ASHLAND ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
October 23, 2013

Call to Order
Elaine Allard called the meeting to order at 6 PM.

Roll Call
Present – Ellison Badger, Michelle Fistek, Don Latulippe, Elaine Allard
Absent – Robert Boyle

Case 2013-03 Freudenberg NOK [Agent Gregory Keenan]
Applicant was requesting a relaxation of side setbacks [abutting the Green Grove Cemetery]. NHRSA 289:3 prohibits building within 25 feet of a cemetery. It was explained that the Town of Ashland Zoning Ordinance does not have anything regarding the setbacks near cemeteries; therefore the Board is unable to act on this application at this time because the Board does not have the authority to overrule an RSA [state law].

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

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

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

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

Case 2013-04 Grant Conley/Kathleen McCarthy
Application for Variance [Setbacks]
Applicant is seeking relaxation of front setbacks [50 feet in the Squam Overlay Zone]. The side and rear setbacks are met. The proposal is to make an addition on each side of the existing building. The additions do not encroach any closer that the existing building.

Mr. Conley spoke supporting the granting of the variance:

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

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

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

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

There were no abutters present.

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

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

1. T F The variance will not be contrary to the public interest.
   
   **Badger – T; Latulippe – T; Allard – T; Fistek - T**

2. T F The spirit of the ordinance is observed;
   
   **Badger – T; Latulippe – T; Allard – T; Fistek - T**

3. T F Substantial justice is done;
   
   **Badger – T; Latulippe – T; Allard – T; Fistek - T**

4. T F The values of surrounding properties are not diminished;
   
   **Badger – T; Latulippe – T; Allard – T; Fistek - T**

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

   a. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that 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 that provision to the property; and

   (ii) The proposed use is a reasonable one.

   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 – T; Latulippe – T; Allard – T; Fistek - T*

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

Disposition of Minutes

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

Other Business

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

Election of Officers

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

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

New Business

The budget for the land use clerk was discussed.

Taken by Patricia Tucker