ASHLAND ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
DECEMBER 19, 2013

Call to Order

Chairman Badger called the ZBA meeting to order at 6 PM.

Roll Call

Present – Michelle Fistek, Susan MacLeod, Ellison Badger, Elaine Allard, Alternate Patricia Tucker

Absent with notice – Don Latulippe

- **Chairman Badger appointed Patricia Tucker as full voting member for this meeting.**

Rehearing Case 2013-02 Ralph Lyford/Soldier On
Agent Richard Uchida

Mr. Uchida noted that this rehearing was because of lack of notice to an abutter. He asked that previous testimony be incorporated [minutes of September 26, 2013 and October 9, 2013].

Overview of project –

- Property owned by Ralph Lyford
- 8.34 acres, located in a split zone; lower level in Village Residential; upper lever in Rural Residential
- Surrounded on three side by Village Residential Zone
- Access of Riverside Drive
- Plan is to build four (4) buildings – two (2) with 11 units and two (2) with 14 units
- Plan is to have 40 parking spaces
- Occupied by single, male veterans; no overnight guests
- Terrace that the buildings would be built upon is fifty (50) feet above Riverside Drive
- Tree lines would be left as buffers
- Smart growth is not to build more than is needed

Administrative Appeal – of Building Regulation 7.2 [Minimum Building Area: every dwelling unit to be used by a single family shall have a minimum floor space of 750 square feet excluding garage, decks, and porches

Mr. Uchida –

- Plan is for 450 to 525 square foot units
- Experience is that this is ample space for one person
- Perfect units for proposed population
- Soldier On requires single occupancy

**For further testimony See Appendix A

Chairman Badger called for abutter input –

**See Appendix B for written testimony by Landroche and Jorgensen

Mr. Scalese answered as to the common space – outdoor grilling areas; shuffleboard; laundry facilities.

Chairman Badger closed public portion of the meeting.

Board deliberation –

MacLeod – spoke about the zoning definition of "dwelling unit"; referencing that HUD refers to a dwelling unit as being for 1 or more persons

Uchida – definition in zoning ordinance – single family dwelling as defined is one size fits all

MacLeod – referred to the master plan and population density; there are already 557 multi family units in Ashland

Tucker – stated that she would be agreeable to reduction from 750 to 550 square feet

Motion to allow reduction of Building Regulation 7.2 from 750 square feet to 550 square feet – Tucker; second – Fistek – Roll Call vote – Fistek- yes; MacLeod – no; Allard – yes; Tucker – yes; Badger – yes

Variance Request #1 to grant a variance from Article 2, Section 2.2d [to allow more than six units per dwelling structure] of the Ashland Zoning Ordinance

Mr. Uchida presented documents [noted as Appendix A] with his testimony.

Opened to Public –

Abutter Deb Jorgensen read testimony [Appendix B] specific to Criteria 4 – the values of surrounding properties are not diminished

Rebut by Jim Scalese – presented rebuttal document {Appendix C]

Robert Zock – will number of units have to be redesigned to meet 550 square feet – **answered – no**

Jim Scalese – studies show no diminuation in properties value when project is well built and well maintained

Robert Zock – feels that size of town vs size of project is an issue; asked if the studies quoted relate to town's the size of Ashland

Deb Jorgensen – asked if is was incumbent on the applicant to prove that no diminuation of value would occur

Taylor Caswell – they are ownership units not rental units

Mr. Uchida – units are approximately $225 a square foot to build

Robert Zock – who would own these units, how are they paid for

Jack Downing – veterans get vouchers from the government; taxes are paid to the community

Robert Zock – questioned if it is equity ownership; answer was not given; not relevant to issue at hand

Kathleen DeWolfe – project is described as unique; maybe the fact that they are asking for so many variances makes it too unique for this area

Public comment period closed

Board deliberation

Sue MacLeod

Low income housing does make an impact on neighborhoods
Zone is not relevant
Population density [within zoning ordinance] has been addressed and amended several times

Board action on the criteria for variance:

1. **T** **F** The variance will not be contrary to the public interest.
   Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false
2. **T** **F** The spirit of the ordinance is observed;
   Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false
3. **T** **F** Substantial justice is done;
   Fistek – true; MacLeod – abstain; Badger – false; Allard – true; Tucker - false
4. **T** **F** The values of surrounding properties are not diminished;
   Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - true
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 if 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.

Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false

*All criteria needed to be found to be true by a majority of the Board; this variance is **denied**.

Five minute recess – reconvened at 7:35 PM

Variance request #2 – to grant a variance from Article 2, Section 2.2e [to allow 50 dwelling units in the rural residential zone where 6 would otherwise be allowed] of the zoning ordinance.

Mr. Uchida presented documents [noted as Appendix A] with his testimony.

Public comments –

Engineer McCourt stated that the land has 80% green space.

Abutter Cathy Landroche read testimony [appendix 1 page 4].

Robert Zock – asked if a study of Ashland real estate has been done; answered that site specific study was not necessary.

Robert Zock – stated to the Board that it is incumbent on the applicant to demonstrate there would be no negative impact on surrounding values.

Chairman Badger closed the public portion of the hearing.

Member Susan MacLeod – asked McCourt regarding "open space" vs "green space" as they are defined differently in zoning. Questioned that density and size of housing was in keeping with neighborhood, and town with three other low income housing developments.

Engineer McCourt in response stated that 5% of the land is wetlands and that no there is no local overlay district on this site.

Board Member Tucker stated in response to the applicant's statement that this provided another housing option in Ashland that this is a restricted option.

Jim Scalese stated that the housing option is for veterans only and there is a need for it.

Board action on the criteria for variance:

2. **T** **F** The variance will not be contrary to the public interest.
Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false
2. **T** **F** The spirit of the ordinance is observed;
Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false
3. **T** **F** Substantial justice is done;
Fistek – true; MacLeod – false; Badger – false; Allard – true; Tucker - false
4. **T** **F** The values of surrounding properties are not diminished;
Fistek – true; MacLeod – true; Badger – true; Allard – true; Tucker - true
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 if 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.
Fistek – true; MacLeod – false; Badger – true; Allard – true; Tucker - false

*All criteria needed to be found to be true by a majority of the Board; this variance is **denied**.

At this time the applicant withdrew the request for the third variance to allow 40 parking spaces where would otherwise be required.

There being no further business the Chairman declared the meeting adjourned at 8:09 PM.