

**Ashland Zoning Board of Adjustment
Amended Meeting Minutes
Thursday, October 21, 2021**

CALL TO ORDER: Charlie Bozzello called the meeting to order at 6:30 PM.

MEMBERS PRESENT: Mardean Badger, Charlie Bozzello, Alan Cilley (alternate)

OTHERS PRESENT: Jon Kwiatkowski, applicant, John and Jana Thomas

Charlie Bozzello advised Jon Kwiatkowski that a proper Zoning Board should have five members. Jon Kwiatkowski can ask for a five-member board. With this request the meeting would be postponed. Jon Kwiatkowski's other option is to go forward with this meeting with only a three-member board. Jon Kwiatkowski chose to go forward with a three-member board. Charlie Bozzello appointed Alan Cilley, alternate, as a voting member for this meeting.

DISPOSITION OF MINUTES

The Zoning Board reviewed the minutes from their Thursday, September 9, 2021, minutes. Mardean Badger made a motion to accept the minutes of Thursday, September 9, 2021. Charlie Bozzello seconded the motion. The motion passed on a 3-0 roll call vote.

PUBLIC HEARING FOR APPLICATION FOR VARIANCE AND EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS FOR MAIN STREET AND WINTER STREET (T/M/L 017-005-011) AND (T/M/L 017-005-012)

Charlie Bozzello opened the Public Hearing at 7:05 PM. Mardean Badger made a motion to accept the application as complete. Alan Cilley seconded the motion. The motion passed on a 3-0 roll call vote. The application was accepted.

Jon Kwiatkowski, applicant, was asked to present his reasons for his request for a variance for the setbacks on his property. Mr. Kwiatkowski made the following points:

- Intention to create a building on his property at the corner of Main and Winter Streets. Jon Kwiatkowski intends to merge the two lots into one lot. In order to construct a building that looks similar to the buildings on the two abutting properties there needs to be alterations of the setbacks on his property. The present setback requirements will make the resulting building on the Kwiatkowski property look quite different from residences on abutting properties.
- Jon Kwiatkowski is requesting that the setbacks on his property be more in line with adjacent properties
- With the present ordinance-required setbacks on his property the resulting building would have the configuration of a long narrow building, like a boat sail.
- Jon Kwiatkowski would like to build a 2- or 3-unit condo a town home style side by side. Jon Kwiatkowski is also considering using the property to construct a mixed-use building with residential use over a commercial office space.
- There is no longer an easement issue with the adjacent property, T/M/L 016-012-001, owned by NFI North Inc. The issue has been resolved and filed with the county.

Mardean Badger had questions about the exact setback measurements being requested for the property.

- Jon Kwiatkowski explained that on his plan there was a front setback measuring 17.6' to the property line on Main Street. The setback was not measured to the edge of the pavement. The other setbacks requested on the application plan measured 17.4' toward Main Street, 21.6' and 23.9' from Winter Street, 11.7' from T/M/L 017-005-010 (Chiasson) and 15.6' from T/M/L 016-012-001 (NFI North).

Mardean Badger pointed out that the State right-of-way is a measurement of 35' from the centerline of Main Street. She pointed out that the requested setback on Main Street is similar to the setback of the abutters preexisting house (NFI North).

Charlie Bozzello determined that there were no individuals in attendance who were in support of the application. There were no individuals in attendance who were in opposition to the application.

Charlie Bozzello requested that the applicant go through the criteria questions and expand on the answers he submitted on his application.

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

The new building will be a benefit to the public with the variance because the architecture would be in line with architecture of surrounding residences. The proposed building will not block the view at Chiasson residence. The Main Street view will not be blocked by the building. The public interest is not contrary, but the building will improve the visual look of the corner.

2. The spirit of the ordinance is observed?

There is justification to violate the setback ordinance. Using the present setbacks limits the use of the property. It would be a detriment to downtown. The present setbacks will allow the construction of an odd-shaped building rather than a building that will blend in.

3. Substantial justice is done.

A variance would enable Mr. Kwiatkowski to build a saleable building.

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

The building will increase the value of abutters properties. The present setbacks will mean building a smaller building that may affect the value of the abutters' properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

If the variance is denied it will incur unnecessary hardship. The resulting building would be small and ugly, or the property could be used as a parking lot with rental spaces.

Charlie Bozzello made a motion to close the Public Hearing. Mardean Badger seconded the motion. The motion passed on a 3-0 roll call vote. The Public Hearing closed at 7:35 PM.

Charlie Bozzello: I need more information about the variance than is put forth in the application. This is a substantial case. I need more time to consult with my colleagues. I would like to defer the vote on this application.

It was pointed out that all deliberation needs to be part of a scheduled public meeting.

Mardean Badger: The setbacks of this property are no different from the setbacks of the abutting properties. I am concerned about the narrowness of the setbacks. This property is made up of two distinct lots that are not presently merged. I would specify in the notice of approval the exact setbacks of all four sides of the property. I would specify in a condition that the relaxed setbacks do not go into effect until there is a merger of the property and the applicant comes before the Planning Board.

Alan Cilley: The applicant is not increasing the nonconformity of the property. This is an extreme variance. The Board is dealing with four setbacks. The Board will have a hard time pushing this project forward unless the lots are merged. The second issue is the easement of Main Street. The State should deal with this easement issue.

Charlie Bozzello: I conclude that this application is premature with unresolved issues. Before this application is brought back before the Zoning Board of Adjustment it needs more information. I would suggest that the applicant withdraw the application. The applicant should go to the Planning Board for a more detailed discussion of the proposal.

Mardean Badger explained that it is not unusual for the applicant to seek and be granted a variance (such as for setbacks) at the ZBA before presenting the entire plan to the Planning Board. The Planning Board would then examine all the details of the building project and design in accordance with the Zoning Ordinance.

Alan Cilley: If the applicant goes to the Building Inspector and requests a building permit, there would be more information presented for the Zoning Board of Adjustment and the Planning Board to consider.

At the conclusion of the deliberation of the Zoning Board, Mardean Badger made the following motion: To continue this case to Thursday, November 11, 2021, at 6:30 PM. Alan Cilley seconded the motion. The motion passed on a 3-0 yes vote.

ADJOURNMENT

Alan Cilley made a motion to adjourn. Mardean Badger seconded the motion. The motion passed. The meeting adjourned at 7:55 PM. The next ZBA meeting will be Thursday, November 11, 2021, at 6:30 PM at the Conference Room at 6 Collins Street.

Minutes submitted by Paula Hancock