. That is not anything we need to consider.

Mardean Badger: OK. Any other conditions we need to address?

Paula Hancock: The use of materials as part of the process? Thinking particularly about latex paint and anything else like finishes are concerned. Is there anything we need to address?

Mardean Badger: I don't think so, other than follow what would be covered by life safety issues.

Mardean Badger: Any other discussion before we make a motion of some sort.

Kathleen DeWolfe: No, nothing else to add.

Mardean Badger: I will accept a motion

Kathleen DeWolfe: A motion for?

Mardean Badger: To approve a Site Plan or not approve a Site Plan.

Kathleen DeWolfe: I will make a motion to accept the Site Plan as presented with the addendum conditions. Yes.

Mardean Badger: Do I hear a second?

Paula Hancock. I will second that.

Mardean Badger: Any other discussion, comments or changes?

Roll call vote: Kathleen DeWolfe: aye; Paula Hancock aye; Andy Fitch: I will recuse myself; Mardean Badger, aye.

Mardean Badger: We will write up the Notice of Decision which will include the conditions that we have gone through. That will be communicated to the applicants and the abutters. It will also go to all standard officials in town: Building Inspector, Code Enforcement Officer, Fire Chief.

Mardean Badger: There is a Right to Appeal that is available to either the applicant or the abutters, thirty days from the Notice of Decision. Correct?

Susan MacLeod: Correct.

Susan MacLeod: Thirty days from when the decision is made.

Mardean Badger: Thirty days from tonight.

Susan MacLeod: The abutters can appeal the ZBA decision. Thirty days from tomorrow.

Mardean Badger: Any other business?

Jack McCormack: Thank you for your time and attention. We appreciate you are all volunteers and not the easiest application. We appreciate all efforts. Thank you.

Mardean Badger: This meeting is adjourned at 8:29 PM.

Minutes submitted by Paula Hancock