

**Ashland Zoning Board of Adjustment
Draft Meeting Minutes
Thursday, July 15, 2021**

CALL TO ORDER: David Toth called the meeting to order at 6:30 PM

MEMBERS PRESENT: Mardean Badger, David Toth, Charlie Bozzello, Alan Cilley

OTHERS PRESENT: Richard Couch, property owner, Angela Lavallee, property manager

David Toth appointed Alan Cilley as a voting member (alternate) for this meeting. David Toth advised that the applicant has the right to be heard by a 5 member ZBA Board. However, the Ashland Zoning Board has only 3 regular members and an alternate. The applicant was asked if he would like to proceed with the meeting. Mardean explained that the consequences of a 4-member board is that any decision made by this board must have the approval of at least 3 votes in the affirmative on each question in order for the application to be approved. The applicant agreed to proceed with the meeting.

PUBLIC HEARING CASE 2021-03 FOR 33 MAIN STREET LLC

David Toth opened the Public Hearing at 6:35 PM.

Richard Couch, owner of 33 Main Street in Ashland, summarized his proposal for his property. When he first bought the property, he wanted to create a viable/rentable space in the basement area. Since the property is in a commercial zone, the request was made to convert the space from a residential space to a commercial space. The space has gone without a tenant for eleven years. The present proposal is to obtain a variance to allow the property owner to convert the commercial space to a one-bedroom apartment. The property owner is further asking for a variance for parking. The property owner has access to 7 parking spaces of which 5 spaces are currently being used. Under Zoning Ordinance Section 3.2b, all renovations need to have two parking spaces per unit. The property owner is currently renting additional parking spaces for his tenants from the American Legion, an adjacent lot. The property owner is before the Zoning Board of Adjustment to request a variance from Zoning Ordinance Section 2.2a (prohibit first floor residential use) to allow conversion from a commercial space to a viable/rentable 1 bedroom apartment space. The property owner is requesting a variance on the number of parking spaces required for each unit.

The Zoning Board of Adjustment discussed the following criteria:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. Substantial justice is done
4. The values of the surrounding properties are not diminished.
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship

Criteria 1: The variance will not be contrary to the public interest.

Mardean Badger made the point that this unit has gone unused for a decade. Interior changes have been made but exterior changes have not. The minimum square footage of any residential unit is 750 square feet. This unit measures 925 square feet and meets the minimum requirements.

Criteria 2: The spirit of the ordinance is observed.

Mardean Badger pointed out that there are not enough residential units. The zoning ordinance allows for residential spaces in the Commercial Zone. If the space remains commercial space, it will not succeed. David Toth pointed out that the ordinance is designed to preserve commercial space in town. This proposed space was made commercial prior to the Zoning Ordinance's passage. There is no storefront as part of the property. The property owner advises that all tenants have parking spaces; the problem has been solved by renting spaces from the American Legion an abutting property.

Criteria 3: Substantial justice is done

The property owner was asked (by a previous town administrator) to change the space from residential to commercial. The space has been vacant for eleven years with no potential tenants.

Criteria 4: The values of the surrounding properties are not diminished.

An appraisal is not needed; this property has been kept in good repair; there is no impact on surrounding property values.

Criteria 5: Literal enforcement of the provisions of the ordinance would result in unnecessary hardship

This property is under very restricted use and there is no interest in the space as a commercial space.

Mardean Badger agreed that the town has lost retail space over the years but is not averse to the variance. The ZBA is deciding on this individual case. The town encourages commercial use, but it falls to the property owner to make it work.

Alan Cilley inquired where the property owner was going to find the additional parking requested by the parking requirement. David Toth noted that there are various solutions to the parking problem and that the property owner/tenant at present is making the parking work. Mardean Badger advised that two parking spaces per unit is good for an ordinance. The ZBA is dealing with an individual situation.

Charlie Bozzello agreed that the ordinance is a standard application, but the town can't ask the property owner to achieve the impossible. The property owner manages his/her own property.

David Toth closed the Public Hearing at 7:15 PM.

The ZBA then voted on the request for a variance.

Criteria 1: The variance will not be contrary to the public interest.

Toth: Yes Cilley: No Badger: Yes Bozzello: Yes

Mardean Badger: I agree the variance is not contrary to the public interest. Overall, the owner manages the property in an orderly way. The variance does not go against the intent of the Zoning Ordinance. This is one individual situation. There is no harm or disorderliness in this situation to town. This is not contrary to the public interest.

Charlie Bozzello: Yes. This space remains an empty space in town. It doesn't work as commercial space. Owners tried to make it work as a commercial space for a decade. A variance will make the space useful for the owners.

Alan Cilley: No. This would not be a suitable living space. It will not meet the town life/safety. It is not contrary to the public interest.

David Toth: Yes. I agree with both Mardean and Charlie. The town should not have empty space in town. There is a demand for residential/rental space. The intent of the Zoning Ordinance is to balance residential and commercial space in the area. This does not change the balance but maintains it. Apartment/residential spaces are allowed in the commercial zone.

Criteria 2: The spirit of the ordinance is observed.

Toth: Yes Cilley: Yes Badger: Yes Bozzello: Yes

Mardean Badger: Yes. The Zoning Ordinance allows for a variety of things in town. The variance is well within the accepted uses. There is no burden on anything. The spirit of the ordinance is observed.

Charlie Bozzello: Yes. The property owner has made a solid effort.

Alan Cilley: Yes. The variance is within the spirit of the ordinance.

David Toth: Yes. I agree that the variance is within the spirit of the ordinance. It fits in with the planning goals in this section of town.

Criteria 3: Substantial justice is done

Toth: Yes Cilley: Yes Badger: Yes Bozzello: Yes

Mardean Badger: Yes. The space has been empty for so long. The property owner tried to fill it within the amendment to Section 2.2a of the Zoning Ordinance. This is the best way to use the space.

Charlie Bozzello: Yes. The space can't be used as a commercial space.

Alan Cilley: Yes

David Toth: Yes, the property owner has more than attempted to satisfy the town. Allow the property owner to rent it and get some income from the space.

Criteria 4: The values of the surrounding properties are not diminished.

Toth: Yes Cilley: Yes Badger: Yes Bozzello: Yes

Mardean Badger: Yes. I agree that the property has been well cared for. The property fits the area. The plans for the renovation are well thought out.

Charlie Bozzello: Yes. This would have a positive impact on the town. The empty space is not good.

Alan Cilley: Yes. What the property owner has done with the property is phenomenal.

Criteria 5: Literal enforcement of the provisions of the ordinance would result in unnecessary hardship

Toth: Yes Cilley: Yes Badger: Yes Bozzello: Yes

Mardean Badger: Yes. Despite the parking amendment you have attempted to use the space as a commercial space. The property owner is unable to rent it. It is an unnecessary hardship if the ZBA says no.

Charlie Bozzello: Yes. It would be a hardship on the property owner if the property owner is unable to use the property.

Alan Cilley: Yes. It is a hardship.

David Toth: Yes. It is a hardship. Other than this renovation and the renovation to the bank, no other renovations have been done by the town.

Mardean Badger: Granting this variance does not create a hardship for anyone else.

Mardean Badger made the following motion: To approve/grant the variance from Zoning Ordinance Section 2.2a for converting commercial space to a residential unit and granting a variance from Zoning Ordinance Section 3.2b for two parking spaces per unit. Charlie Bozzello seconded the motion.

Mardean Badger added the following condition: The property owners work with Steve Heath to see that all life/safety requirements for the renovation are met. Charlie Bozzello seconded the amendment.

Roll call vote on variances: Mardean Yes, Charlie Yes, David Yes, Alan No. The variances motion passes on a 3-1 roll call vote.

ADJOURNMENT

David Toth made a motion to adjourn. The meeting adjourned at 7:30 PM.

Minutes submitted by Paula Hancock