

CITY OF OGDENSBURG
ZONING BOARD OF APPEALS

APPROVED MINUTES FOR
APRIL 27, 2021

Members Present: William Flynn, Chris Lowery, Patricia Redden-Sargent, Malcolm Casselman,
Members Absent: Steve Schlieter, Chris Lalone, (alternate) both excused
Staff Present: Nicole Woods, Code Enforcement

ALL RECORDS ARE KEPT ACCORDING TO NYS STATUTE.

4:32PM Chairman Flynn called to order the regular meeting of the Zoning Board. This meeting was held in person in accordance COVID-19 guidelines for reduced capacity and social distancing.

1. **Call to order** – Chairman Flynn asked Ms. Woods to conduct a rollcall. Members of staff also introduced themselves.
2. **Approval of previous minutes** – Chairman Flynn noted that previous minutes from March 23, 2021 required review. Motion by Mr. Casselman to approve the minutes from March 23, 2021 as submitted, second by Mr. Lowery. All members voted in support 4/0.
3. **Correspondence** –
 - (a) Ex-Parte Communication – None
 - (b) Written Communication – None

4. Public Hearing

Variance Requests, Public Hearing – 728 Morris Street: Chairman Flynn asked if there was anyone present in person to speak at the public hearing for the variance request for 728 Morris Street.

Receiving no public comment, Chairman Flynn closed the public hearing at 4:34 PM.

5. New Business –

728 Morris Street Area Variance: Applicant, Mr. Robert Doser stated he was requesting a variance that would allow him to construct an 8’x10’ shed at the end of his property, and the location requested would only allow for 3’ set back where 6’ is required.

Mr. Casselman moved to approve the variance as requested relieving the minimum 6’ side yard setback in the City’s SFR district. Allowing for a side yard setback of 3’ for the placement of a shed, second by Mr. Lowery.

Discussion – Ms. Woods provided an overview stating 728 Morris Street is a non-conforming parcel, being 49’ x 110’, within the Single Family Residential (SFR) zoning districts. The Applicant is looking for relief of the 6’ side yard setback requirement to place a shed in the back yard. There are no variances in place for this parcel at this time. There was no further discussion.

1 Chairman Flynn asked Ms. Woods to read aloud the resolution for approval. Ms. Woods read
2 aloud as follows:

3
4 **RESOLUTION**

5
6 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

7 2021-005

8 AREA VARIANCE TMN 48.079-6-18

9 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
10 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221
11 entitled Zoning where the side yard setback is 6’, Applicant requests 3’. Requested by Robert Doser,
12 (“Applicant”) for 728 Morris Street, Ogdensburg, New York; and,

13
14 **WHEREAS**, the Board, acting on said application, duly advertised in the Watertown Daily Times and
15 sent written notice to all persons listed in the petition as owning property within 100 feet of the premises
16 in question and held a public hearing on said application today, April 27, 2021. All those desired to be
17 heard were heard and their testimony duly recorded at this hearing; and

18
19 **WHEREAS**, in accordance with 239-m requirements, the application did not require review by the St.
20 Lawrence County Planning Offices; and

21
22 **WHEREAS**, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has
23 determined this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(17) and is not subject
24 to further environmental review; and

25
26 **WHEREAS**, Members of the Board are familiar with TMN 48.079-6-2, and the area in which the
27 proposed relief of minimum 6’ side yard setback is sought; now therefore,

28
29 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
30 Conclusions of Law in this matter:

31 Chairman Flynn asked Ms. Woods to review the findings of fact. Ms. Woods read aloud:

32 **1. Whether an undesirable change will be produced in the character of the neighborhood or a**
33 **detriment to nearby properties will be created.**

34 This test requires the Board to consider such things as the undesirable changes and potential impacts on
35 neighboring property values and character.

36 Staff Comment: This block is composed primarily of single-family homes, many of which do not
37 conform to the dimensional regulations for primary or accessory structures. The proposed expansion will
38 not alter the character of the neighborhood, nor will it result in a detriment to nearby properties.

39 **2. Whether the applicant can achieve his goals via a reasonable alternative which does not**
40 **involve the necessity of an area variance.**

41 This test charges the Board to investigate whether there is a reasonable construction or alternative to
42 the proposal the applicant has made. For example, can the structure be placed so the existing zoning
43 regulations would allow such construction without the need for a variance?

1 Staff Comment: The Applicant does have the ability to provide the 6’ setback for accessory structures,
 2 however, as stated in the application compliance with the 6’ setback would significantly reduce usable
 3 open space in the non-conforming rear yard.
 4

5 **3. Whether the variance is substantial.**

6 The third test requires the Board consider how substantial is the variance in physical terms- i.e. to what
 7 degree will the regulations be varied.

8 Staff Comment: The requested relief for a 3’ setback where 6’ is required (a 50% reduction) is substantial.
 9

10 **4. Whether the variance will have an adverse impact on physical or environmental
 11 conditions in the neighborhood or district.**

12 The fourth test requires the Board look closely at the purely physical nature of the proposal.
 13 Included here should be questions relating to such elements as drainage, runoff, noise, traffic
 14 patterns, access for emergency vehicles, impact on utility services, and effect on any sensitive
 15 environmental concerns.

16 Staff Comment: The proposed 3’ setback does not present any adverse impacts on traffic
 17 patterns, access for emergency vehicles, impact on utility services, nor will there be any negative
 18 effect on sensitive environmental areas. The proposed shed will increase lot saturation and runoff
 19 which should be designed so as not to adversely impact the adjacent property.
 20

21 **5. Whether there has been any self-created difficulty.**

22 The fifth test requires the Board to assess whether the request for the variance has been triggered by a
 23 situation or difficulty which the owner has created himself. If so, the Board must weigh that fact against
 24 the owner, but need not (as in the case of the use variance) deny relief altogether.

25 Staff Comment: Having purchased the property in 2003 with all current zoning regulations including
 26 setbacks for accessory structures in place, this is a self-created hardship.
 27

28 Chairman Flynn asked Ms. Woods to read aloud the recommendation from staff.
 29

30 Ms. Woods stated: In balancing the benefit to the Applicant against the detriment to the health, safety,
 31 and welfare of the neighborhood, staff finds the proposed construction is a reasonable and will not
 32 detrimentally impact adjacent properties. Therefore, in accordance with NYS standards for granting
 33 variances staff recommends approval as requested.
 34

35 No further discussion, Mr. Flynn asked Ms. Woods to call the roll.
 36

Moved:	Casselman				
Second:	Lowery				
VOTE	Aye	Nay	Abstain	Absent	Reason
Chairman Flynn	X				I agree with the findings of fact and staff recommendation.
Ms. Redden-Sargent	X				I agree with the findings of fact and staff recommendation.
Mr. Lalone				X	
Mr. Casselman	X				I agree with the findings of fact and staff recommendation.
Mr. Schlieter				X	
Mr. Lowery (alt.)	X				I agree with the findings of fact and staff recommendation.

37

1 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at this
2 meeting, testimony at the hearings, and other documents submitted by the Applicant, the Board
3 determines that the proposed area variance requesting relief of §221-47 E (3) will be approved with
4 conditions, 4 yay, 0 nay, 0 abstain, 1 absent, the request is approved 4/0.

5
6 Ms. Woods explained that the request had been approved as requested, granted. She further noted that
7 building permits would be required and could be obtained from the Code Office as early as tomorrow. Ms.
8 Woods asked if the applicant had questions, the Applicants replied no, and thanked the board.

9
10 **6. Old Business –**

11
12 **7. Member Comments**

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14 **8. Adjournment** – Motion by Mr. Casselman to adjourn the meeting, 2nd by Mr. Lowery. Meeting
15 adjourned at 5:00 PM by a vote of 4/0.

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17 **Next REGULAR Meeting Date: Tuesday, May 25, 2021 at 4:30 PM**

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