

**Ashland Zoning Board of Adjustment
Meeting Minutes
Thursday, November 11, 2021**

CALL TO ORDER: Charlie Bozzello, Chair of the Zoning Board of Adjustment, called the meeting to order at 6:30 PM

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

OTHERS PRESENT: Jon Kwiatkowski, applicant, Paula Hancock

Charlie Bozzello appointed Alan Cilley (alternate) as a voting member of the Board for this meeting.

DISPOSITION OF MINUTES

The Zoning Board of Adjustment reviewed the minutes from their October 21, 2021, meeting. Mardean Badger made a motion to approve the minutes of the October 21, 2021, meeting as amended. Charlie Bozzello seconded the motion. The motion passed on a 3-0 roll call vote.

CASE 2021-05 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)

The Zoning Board started deliberations on Case 2021-05 relative to an Application for Variance and Equitable Waiver of Dimensional Requirements for property at the corner of Main Street and Winter Street (T/M/L 017-005-011) and (T/M/L 017-005-012).

Charlie Bozzello opened the deliberative session asking to hear the thinking of the other members of the Board on this setbacks variance issue.

Mardean Badger: The only way to make this property usable is to merge the two lots ~~them~~. The applicant will need some variance of setbacks. The proposed Main Street setback will put the buildable area in the same line as his neighbors [NFI North Inc]. The setbacks on the Winter Street side of the property will make the line comparable to the neighbors [Chiasson] below the applicant's property.

Charlie Bozzello: I don't know what the appropriate setbacks should be without knowing what the applicant intends to build on the property.

Mardean Badger: The Zoning Board needs to decide the setbacks for the property. The applicant then needs to take those setbacks and plan his building design to fit within those setbacks. The applicant does not need to come to the ZBA with building/design plans. The building/design plans are determined by the Planning Board. The ZBA determines the space that the applicant works within. The Planning Board deals with the building design.

Alan Cilley: The building is setback 0 feet to the State Right of Way. I have a problem with that. The Right of Way/property line gives the property considerable usable property. Whether the

ZBA measures the setback from the center line of the road or from the property line, the ZBA needs to be specific in where the ZBA is measuring from. This proposed building is going to be within 3' of the Chiasson property line.

Charlie Bozzello: I would like to see this property developed and I have technical concerns about this property. I would like to see two things happen: either have this application submitted to the Building Inspector and have the Building Inspector deny it or have a specific recommendation(s) from the Planning Board.

Mardean Badger: The Planning Board can't waive setbacks. The Planning Board needs to abide by the decisions of the ZBA as well as State regulations. The applicant needs to work within the setbacks. The applicant needs oversight from the Planning Board if the applicant builds a commercial building. The ZBA by law approves variances. The Planning Board in NH has no authority to tell an applicant what to build. The applicant can come to the Planning Board with a plan and the two pieces of property merged beforehand. The applicant comes to the ZBA for a variance. There are no guarantees for the applicant. The applicant needs to come before the ZBA before he can come before the Planning Board. The applicant can come before the ZBA without a building design. The applicant can come before the ZBA without going to the Building Inspector.

Charlie Bozzello: This application can't succeed. In order for it to succeed the ZBA needs more information and more needs to be done. My opinion is to either dismiss or suspend this application. The applicant can then come back to the ZBA with a building plan. The chair can dismiss this application without prejudice.

Mardean Badger: The ZBA has accepted this application as complete. The ZBA has had a Public Hearing on this application. The ZBA needs to vote or make a decision or the ZBA can agree not to make a decision tonight but continue the deliberations. The applicant has good standing and has submitted an application to the ZBA. The Planning Board can't tell the ZBA what to do.

Alan Cilley: I have concerns about the closeness of the proposed building to the house next door. If the ZBA takes the front [35 feet] and rear [15 feet] setback numbers, this will equal 50'. If the 50' is taken out of the plan, the applicant will need to build a smaller building to fit within the setbacks.

Mardean Badger: The ZBA needs to approve or deny this application.

Charlie Bozzello: I don't want a negative outcome on this application. The inability to have a building plan for this property will be a negative outcome. I don't want that.

Alan Cilley: I propose to have a front setback of 35' and side/rear setbacks of 15'.

Mardean Badger: The Zoning Ordinance, section 2.3c[e] indicates that the commercial building can be in line with neighboring buildings. The side/rear setbacks are in line with the Chiasson residence.

Charlie Bozzello: The ZBA can suspend this application or vote the application down. The applicant can then go to the Planning Board. The applicant can come back before the ZBA with a new application. However, it means the applicant pays twice the fees to get the variance accomplished.

Mardean Badger: The ZBA needs to consider that, since this case has been heard by the ZBA, there is a timeline within which the ZBA needs to make a decision. The timeline is determined by law and/or ordinance. The ZBA needs to either approve or deny these setbacks.

Charlie Bozzello: I don't want to deny this application.

Mardean Badger: The ZBA can continue this deliberation to our Thursday, December 9, 2021, meeting. The ZBA will need some legal information on this case to clarify the time within which the ZBA must come to a decision.

Mardean Badger made the following motion: To continue this deliberation for this case to the ZBA meeting on Thursday, December 9, 2021. Charlie Bozzello seconded the motion. The motion passed on a 3-0 vote.

Mardean Badger explained some of the processes that can take place at the Planning Board level. In an informal discussion, the applicant can describe what he wants to build on the property and the Planning Board can discuss the Zoning Ordinances that would come into play given the applicant's plans. The next level of discussion, Design Review, requires that the abutters need to be notified at the applicant's expense. This applicant has come before the Planning Board twice for an informal discussion of his plans for the property. At that time the Planning Board pointed out issues with setbacks and DOT.

Mardean Badger made some other observations:

- Either a residence or commercial building built on the property would make good use of the property
- The Building Inspector will tell the applicant that there is a problem with setbacks when the applicant submits an application for a building permit.
- There may be an issue with DOT relative to the location of the proposed driveway.
- The applicant might put any parking spaces under the proposed building, otherwise there will be no room for parking on the property.
- The property line for this property comes within 3' of the neighbor's [Chiasson] building.
- There might be a drainage issue from this property to the neighbor's [Chiasson] land.
- If the ZBA were to deny this application, each member of the ZBA board will need to have very specific reasons for the denial based on the criteria.
- Mardean would propose a condition on the variance of the setbacks: That the variance does not go into effect until the property is legally merged.
- The variance if approved will stand for two years.

ADJOURNMENT

Charlie Bozzello made a motion to adjourn. The motion was seconded. The motion passed. The

meeting adjourned at 7:50 PM. The next ZBA meeting will be Thursday, December 9, 2021, at 6:30 PM at the Conference Room at 6 Collins Street. The ZBA will continue the deliberations on this case.

Minutes submitted by Paula Hancock