

Ashland Zoning Board of Adjustment
Approved Meeting Minutes
Thursday, February 10, 2022

CALL TO ORDER: Charlie Bozzello, Chair of the Board, called the meeting to order at 6:31 PM.

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

OTHERS PRESENT: Jon Kwiatkowski, applicant, Yvonne Downes, Paula Hancock

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

DISPOSITION OF MINUTES

Mardean Badger made a motion to approve the minutes from the Thursday, January 13, 2022, meeting as presented. Alan Cilley seconded the motion. The motion passed on a 3-0 roll call vote.

PUBLIC HEARING ON THE JON KWIATKOWSKI APPLICATION REHEARING
TML 017-005-011 and TML 017-005-012

Charlie Bozzello opened the Public Hearing for the Rehearing at 6:35 PM.

The applicant, Jon Kwiatkowski submitted a Statement of Rebuttal which the Board reviewed, and the applicant addressed. Jon Kwiatkowski advised that the approval of a smaller footprint would not allow for an enclosed parking area beneath the proposed building. This would result in additional noise pollution, light pollution, additional plowing and snow removal needed, a larger paved/plowed area. He stated he would need to apply for an additional variance for green space.

The Board had reviewed Mr. Kwiatkowski's submitted written statement addressing each criterion and discussed some of the criteria:

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

Jon Kwiatkowski: The Board has shown no evidence that the variances requested are contrary to the public interest. At previous meetings the Board has opposed the petition. The Board's opinion has not been based on fact. The project has been properly drawn up both by an engineer and checked by a licensed surveyor.

Some members of the Board have expressed the opinion that the proposed building is too big for the lot. Other nearby lots on Main Street have a higher percentage lot coverage than this will. My proposal follows the requirements for green space and paved area allowance. The variances are for the mathematical footprint for the building, on the Main Street side, the Winter Street side and the side adjacent to the Chiasson lot. They're not unreasonable. The building is the minimum size for enclosed parking, to turn around and leave. A complete building plan is not required by the ZBA.

Charlie Bozzello: The reason cited for declining the application was insufficiency. The proposed building plan is not complete.

Criteria 2: The spirit of the ordinance is observed.

Jon Kwiatkowski stated that the granting of variances would prevent any detriment to the town and

prevent any loss of revenue to the town. There would be no unnecessary services to the town or need for town services. There would be benefit to the town in generated tax revenue. There is an enclosed parking area being proposed to eliminate the need for traffic control by local police.

Jon Kwiatkowski referred to an alternative proposal that cuts the original application/proposal in half. Under the alternative plan, the enclosed parking area would be eliminated. The paved parking area would be increased; there would be increased plowing. There would be additional noise and light pollution; the parking would be closer to abutters. There would need to be a jersey barrier constructed on the Chiasson side of the lot to prevent snow being plowed onto the Chiasson lot. The jersey barrier would need to be constructed on the property line.

Charlie Bozzello: The original information submitted to the ZBA has been changed.

Mardean Badger: Our discussion is getting away from the issues that the ZBA needs to consider: the granting/denial of variances and setbacks. The ZBA needs to decide about variances on all four sides of this property. The ZBA needs clarification of the individual measurements involved. The decisions concerning indoor/outdoor parking, plowing etc. would be discussed with the Planning Board. The ZBA is able to adjust the individual setback measurements. The ZBA needs to be very clear on exactly what they approve concerning setbacks for this property and it needs to be clear to any future ZBA boards. The requested setbacks under discussion are as follows: 11.7' from the Chiasson property, 15.6' from the NFI North property (requirement is exceeded in this proposal), 23.6' and 21.6' from Winter Street, and 17.4 and 17.6 from Main Street. These are the requested setbacks for all four sides of this property.

Criteria 3: Substantial justice is done. This criteria is clear to the members of the ZBA; no further discussion needed.

Criteria 4: The values of surrounding properties are not diminished. This criteria is clear to the ZBA members. No discussion needed.

Criteria 5: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. This criteria is agreed on by all ZBA members.

Mardean Badger: The setback facing the NFI property needs a required setback of 15'. This proposal meets that requirement. The ordinance requires a 35' setback on both the Winter Street and Main Street sides of the property. The variances can be measured from the centerline of the road or the property line. The Chiasson house has less than the requirement because the Chiasson property was established before zoning was established. The setback on the Chiasson side of Mr. Kwiatkowski's property should be increased.

Alan Cilley: I can't accept what has been presented. The setback on the Chiasson side of the property should be moved back to 15' or more. The biggest piece is the front setback which is required to be 35'. I suggest that we halve the 35' to 17.4' and leave the proposal as drawn. The setback for Winter Street is inside the 35'. This proposed project [the building] is proposed to be 3,000 square feet. In my opinion this is too much for the size of the property. I would suggest an adjustment to 2,700 square foot building. I do not want to deny this proposed building on this property. This proposed building is too much for this property. The size of the proposed building needs to be changed. I want this proposal to work for you.

Charlie Bozzello: I want to see this property developed. I would suggest that this proposal be put on hold for now and the final decision by the ZBA be left open. I suggest that the applicant consult with the Planning Board.

Jon Kwiatkowski: I would like a decision/approval tonight.

Charlie Bozzello: I would suggest that we schedule a joint meeting of the ZBA and the Planning Board.

Mardean Badger: The ZBA's job is to determine setbacks. The ZBA can tweak the setback measurements. The ZBA lets the applicant know what the size of the footprint he/she can develop. If the ZBA chooses to deny this application proposal, the applicant can take the application to court for a decision.

Mardean Badger: I would want a 15' setback facing Chiasson property. I agree with the setbacks for NFI and Winter Street. I agree to a setback of 17.4' on the Main Street side of the property.

Alan Cilley: If 15' setbacks are used the building will be built on the setback/ property line. The building would be on the State right of way line. I am suggesting that the proposed building needs to be decreased by 300 square feet.

Mardean Badger: The lot coverage is not unusual. The 2 present lots individually are not buildable. If the applicant were to merge the two lots, the property would be buildable. If the ZBA approves the setback variances, the variances will be in effect for two years. If the property is not developed in that two-year period, the variances lapse.

Charlie Bozzello: The Planning Board will be able to resolve the building structure issues and determine from Jon Kwiatkowski what he needs to complete his proposed project. If we deny this proposal, the next step for the applicant is court.

Alan Cilley: At our first ZBA meeting, the ZBA members had a number of questions about this proposal. In my opinion, the delivery zone portion of the project will not be approved by the State. This proposal could be cleaner.

Mardean Badger: This applicant has consulted with the Planning Board twice. The applicant was informed that he would need to go to the ZBA to determine setback issues. The applicant will then come before the Planning Board with a plan to present to the Planning Board.

Alan Cilley: I would suggest creating a plan that will fit within a 2,700 square foot footprint and present that plan to the Planning Board.

Mardean Badger: The Planning Board needs to abide by the ZBA decision.

Mardean Badger: The ZBA needs to specify the distances [setbacks] on all four sides of this property. The ZBA needs to put the approved variances in writing and include it in the ZBA meeting minutes. The applicant's drawing needs to be redone to reflect the approved variance distances. This will become the official record of this proposal/application and will be placed on file.

Mardean Badger made the following motion:

Motion to grant the setback variances as follows:

- **15' setback from the property line facing TML 017-005-010 (Chiasson),**
- **15' setback from the property line facing TML 016-012-001 (NFI North),**
- **18' setback from the property line facing Main Street, measured at the point where TML 017-005-011 and TML 017-005-012 meet,**
- **21.6' setback from the property line facing Winter Street.**
- **These setbacks will not take effect until the merger of the two properties, TML 017-005-011 and TML 017-005-012.**

Alan Cilley seconded the motion. The motion passed on a 3-0 roll call vote.

Mardean Badger: Yes

Alan Cilley: Yes

Charlie Bozzello: Yes

Charlie Bozzello made a motion to close the Public Hearing for the Rehearing. The motion was seconded. The motion passed on a 3-0 roll call vote. The Public Hearing for Rehearing closed at 7:50 PM.

Yvonne Downes came before the ZBA to inquire the proper procedure/process to address some of her concerns/issues with her neighbor. The Board indicated that the ZBA was not the proper forum for her concerns. They informed her about the proper individuals to contact as well as the proper process to follow.

ADJOURNMENT

Alan Cilley made a motion to adjourn. Mardean Badger seconded the motion. The motion passed. The meeting adjourned at 8:15 PM. The next Zoning Board of Adjustment meeting will be Thursday, March 10, 2022, at the Conference Room at 6 Collins Street at 6:30 PM.

Minutes submitted by Paula Hancock