

**Ashland Zoning Board of Adjustment
Meeting Minutes
Thursday, March 14, 2024**

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
Tim Peters
Asa Ammarin
Meghan Semiao

MEMBERS ABSENT: Mike Myshrall

OTHERS PRESENT: Charles and Diane Carey, applicants
Dana Marcroft, abutter
Annamarie Pennucci, abutter

DISPOSITION OF MINUTES

The Board tabled the minutes of the Thursday, January 4, 2024 meeting. The minutes had not been distributed to the members in time for review. The Board will review the minutes at its Thursday, April 11, 2024 meeting.

The Board tabled the minutes of the Thursday, February 8, 2024 to give the members time to review the minutes in more detail. The Board will review the minutes at its Thursday, April 11, 2024 meeting.

CASE 2024-01 AN APPLICATION FOR VARIANCE FOR PROPERTY OWNED BY CHARLES AND DIANE CAREY AT 10 ROCKY TOP LANE (T/M/L 103-021) REQUESTING A VARIANCE FROM ASHLAND ZONING ORDINANCE 2.3A REQUIRING A MINIMUM DISTANCE OF 35 FEET BETWEEN THE EDGE OF ANY RIGHT-OF-WAY AND ANY BUILDING

Charles and Diane Carey, owners of property at 10 Rocky Top Lane (T/M/L 103-021) came before the Zoning Board of Adjustment to request a variance from the Ashland Zoning Ordinance Article 2.3a requiring “a minimum distance of 35 feet between the edge of any public right-of-way and any building” to construct a garage with an approximate setback of 25 feet.

Mardean Badger made a motion to accept the application as complete. Meghan Semiao seconded the motion. The motion passed unanimously.

Charlie Bozzello made a motion to open a Public Hearing. Tim Peters seconded the motion. The Public Hearing opened at 6:35 PM.

The Carey property is located at the end of a private dirt road. The previous owners of the property created an RV pad that was paved. The RV pad still has active utilities and electricity. The remainder of the property is naturally rocky with quite a bit of bedrock. Throughout the property there are quite a number of natural trees and resulting tree lines. There is a separate tank that the previous owners used to empty the RV fluids.

The Careys are proposing a 24' x 24' frame garage with dormer windows with a room constructed on the second floor. The proposed garage will have two bays: one bay for a car and a second bay which will store such items as a kayak and other maintenance tools. To meet the 35' setback requirement would mean removing part of the hill on the property that contains mostly bedrock. The proposed construction would be 25 feet from the property line. Other locations have been investigated. These other sites are unsuitable because of having to create a flat space for it by dealing with the bedrock. The other site investigated would block the current residence. The abutters lot lines are close and a vacation home is located close by as well. The drainage path from the abutters' property goes into the other neighboring properties. The drainage will miss the garage completely. The only concern is snow removal away from the garage in the winter months. The abutters Dana Marcroft and Annamarie Pennucci are in favor of the proposed garage. The Building Inspector agrees that the proposed location for the garage is the best spot for it.

Tim Peters made a motion to close the Public Hearing. Meghan Semiao seconded the motion. The motion passed unanimously. The Public Hearing closed at 6:50 PM.

The Carey's answers to the criteria statements can be found in their entirety at the end of these minutes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao – Y

Badger: Yes. This variance is not contrary to the public interest. It will not interfere with the ordinance.

Bozzello: Yes. The variance will not be contrary to the public interest. The owners have chosen the best location for the proposed garage.

Peters: Yes. The proposed location respects the boulders, bedrock, and the natural trees.

Ammarin: Yes. The proposal is not contrary to the public interest. Everyone is on the same page.

Semiao: Yes

Criteria 2: The spirit of the ordinance is observed.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao – Y

Badger: Yes. The property owners are respectful of the surrounding properties. The owners are respectful of the land with no interference.

Bozzello: Yes. The spirit of the ordinance is observed. The owners want the convenience of a garage with a moderate intrusion into the setback. The proposal is reasonable.

Peters: Yes. The request is only for a 10' variation.

Ammarin: Yes. I agree with the logic already expressed. There is no conflict.

Semiao: Yes. The spirit of the ordinance is observed.

Criteria 3: Substantial justice is done.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao – Y

Badger: Yes This proposal allows to add a garage in an appropriate place. The property is being used appropriately.

Bozzello: Yes. The garage will be helpful to the applicants without causing any harm.

Peters: Yes. This is the best economic alternative.

Ammarin: Yes. The applicant intends to clean up the yard and move all personal possessions inside.

Semiao: Yes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao – Y

Badger: Yes. The property owners are using the property appropriately while not interfering with neighbors.

Bozzello: Yes. The garage will keep things neater.

Peters: Yes

Ammarin: Yes. The decision to build allows the property owners to use the driveways but doesn't interfere with the neighbors.

Semiao: Yes. The proposal does not interfere with nature.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao - Y

a. For the purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property the distinguish it from other properties in the area;

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property; and
- (ii) The proposed use is a reasonable one.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao - Y

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Semiao - Y

Badger: Yes. The owners have found the best location for the proposed garage.

Bozzello: Yes. The land makes the hardship. The character of the land makes for land adjustment.

Peters: Yes. If the proposed garage is built somewhere else means getting into blasting the bedrock and the boulders.

Ammarin: Yes the land is the hardship.

Semiao: Yes

Meghan Semiao made a motion to approve the application as it stands. Asa Ammarin seconded the motion. The motion passed unanimously.

Badger -- Yes Bozzello -- Yes Peters -- Yes Ammarin -- Yes Semiao -- Yes

ZBA APPLICATION FORM UPDATE

The Board briefly reviewed the new ZBA Application Form for language and punctuation. There was no further discussion. Mardean Badger made a motion to approve the new version of the ZBA Application. Tim Peters seconded the motion. The motion passed unanimously.

ZBA BOARD MEMBERSHIP

The Board briefly discussed the issue of having two Selectboard members on the ZBA. It is not considered advisable. The ZBA is the board that deals with any appeals from the Planning or Selectboard. If any issues from the Selectboard are to come before the ZBA, the two Selectboard ZBA members would need to recuse themselves and abstain from all voting and discussion of the issues involved. If the ZBA were to get more alternates appointed, the Board could still have the full number needed to vote. Charlie Bozzello feels he needs more information before making a decision on this issue; the Board may need to consult the town attorney to deal with any legal issues.

Charlie Bozzello advised that the ZBA will reorganize the board at its Thursday, April 11, 2024 meeting.

ADJOURNMENT

Charlie Bozzello made a motion to adjourn. The motion was seconded. The motion passed. The meeting adjourned at 7:25 PM. The next ZBA meeting will be Thursday, April 11, 2024 at 6:30 PM at 6 Collins Street.

Minutes submitted by Paula Hancock

Variance criteria submitted by the Applicants:

Hello,

Sorry for not properly answering those questions. I hope we understood them correctly this time.

Thank you for your help.

Charles and Diane Carey

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

The variance will actually be in the public interest because it will not affect the natural setting that is already in place. The spot where we are asking the garage to be built is already cleared and level. The rest of the yard is very natural, with boulders, vegetation, and trees.

2. The spirit of the ordinance is observed.

In addition to the answer to question number one, our intention is to stain the wood siding on the garage to blend in with the natural surroundings of our tree lined dirt road neighborhood.

3. Substantial justice is done.

We think the garage will benefit the surrounding since we'll have a place to store our extra things we have such as canoes and kayaks, yard tools, a 4 wheeler etc. to get them out of our yard, making the area look neater.

4. The values of surrounding properties are not diminished.

We believe cleaning up our yard and not disturbing the natural beauty of our lot by removing trees or rocks will keep the appeal and value of the properties.

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

Not only will a variance save money for us because the area is already cleared, already level, and already has utilities since it was used by the previous owners as an RV pad. It will also benefit the other property owners since we will not be clearing out any trees, or rocks. This not only keep the natural setting but also keep the process of building the garage quick and quiet. The garage that we are proposing will be a 24x24 prefab garage, so the build will take only days, we hope to have it built before the summer. The only other properties on our road are both vacation houses. Rocky top In does however branch off of Highwoods trail, we would like to keep construction vehicles at a minimum to not disturb those neighbors.

Thank you for your consideration,

Charles and Diane Carey