

**Ashland Zoning Board of Adjustment
Meeting Minutes
Thursday, May 9, 2024**

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

MEMBERS PRESENT: Mardean Badger
Asa Ammarin
Tim Peters
Charlie Bozzello
Mike Myshrall (alternate)
Meghan Semiao (excused)

OTHERS PRESENT: James and Susan DeGrace, applicants
Farhad and Mary Touserkani, applicants
Chris Hogan, Hogan Construction
Devon Thibeault, Building Inspector
Sophie Kelsey, PRHS student

Charlie Bozzello, Chair of the Board, appointed Mike Myshrall as a voting member of the Board for this meeting.

DISPOSITION OF MINUTES

The Board reviewed the minutes from their Thursday, January 4, 2024 meeting. Mardean Badger made a motion to approve the minutes from their Thursday, January 4, 2024 meeting. Asa Ammarin seconded the motion. The motion passed on a 5 yes, 0 no vote.

The Board reviewed the minutes from their Thursday, February 8, 2024 meeting. The February 8, 2024 meeting minutes were tabled for this meeting. The Board will review the February 8, 2024 meeting minutes at their Thursday, June 13, 2024 meeting.

The Board reviewed the minutes from their Thursday, March 14, 2024 meeting. The Board passed the Thursday, March 14, 2024 meeting minutes at their Thursday, April 11, 2024 meeting.

The Board reviewed the minutes from their Thursday, April 11, 2024 meeting. Mardean Badger made a motion to approve the Thursday, April 11, 2024 meeting minutes. Tim Peters seconded the motion. The motion passed on a 5 yes, 0 no vote.

The Board reviewed the minutes from their Friday, April 19, 2024 Site Walk meeting. Charlie Bozzello made a motion to accept the minutes of the Friday, April 19, 2024 Site Walk of the James DeGrace property. Mardean seconded the motion. The motion passed on a 3 yes (Badger, Bozzello, Peters) 0 no votes 2 abstentions (Asa Ammarin, and Mike Myshrall).

CONTINUATION OF PUBLIC HEARING FOR CASE 2024-03 FOR JAMES AND SUSAN
DEGRACE VARIANCE APPLICATION

James and Susan DeGrace have come before the Zoning Board of Adjustment for a Variance of Section 2.3 Setbacks. The applicants propose to construct an addition, stairs, and an attached garage to the existing house after removing a detached shed and a portion of the driveway at 73 River Street, Tax Map 106-003 owned by James and Susan DeGrace.

CONTINUATION OF PUBLIC HEARING FOR CASE 2024-03 JAMES AND SUSAN DEGRACE

Charlie Bozzello, Chair, made a motion to open the Public Hearing for Case 2024-03. The motion was seconded. The motion passed unanimously. The Public Hearing opened at 6:45 PM.

Susan DeGrace advised the Board that the Board had expressed concern about the amount of green space. The applicants are proposing to create more green space and complete more landscaping. The applicants will be improving the area. The proposed garage will be in line with the house. The applicants will be adding landscaping to the property.

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

VARIANCE

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger votes yes. It is not contrary to the public interest. The property blends in and does not detract from the neighborhood.

Charlie Bozzello: The rules are not written for this property. This property does not conform. Common sense takes over. I vote yes. It is not contrary to the public interest.

Tim Peters: This property is not contrary to the public interest. I vote yes.

Asa Ammarin: This does not alter the property. This is a good thing for everyone. I vote yes.

Mike Myshrall: It does not detract to the public interest. I vote yes.

Criteria 2: The spirit of the ordinance is observed.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: Yes. The proposed location of the garage fits the lot and the neighborhood.

Charlie Bozzello: This is something that is functionally valuable. Yes, the spirit of the ordinance is observed. I vote yes.

Tim Peters: The spirit of the ordinance is observed. I vote yes.

Asa Ammarin: The spirit of the ordinance is observed. I vote yes.

Mike Myshrall: The spirit of the ordinance is observed. The property fits into the neighborhood. I vote yes.

Criteria 3: Substantial justice is done.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: This is the best use of the property. The location is appropriate to the area. I vote yes.

Charlie Bozzello: The property is non-conforming. Substantial justice is done. I vote yes.

Asa Ammarin: Substantial justice is done. I vote yes.

Mike Myshrall: Substantial justice is being done.. The property is non-conforming. The applicants have no choice. I vote yes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: The property enhances the neighborhood. I vote yes.

Charlie Bozzello: The values of the surrounding properties are not diminished. The work being done on this property will elevate the property value. I vote yes.

Tim Peters: No property values will be diminished. I vote yes.

Asa Ammarin: The property values will not be diminished. I vote yes.

Mike Myshrall: Property values will not be diminished. The landscaping will be an improvement to the property. I vote yes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: It would be true. Not improving this property would create a hardship. I vote yes.

Charlie Bozzello: Enforcement of the ordinance would be an unnecessary hardship. I vote yes.

Tim Peters: It would be a hardship. I vote yes.

Asa Ammarin: The variance would make the property livable. There is an unnecessary hardship. I vote yes.

Mike Myshrall: The site location and terrain would be a hardship. The applicants have done their best. I vote yes.

- 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 Myshrall - 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 Myshrall - Y

Mardean Badger made the following motion: To approve the setback variance with the following conditions: (1) all appropriate building permits will be obtained and relevant inspections by the Building Inspector and Fire Chief will be completed; (2) abide by all conditions of Shoreland Impact Permit #2020-02302 and complete by the 3/3/2026 expiration date; complete appropriate landscaping to enhance the property. Tim Peters seconded the motion. The motion passed on a 5 yes (Badger, Bozzello, Peters, Ammarin, Myshrall) 0 no vote.

PUBLIC HEARING FOR CASE 2024-04

Farhad and Mary Touserani, applicants, have come before the Zoning Board of Adjustment requesting a variance from Section 2.3c of the Ashland Zoning Ordinance requiring a minimum setback of 25 feet to allow a 15-foot setback to build a new home within the Squam River Landing cluster development. The property is located at T/M/L 105-031 on Ridge Road in the Rural Residential Zone.

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

Charlie made a motion to open the Public Hearing. Asa Ammarin seconded the motion. The motion passed unanimously.

The proposed lot is 19,208’ and accessed by a private road. The lot was purchased two years ago. In the design process of the project the applicants were told that the lot is located in the Village Residential Zone. The setbacks for the Village Residential Zone are 15’ setbacks on either side. During the building permit process of the project the applicants were told that their lot is located in the Rural Residential Zone. The Rural Residential Zone requires setbacks of 25’ on either side. The 15’ proposed setback will enable the applicants to deal with any issues that arise during construction. The lots on either side of this lot are vacant. The lot across the street is also vacant.

Diane Borcelli an abutter submitted an email to the Zoning Board of Adjustment explaining that she is against the approval of the proposed variance application.

Devon Thibeault, Building Inspector, expressed in writing that he is in favor of the change in the setbacks.

The current Subdivision Regulations require a 25' setback for lots located in the Rural Residential Zone. The regulations require a 15' setback for lots located in the Village Residential. The Planning Board is in the process of reviewing the current Subdivision Regulations.

Charlie Bozzello made a motion to close the Public Hearing. Mardean Badger seconded the motion. The motion passed unanimously. The Public Hearing closed at 7:30 PM.

VARIANCE

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: This fits the idea of a cluster development. It is the best use of the property. I vote yes.

Charlie Bozzello: It is not contrary to the public interest. I vote yes.

Tim Peters: It is not contrary to the public interest. It fits in. I vote yes.

Asa Ammarin: It is not contrary to the public interest. Everyone is in the same boat. I vote yes.

Mike Myshrall: It is not contrary to the public interest. It fits in with the neighborhood. I vote yes.

Criteria 2: The spirit of the ordinance is observed.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: This lot is appropriate to the layout of the community. I vote yes.

Charlie Bozzello: The ordinance does not apply. We need to address the issue of the Subdivision Regulations relative to cluster development. I vote yes.

Tim Peters: I vote yes.

Asa Ammarin: The spirit of the ordinance is observed.. The applicant understands that he is asking for an issue difference between Rural Residential and Village Residential. I vote yes.

Mike Myshrall: This lot fits into the community. I vote yes.

Criteria 3: Substantial justice is done.

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: This is the best use of the lot in a cluster development. I vote yes.

Charlie Bozzello: There are misunderstandings. Justice is being done. I vote yes.

Tim Peters: Justice is done. I vote yes.

Asa Ammarin: Justice is done. I defer to Devon Thibeault’s written opinion. It is otherwise unreasonable. I vote yes.

Mike Myshrall: It is a hardship to the applicant. I vote yes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: This lot is the same as the other lots in the cluster. I vote yes.

Charlie Bozzello: Property values are not diminished. I vote yes.

Tim Peters: Property values are not diminished. I vote yes.

Asa Ammarin: Property creates value and adds value to the property. I vote yes.

Mike Myshrall: It does not diminish the property values but enhances the value. I vote yes.

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

Badger – Y Bozzello – Y Peters – Y Ammarin – Y Myshrall – Y

Mardean Badger: Granting the variance allows for the appropriate use of the property. I vote yes.

Charlie Bozzello: Literal enforcement of the ordinance would be a hardship. The lot is too small to enforce Rural Residential regulations. I vote yes.

Tim Peters: This is an unnecessary hardship. I vote yes.

Asa Ammarin: Literal enforcement of the Rural Residential regulations is an unnecessary hardship. Devon Thibeault assessment proves that. I vote yes.

Mike Myshrall: Literal enforcement of the Rural Residential regulations would be a hardship. Boundaries don’t need enforcing hardships. I vote yes.

- 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 Myshrall - 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 Myshrall - Y

Charlie Bozzello made the following motion: To approve the variance for the 15-foot side setbacks with the following condition: all appropriate building permits will be obtained and relevant inspections by the Building Inspector and Fire Chief will be completed. Asa Ammarin seconded the motion. The motion passed on a 5 yes (Badger, Bozzello, Peters, Ammarin, Myshrall) 0 no vote.

ADJOURNMENT

Charlie Bozzello made a motion to adjourn. Mike Myshrall seconded the motion. The motion passed. The meeting adjourned at 8 PM. The next meeting of the Zoning Board of Adjustment will be Thursday, June 13, 2024 at 6:30 PM at 6 Collins Street.

Minutes submitted by Paula Hancock