

CITY OF OGDENSBURG  
ZONING BOARD OF APPEALS

APPROVED MINUTES FOR  
SEPTEMBER 28, 2021

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**Members Present:** Chairman Flynn, Chris Lalone, Malcolm Casselman, Patricia Redden-Sargent, Steve Schlieter  
**Members Absent:** none  
**Staff Present:** Andrea Smith, Director of Planning and Development, Nicole Woods, Code Enforcement

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ALL RECORDS ARE KEPT ACCORDING TO NYS STATUTE.

4:46 PM Chairman Flynn called to order the regular meeting of the Zoning Board. This meeting was held in person and also allowed for remote participation via webinar using Go To Webinar ID: 673-654-907.

1. **Call to order** – Chairman Flynn introduced members of the board; staff also introduced themselves. Chairman Flynn noted that the meeting would follow an agenda and then outlined the variance review process. He stated that the ZBA is a five-member board and any approval requires 3 affirmative votes.
2. **Approval of previous minutes** – Chairman Flynn noted that previous minutes from August 24, 2021 required review.  
 Motion by Mr. Casselman to approve the minutes from August 24, 2021 as submitted, second by Mr. Lalone. Ms. Redden-Sargent stated that she had asked in advance to be excused from that meeting but the minutes did not reflect that. Ms. Smith replied that the minutes stated both Mr. Schlieter and Ms. Redden-Sargent were excused, but if the minutes should be revised, she would certainly do so.  
 All members voted in support to accept the minutes as presented 5/0.
3. **Correspondence** –
  - (a) Ex-Parte Communication – None
  - (b) Written Communication – Ms. Smith read aloud a letter from Mr. Jeff and Ms. Ginny Rickett. The letter is attached to these minutes.
4. **Public Hearing**
  - (a) Variance Requests, Public Hearing – 19 Lafayette Street, Area Variance  
 Applicant requests relief of Table 1 Dimensional regulations for front yards.  
 Receiving no public comment either in person or remote, Chairman Flynn closed the public hearing at 4:36 PM.
  - (b) Variance Requests, Public Hearing – 619 Hamilton Street, Area Variance  
 Applicant requests relief of §221-47 E (5) (b) [2] setbacks for 6’ fences.  
 Receiving no public comment either in person or remote, Chairman Flynn closed the public hearing at 4:37 PM.
5. **New Business** –
  - (a) **19 Lafayette Street**, Area Variance: Applicant, Ms. Angela Bateman.

1 Chairman Flynn noted that Ms. Bateman has requested her Uncle Mr. John Bateman represent her at  
2 tonight’s meeting. Ms. Bateman introduced himself and stated that his niece is requesting to construct a  
3 car port at the front of her property to improve the safety of getting into vehicles. He stated that the  
4 carport will be sloped to match the pitch on the adjacent roof and would come out even with the main  
5 house so there will be a 6’ setback to the sidewalk.

6 Discussion – Mr. Schlieter stated, I want to make sure I am clear, the car port will be flush  
7 with the front of the house, correct. Mr. Bateman replied yes. Discussion ensued regard  
8 whether a car would fit in that space which Mr. Bateman said it would, there’s lots of space –  
9 more than adequate for a car.

10 Chairman Flynn asked if there was a motion from the Board.

11  
12 Mr. Schlieter moved to approve the variance as requested relieving the minimum 15’ front  
13 yard setback for 6’ to allow for construction of a carport aligned with the front of the home,  
14 second by Ms. Redden-Sargent.

15  
16 Chairman Flynn asked if Ms. Smith would read the resolution.

17  
18 **RESOLUTION**  
19 **CITY OF OGDENSBURG ZONING BOARD OF**  
20 **APPEALS**  
21 **2021-014**

22  
23 **AREA VARIANCE TMN 59.023-1-26**  
24

25 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of  
26 Ogdensburg, St. Lawrence County, New York (“the Board”) seeking a Variance under Chapter  
27 221 entitled Zoning where 15’ front yard setbacks in a MDR zone are required. Applicant  
28 requests 6’ setback along Lafayette Street for construction of a carport where the front of the  
29 carport is proposed to align with the front of the home. Requested by Rebecca Bateman as  
30 agent for Angela Bateman (owner), (“Applicant”) for 19 Lafayette St., Ogdensburg, New York;  
31 and,

32 **WHEREAS**, the Board, acting on said application, duly advertised in the Watertown Daily  
33 Times and sent written notice to all persons listed in the petition as owning property within 100  
34 feet of the premises in question and held a public hearing on said application, today, September  
35 28, 2021. All those desired to be heard were heard and their testimony duly recorded at this  
36 hearing; and

37 **WHEREAS**, in accordance with 239-m requirements, the application is not subject to review  
38 by the St. Lawrence County Planning Offices; and

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

42 **WHEREAS**, Members of the Board are familiar with TMN 59.023-1-26 and the area in which  
43 the proposed relief of §221-46 A is sought; now therefore,

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

3  
4 Ms. Smith read aloud the following:

5  
6 **1. Whether an undesirable change will be produced in the character of the  
7 neighborhood or a detriment to nearby properties will be created.**

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

10 Staff Comment: The majority of parcels within this neighborhood either do not  
11 confirm with current dimensional standards, or front yard setbacks, and many do not  
12 comply with either. The proposed setback of 6’ in the front yard will not be a  
13 detriment to nearby properties, nor will it result in an undesirable change in the  
14 character of the neighborhood.

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

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

21 Staff Comment: The car port will provide a covered entry to the home, making  
22 ingress and egress safer for the residents while providing cover for the vehicle. Due  
23 to the parcel size and placement of the home on the lot, there is no alternative that  
24 would comply with the 15’ front yard setback.

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

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

28 Staff Comment: The request for an 6’ front yard setback where 15’ is required  
29 provides 40% compliance, conversely, the Applicant seeks 60% relief which is  
30 substantial.

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

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

37 Staff Comment: The request to construct a carport will increase runoff, but the  
38 addition of rain gutters could prevent any detrimental impact on the adjacent public  
39 sidewalk. The carport will be setback 6’ and will not obstruct visibility for the  
40 occupant or adjacent property owners in terms of ingress and egress from the parcel.  
41 Nor will there be any detrimental impact to emergency services or utilities.

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

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

1 Staff Comment: The difficulty has been self-created; the property owner has occupied  
 2 the residence prior to the codification of the current dimensional regulations as  
 3 described in Table 1. Furthermore, there have been 2 previous variances granted for  
 4 this property pertaining to front yard setbacks.

5  
 6 At the request of the Board, Ms. Smith presented the staff recommendation:  
 7 In balancing the benefit to the Applicant against the detriment to the health, safety,  
 8 and welfare of the neighborhood, staff finds that the request will not result in any  
 9 potentially undesirable impacts, and the applicant does not have reasonable  
 10 alternatives to this request. Therefore, in accordance with NYS standards for granting  
 11 variances staff recommends approval as requested.

12  
 13 No further discussion, Chairman Flynn asked Ms. Smith to call the roll.

14

Moved:	Schlieter				
Second:	Redden-Sargent				
<b>VOTE</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>	<b>Reason</b>
Chairman Flynn	X				I agree with the staff recommendation.
Ms. Redden-Sargent	X				I agree with the staff recommendation.
Mr. Lalone	X				I agree with the staff recommendation.
Mr. Casselman	X				I agree with the staff recommendation.
Mr. Schlieter	X				I agree with the staff recommendation.
Vacant (alt.)					

15  
 16 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at  
 17 this meeting, testimony at the hearings, and other documents submitted by the Applicant, the  
 18 Board determines that the proposed area variance requesting relief of Table 1, front yard  
 19 setbacks in the MDR district is approved as requested, 5 yay, 0 nay, 0 abstain, 0 absent, the  
 20 request is approved 5/0.

21  
 22 Ms. Smith explained that the request had been approved for a 6’ front yard setback. She further  
 23 noted that building permits would be required and could be obtained from the Code Office as early  
 24 as tomorrow. Ms. Smith asked if the applicant had questions, the Applicants replied no, and  
 25 thanked the board.

26  
 27 Chairman Flynn asked if the carport would have gutters, stating this was mentioned in the staff  
 28 report, but was not a condition of approval. Discussion regarding gutters ensued, Mr. Bateman  
 29 noted the house does have gutters and there would likely be gutters directing the runoff into the  
 30 side yard so the driveway would not be overly icy.

31  
 32 (b) **619 Hamilton Street**, Area Variance: Applicant, Mr. Steven Allen (attending remotely).  
 33 Chairman Flynn explained the municipal requirements that pertain to the requirements for 6’ fences as

1 well as the need for building permits. He noted that based on the application materials [resented by the  
2 Applicant, Mr. Allen, it appears no permit was obtained, which puts the Board in a very difficult position.  
3 Mr. Allen stated that he constructed a 6’ fence at his property without a permit, noting that the fence does  
4 not obstruct views and the neighbors all like it, so I don’t see any problems. He added that he as three  
5 small children and pets, and the fence creates a safe place for them to play.  
6

7 Mr. Schlieter stated that the intent of the ordinance requiring setbacks for 6’ fences specifically is  
8 to prevent the appearance of a “stockade” look as people walk or drive down the streets. Mr.  
9 Schlieter then asked if Ms. Smith could explain why the staff recommendation is for approval as  
10 requested and how this differs from other requests.  
11

12 Ms. Smith explained that the request for the 6’ fence in this instance is in the SFR district, that  
13 otherwise would require a 20’ setback for such a fence. She went on to state that in the past,  
14 including most recently, the Board has approved 6’ fences with setbacks of 5’ to 6’ in the front  
15 yard and the applicant is requesting 11’. Ms. Smith then stated that this issue of setbacks for fences  
16 has been debated at length by both the ZBA and the Planning Board and there is presently a  
17 recommendation to amend the ordinance to allow for a 5’ front yard setback for all 6’ fences, but  
18 that the ordinance has not been acted on by Council. She added that while 5’ may be a bit extreme,  
19 something like 10’ seems like it would be more appropriate to adequately accommodate snow  
20 storage and landscaping without crowding the sidewalk, here again, the Applicant is requesting  
21 11’ which does provide for those accommodations, and therefore, staff is recommending approval.  
22 She suggested the Board also seek feedback from the Code Office before making a motion.  
23

24 Chairman Flynn asked Ms. Woods if there were any concerns from Code Enforcement with regard  
25 to the request. Ms. Woods replied no.  
26

27 There was no further discussion.  
28

29 Motion to approve the variance as requested relieving the maximum 4’ high front yard fence in  
30 the City’s SFR district where a 20’ setback is otherwise required, allowing for a front yard setback  
31 of 11’ for the construction of a 6’ fence, was made by Mr. Schlieter, 2<sup>nd</sup> by Mr. Lalone.  
32

33 Ms. Smith read aloud the following resolution:

34 **RESOLUTION**  
35 **CITY OF OGDENSBURG ZONING BOARD OF**  
36 **APPEALS**  
37 **2021-015**  
38  
39 **AREA VARIANCE TMN 48.079-6-7**  
40

41 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of  
42 Ogdensburg, St. Lawrence County, New York (“the Board”) seeking a Variance under §221-  
43 46 Table 1 Dimensional Regulations where the front yard setback is 20’ in a SFR District,  
44 Applicant requests a 11’ front yard setback. Additionally requesting a variance under §221-

1 47E(5)(b)[2] to allow for a 6’ front yard fence where a 4’ high fence is allowed. Requested  
2 by Steven Allen, (“Applicant”) for 619 Hamilton Street, Ogdensburg, New York; and,

3 **WHEREAS**, the Board, acting on said application, duly advertised in the Watertown Daily  
4 Times and sent written notice to all persons listed in the petition as owning property within 100  
5 feet of the premises in question and held a public hearing on said application, today, September  
6 28, 2021. All those desired to be heard were heard and their testimony duly recorded at this  
7 hearing; and

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

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

13 **WHEREAS**, Members of the Board are familiar with TMN 48.079-6-7 and the area in which  
14 the proposed relief of minimum 20’ front yard setback is sought; now therefore,

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

17  
18 Chairman Flynn asked Ms. Smith to review the findings of fact analysis.

19  
20 **1. Whether an undesirable change will be produced in the character of the neighborhood  
21 or a detriment to nearby properties will be created.**

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

24 Staff Comment: There are other 6’ fences in close proximity to this location, and the majority of  
25 homes do not comply with the 20’ setback for principle structures, therefore the proposed fence  
26 (while already constructed) will not result in an undesirable change in the character of the  
27 neighborhood, nor does it present a detriment to nearby properties.

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

30 *This test charges the Board to investigate whether there is a reasonable construction or  
31 alternative to the proposal the applicant has made. For example, can the structure be placed so  
32 the existing*

33 *zoning regulations would allow such construction without the need for a variance?*

34 Staff Comment: The request for a setback of 11’ where 20’ is required is a reasonable alternative  
35 to the ordinance.

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

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

39 Staff Comment: The request for a setback of 11’ where 20’ is required is substantial.

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

42 *The fourth test requires the Board look closely at the purely physical nature of the proposal.  
43 Included here should be questions relating to such elements as drainage, runoff, noise, traffic*

1 *patterns, access for emergency vehicles, impact on utility services, and effect on any sensitive*  
 2 *environmental concerns.*

3 Staff Comment: The proposed fence does not detrimentally impact visibility at the for traffic,  
 4 nor will it adversely impact run off, or sensitive environmental areas.

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

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

10 Staff Comment: The applicant has owned the property less than 1-year with all current  
 11 regulations pertaining to fences and setbacks in place since 1992, therefore this is a self-created  
 12 hardship. However, this alone shall not justify denial.

13  
 14 Chairman Flynn asked Ms. Smith to present the staff recommendation. Ms. Smith stated:  
 15 In balancing the benefit to the Applicant against the detriment to the health, safety, and welfare  
 16 of the neighborhood, staff finds that the request will not result in any potentially undesirable  
 17 impacts, and the benefit to the applicant is therefore greater than any potentially adverse impacts.  
 18 Therefore, in accordance with NYS standards for granting variances staff recommends approval  
 19 as requested.

20  
 21 No further discussion Ms. Smith called the roll as follows:

Moved:	Schlieter				
Second:	Lalone				
<b>VOTE</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>	<b>Reason</b>
Chairman Flynn	X				I agree with the staff recommendation.
Ms. Redden-Sargent	X				I agree with the staff recommendation.
Mr. Lalone	X				I agree with the staff recommendation.
Mr. Casselman	X				I agree with the staff recommendation.
Mr. Schlieter	X				I agree with the staff recommendation.
Vacant (alt.)					

22  
 23 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at  
 24 this meeting, testimony at the hearings, and other documents submitted by the Applicant, the  
 25 Board determines that the proposed area variance requesting relief of §221-47E(5)(b)[2], front  
 26 yard setbacks in the SFR district for 6’ fences is approved as requested, 5 yay, 0 nay, 0 abstain, 0  
 27 absent, the request is approved 5/0.

28  
 29 Ms. Smith explained that the request had been approved for a 11’ front yard setback to allow for  
 30 the construction of a 6’ fence. She further noted that building permits would be required and could  
 31 be obtained from the Code Office as early as tomorrow. Ms. Smith asked if the applicant had  
 32 questions, the Applicants replied no, and thanked the board.

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**6. Old Business**

**7. Member Comments**

(a) Ms. Redden-Sargent inquired about whether or not an Alternate member had been appointed. Ms. Smith said no, but the City would be publishing a notice that there is a vacancy on both the Planning and Zoning Boards.

**8. Adjournment** – Motion by Mr. Casselman to adjourn the meeting, 2<sup>nd</sup> by Mr. Lalone. Meeting adjourned at 5:20 PM by a vote of 5/0.

**Next REGULAR Meeting Date: Tuesday, October 26, 2021 at 4:30 PM**