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2
3 ASHLAND ZONING BOARD OF ADJUSTMENT
4 MEETING MINUTES
5 October 23, 2013
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8 Call to Order

9 Elaine Allard called the meeting to order at 6 PM.

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11 Roll Call

12 Present – Ellison Badger, Michelle Fistek, Don Latulippe, Elaine Allard

13 Absent – Robert Boyle
14

15 **Case 2013-03** Freudenberg NOK [Agent Gregory Keenan]
16

17 Applicant was requesting a relaxation of side setbacks [abutting
18 the Green Grove Cemetery]. NHRSA 289:3 prohibits building within 25 feet of a
19 cemetery. It was explained that the Town of Ashland Zoning Ordinance does not have
20 anything regarding the setbacks near cemeteries; therefore the Board is unable to act on
21 this application at this time because the Board does not have the authority to overrule an
22 RSA [state law].

23 The Board discussed the possibility of asking the Planning Board
24 to propose an amendment [to be voted on in March 2014] that would address setbacks
25 near cemeteries.

26 Mr. Keenan was asked if he would agree to have the Zoning
27 Board keep the application open; he stated that he agrees to have the file kept open.
28

29 Mr. Keenan was given a copy of RSA 289:3 for his records.
30

31 *Badger will draft an amendment proposal to bring to the Planning Board
32 regarding setbacks near cemeteries
33

34 **Case 2013-04** Grant Conley/Kathleen McCarthy
35 Application for Variance [Setbacks]
36

37 Applicant is seeking relaxation of front setbacks [50 feet in the
38 Squam Overlay Zone]. The side and rear setbacks are met. The proposal is to make an
39 addition on each side of the existing building. The additions do not encroach any closer
40 than the existing building.

41 Mr. Conley spoke supporting the granting of the variance:
42

43 1. The variance would not be contrary to the public interest
44 because it is consistent with existing properties in the
45 neighborhood.
46

47 2. The spirit of the ordinance would be observed because the existing
48 structure involves relaxation of the setback and the proposed additions are further back
49 from the shoreline than the existing structure.
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5 3. The granting of the variance would substantial justice because the
6 proposed additions will make the home more suitable for full time occupancy and one
7 floor living.

8 4. The values of the surrounding properties would not be diminished
9 because we will be enhancing the appearance and the value of our property.

10 5. No fair and substantial relationship exists between the general public
11 purposes of the ordinance provision and the specific application of that provision to the
12 property because all work will be done in compliance and approval by the Department of
13 Environmental Services. The proposed modification will make the home more functional
14 for our disabilities.

15
16 There were no abutters present.

17
18 The public portion of the meeting was closed; the Board deliberated and
19 discussed that the proposed additions do not encroach the front setback closer than the
20 existing structure.

21
22 The Board proceeded to vote on the five criteria for granting a variance:

- 23
24 1. **T F** The variance will not be contrary to the public interest.
25 **Badger – T; Latulippe – T; Allard – T; Fistek - T**
 - 26 2. **T F** The spirit of the ordinance is observed;
27 **Badger – T; Latulippe – T; Allard – T; Fistek - T**
 - 28 3. **T F** Substantial justice is done;
29 **Badger – T; Latulippe – T; Allard – T; Fistek - T**
 - 30 4. **T F** The values of surrounding properties are not diminished;
31 **Badger – T; Latulippe – T; Allard – T; Fistek - T**
 - 32 5. **T F** Literal enforcement of the provisions of the ordinance would result
33 in an unnecessary hardship.
- 34
35 a. For purposes of this subparagraph, “unnecessary hardship”
36 means that, owing to special conditions of the property that
37 distinguish if from other properties in the area;
 - 38 (i) No fair and substantial relationship exists
39 between the general public purposes of
40 the ordinance provision and the specific
41 application of that provision to the
42 property; and
 - 43 (ii) The proposed use is a reasonable one.
 - 44 b. If the criteria in subparagraph (a) are not established, an
45 unnecessary hardship will be deemed to exist if, and only if,
46 owing to special conditions of the property that distinguish it
47 from other properties in the area, the property cannot be
48 reasonably used in strict conformance with the ordinance, and
49 a variance is therefore necessary to enable a reasonable use
50 of it.

5 The definition of "unnecessary hardship" set forth in
6 subparagraph (5) shall apply whether the provision of the
7 ordinance from which a variance is sought is a restriction on
8 use, a dimensional or other limitation on a permitted use, or
9 any other requirement of the ordinance.

10
11 **Badger – T; Latulippe – T; Allard – T; Fistek - T**

12
13 **Motion to grant variance with the condition that we receive**
14 **confirmation of state approval – Badger; second – Latulippe;**
15 **vote 4-0 in favor.**
16

17 Disposition of Minutes

18 **Motion to approve minutes of September 26, 2013 and October 6,**
19 **2013 as written – Badger; second – Fistek; vote in favor 4-0.**
20

21 Other Business

- 22 ▪ Mr. Badger inquired as to where the legal line is for the zoning board; it
23 was noted that there is one legal line for the Planning and Zoning section
24 of the budget
- 25 ▪ Mr. Badger would like to have the clerk consult with the chairman before
26 going to legal
- 27 ▪ Administrative appeal for Donald Lester will be held on November 4 – 6
28 PM – Ashland School cafeteria
29

30 Election of Officers

31 **Motion to appoint Ellison Badger as chairman – Allard; second –**
32 **Latulippe; vote 4-0 in favor**
33

34 **Motion to appoint Michelle Fistek as vice chairman – Allard; second**
35 **– Latulippe; vote 4-0 in favor**
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38 New Business

39 The budget for the land use clerk was discussed.
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46 Taken by Patricia Tucker
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