

Ashland Zoning Board of Adjustment Meeting
Minutes
August 11, 2015

Members Present: Eli Badger, Susan MacLeod, Elaine Allard, Michelle Fistek, Patricia Tucker (alternate)

Others Present: Mr. and Mrs. Brian T. Benton; James and Susan DeGrace; Normand and Kathleen DeWolfe

The meeting was called to order at 6:30 pm in the Ashland Elementary School Library by Chairman Eli Badger. All members were present by roll call. The chair appointed Patsy Tucker as a voting member for the duration of the meeting.

Case #2015-04: Brian T. Benton Revocable Trust is requesting a variance from Article 2.3a of the Ashland Zoning Ordinance in the Little Squam Overlay District for Lot Number 023-003-003/002, 320 Scenic View Road to relax the thirty-five (35) foot set back from the Public Right-of-Way to be reduced to twenty-five (25) feet in order to construct a nine hundred (900) square foot building.

The ZBA received Mr. Benton's application and site plan with indicated setbacks for a request for a variance from the right-of-way setback.

A motion was made (Tucker) and seconded (Allard) to accept the application as complete. The motion passed unanimously, 5-0 in the affirmative.

Public Hearing

Mr. Benton previously (6/23/15) received approval for a variance from 2.3c, to construct a second cabin on an undersized lot, which will replace 2 trailers and a shed. He has provided a surveyed plot plan as previously requested. In the process of reviewing the application for building permit, the Building Inspected noted that the proposed cabin would be 10 feet into the 35 foot right-of-way for Scenic View Drive (Route 3). Mr. Benton reviewed the individual Variance criteria while explaining the proposed project:

- Building without the variance would be a hardship, as it would leave only a narrow buildable area
- One trailer will remain until occupancy of the new cabin, at which time that trailer would be removed
- Bedroom burden on the land will be reduced from 4 in the trailers to 2 in the cabin
- Less impact on the shoreline
- Will continue to preserve the natural environment; minimal impact on trees
- No increase in public services or increase in traffic; no change in access
- Public safety will be maintained with the variance
- Property will be improved with removal of 17-year-old trailers; value of surrounding properties will not decrease
- Will continue to have border of trees and shrubs along the road
- Setback from shore would be restored with the removal of the trailers
- Justice to be able to use 10 feet of the right-of-way -- In the 1950's, the property became significantly smaller when the establishment of Route 3 created a 100 foot right-of-way
- Property will be improved, tax base will be increased, local builder to be used

- New cabin will be similar in structure to current cabin; new cabin will include an 8-foot porch across the front

In response to questions from the ZBA, clarifications included:

- One of the two trailers and the shed will be removed soon. One remaining trailer will remain on the property during construction of the new cabin and then will be removed.
- The 900 square foot *footprint* of the proposed cabin includes the porch across the front (lakeside) of the cabin, as allowed by the PDN (shoreline permit).
- There will be no excavation – only footings as the permit allows.
- The cabin will be 2-story, with 2 bedrooms (replacing the 4 bedrooms in the trailers).
- The cabin will not be year-round (unless town water and sewer were to come through – unlikely); might include an Incinolet.
- A small kitchen area will only utilize a hot plate; no running water.
- Decreased usage of the outhouse (fewer people).
- The driveway will not be paved or ledge-packed, and will remain as current.
- The existing fence is on the property line.

In response to a question from Kathleen DeWolfe, it was noted that the porch is included in the 900 square foot footprint and that the proposed cabin meets the 50 foot setback from the lake.

The public hearing was closed and the ZBA members discussed the variance. Two conditions were recommended by Board members – that the 2 trailers and shed will be removed as soon as construction is complete; and that all permits will be verified before the building permit is issued.

ZBA Deliberation of the Variance Criteria

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

5 True, 0 False

Comments: Removing 2 trailers, cleaning up the property, making a more liveable situation

#2: The spirit of the ordinance is observed.

5 True, 0 False

Comments: The plan has been developed properly through the process

#3: Substantial justice is done.

5 True, 0 False

#4: The values of the surrounding properties are not diminished.

5 True, 0 False

Comments: Removing trailers and replacing with new cabin will probably increase values

#5: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (a-i) and (a-ii)

5 True, 0 False

Comments: Portion of the property was lost in the 1950's, and this is a reasonable use of the property

➔ The variance to relax the thirty-five (35) foot set back from the Public Right-of-Way to be reduced to twenty-five (25) feet is granted with 2 conditions: (1) that the 2 trailers and shed will be removed as soon as construction is complete; and (2) that all permits will be reviewed before the building permit is issued.

Mr. Badger will sign the plot plan when the Building Inspector signs off on the building permit.

Case #2015-05: Variance request by CCK, LLC for a relaxation of Setback requirements of 2.3 of the Ashland Zoning Ordinance for replacing a mobile home with a new home to be built within the same footprint with an eighteen (18) inch overhand in the Little Squam River Overlay District, located at 73 River Street (TML: 014-001-009).

Mr. and Mrs. (James and Susan) DeGrace are CCK, LLC. Mr. Badger expressed concerns about the hand-drawn plan that was submitted with the application. The Ashland ZBA application lists what features need to be included on the site plan. Not all the required information was included on the submitted plan, such as dimensions, setbacks and whether the extended section facing the river was part of the original structure. Mr. DeGrace does not know what the setbacks are. In response to some of the concerns, Mr. DeGrace presented a plot plan done by a licensed engineer, from which the submitted plan was photo-copied.

Mrs. DeGrace mentioned that Town Administrator Paul Branscombe had told her that someone would let her know if any information was missing. Mr. Badger explained that the chair or other members of the Board cannot communicate independently with the applicant to discuss suitability or completeness of the application; and that once the application is submitted, all discussion of the application must be done at a legal meeting in public, such as is being done tonight.

A motion was made (Tucker) and seconded (Allard) to accept the application as complete, with the addition of the just-submitted surveyed plot plan. The motion passed unanimously, 5-0 in the affirmative.

Public Hearing

Mr. DeGrace reviewed the individual Variance criteria while explaining the proposed project:

- The only thing being requested is a variance to approve an 18" overhang on all four sides, which extends beyond the pre-existing footprint of the previous dwelling.
- The 7 foot deep extension on the river side is part of the original footprint.
- The state DES has approved the proposal.
- Trying to improve the quality of the whole area by removing the 1970/80' ish mobile home
- Will have 4 foot frost walls/concrete foundation under the new house.
- Will increase property values around us, with mobile homes on either side.
- Not disturbing any more of the soil or land
- Could have gone slightly larger (an extra 200 sq ft) as allowed by DES, but have stayed with the original size
- Need overhangs in New Hampshire, for water and snow protection of the house

Mr. Flanders, the Ashland Building Inspector, just received a note from DES that the 18" overhang is not included in the DES permit; therefore additional paperwork may be needed for the state. Mr. Badger noted that it is the DeGrace's responsibility to ensure that all proper DES permits are in place and submitted to Mr. Flanders before receiving a building permit. The variance approval, if granted, will include that condition.

Mr. Badger noted that in any future business with either the ZBA or the Planning Board, the DeGrace's should have an original (not a photocopied) site plan with all required information.

Mrs. O'Hara, an abutter, expressed satisfaction with the quality work that the DeGrace's do and that the neighborhood is glad for the improvements.

Kathleen DeWolfe noted that the 18" overhang and the foundation may put them in another category with DES, relative to size of impervious area or dredge/fill permit. She encouraged them to check directly with DES for correct information.

The public hearing was closed.

ZBA Deliberation of the Variance Criteria

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

5 True, 0 False

Comments: They are replacing a structure with a better structure.

#2: The spirit of the ordinance is observed.

5 True, 0 False

Comments: Ordinance is to keep things within the existing setbacks, but we're working with a situation that was grandfathered, and already so close to everything.

#3: Substantial justice is done.

5 True, 0 False

Comments: Substantial justice exists to allow an overhang on a house and build a better building.

#4: The values of the surrounding properties are not diminished.

5 True, 0 False

Comments: Building a better house

#5: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (a-i) and (a-ii)

5 True, 0 False

Comments: This is a reasonable use. All the other properties in this area have the same problem of small lots. DES regulations are there to protect the river.

➔ The variance to allow the 18" overhang on all four sides of the structure is granted with 2 conditions: (1) that an original signed and dated plat by Duffield Engineering be submitted; and (2) that all applicable DES permits will be in place before the building permit is issued.

Mr. Badger will sign the plot plan when the Building Inspector signs off on the building permit.

BOARD BUSINESS

Application Form

Mr. Badger presented a draft revision of the ZBA Application form for review. Mrs. Tucker and Ms. Allard noted that the revision says that site plans "shall" be submitted electronically, while the Board previously voted to use the word "may."

A motion was made (Tucker) and seconded (Allard) to use the word "may" in reference to electronic submission of plans. The motion failed, on a vote of 2-Yes

(Tucker, Allard) and 3-No (MacLeod, Fistek, Badger). The new form will indicate that site plans shall be submitted electronically.

Discussion ensued on the requirement for site plans done by a licensed surveyor and the problems with application forms not being filled out completely or correctly. Norm DeWolfe confirmed that the Board of Selectmen has approved that Bob Flanders, Building Inspector, will review the applications first for correctness and completeness before the applications go to the Planning Board or the Zoning Board.

The per abutter postage fee was questioned. The draft form indicates \$10 per abutter, while the previous form used the exact current amount for certified, return receipt postage.

The requirement for a written discussion of the Variance and Special Exception criteria by the applicant was discussed. In the past, there has been a separate form with space allowed for the responses.

The Building Inspector can also assist the applicants with creating correct lists of abutters.

A motion was made (Tucker) and seconded (Allard) to accept the proposed application as presented, with the abutter postage fee being changed to the current amount for certified, return receipt postage. The motion passed unanimously, 3-0 in the affirmative.

Rules of Procedure

The Rules of Procedure were shared again with the Board members. The Board discussed the item stating that the Board will hold regular meetings. Members agreed that knowing a regular monthly meeting date would facilitate planning by the Board members and the public, and would allow more timely processing of applications. If there is no business to conduct, a meeting can be cancelled. Mr. Badger will investigate possible meeting dates, with Thursdays being suggested.

Other Business

Mrs. Tucker announced that she would be submitting her resignation from the Ashland Zoning Board of Adjustment the following day. The ZBA members thanked Patsy for her extended service on the Board and for her assistance with land use business.

The meeting was adjourned at 8:28 pm.

Minutes submitted by Mardean Badger