

**CITY OF OGDENSBURG
ZONING BOARD OF APPEALS**

**APPROVED MINUTES FOR
JUNE 23, 2020**

Members Present:	William Flynn (Chairman)*, Patricia Redden Sargent, Malcolm Casselman Steve Schlieter, and Alternate Chris Lowery
Members Excused:	Chris Lalone, excused
Staff Present:	Andrea Smith, Director Planning & Development, Gregg Mallette, Code Enforcement Officer

ALL RECORDS ARE KEPT ACCORDING TO NYS STATUES BY THE CITY CLERK.

In accordance with Executive Order 202.1 and 202.15 this meeting was held in person at 330 Ford Street and also provided for remote participation using Go To Webinar, Webinar ID 562-588-403. This meeting was recorded and transcripts are available.

*Mr. Flynn attended the meeting via webinar.

4:33 PM Chairman Flynn called the **Regular Meeting** of the ZBA to order. He noted that this was a meeting of the Zoning Board of Appeals and that they would follow an agenda. Chairman Flynn outlined the procedures of the meeting before conducting roll call. He stated that each request would require 3 affirmative votes, a majority of the full 5-member board, for approval.

Ms. Smith conducted rollcall.

1. Approval of previous minutes

- a. May 12, 2020: Chairman Flynn stated the draft minutes had been submitted and required approval.
Motion to approve the minutes by Ms. Redden-Sargent, 2nd by Mr. Casselman.
All members voted in support of the motion to approve the minutes as submitted, 5/0.

2. Correspondence–

- a. **Ex-Parte Communication** – Mr. Flynn asked the board if there was any ex-parte communication to be disclosed, there was none.
b. **Written Communication** – Ms. Smith stated that 239-m review was required for 525 Ford Street and had been returned for local action with no binding comments (full report attached).

3. Public Hearing

- a. Chairman Flynn opened the public hearing on variance request Z-2020-005, 911 Washington Street 4:34 PM. There were no public comments, the Public Hearing was closed at 4:35 PM.
b. Chairman Flynn opened the public hearing on variance request Z-2020-006, 525 Ford Street 4:35 PM. There were no public comments, the Public Hearing was closed at 4:36 PM.

4. New Business

- a. **911 Washington Street:** Chairman Flynn asked the Applicant to orally present their request. Mr. Compo explained that he wanted to reconstruct the front porch at his property, extending it across

1 the front of the house. The Board inquired if the steps would remain in the same location, the
2 Applicant replied, yes.
3

4 Motion by Mr. Schlieter to approve the variance with the condition that ice guards be installed on the porch
5 roof, 2nd by Mr. Casselman.

6 No further discussion.

7 Ms. Smith read aloud the resolution as follows:
8
9

10 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

11 2020-005

12 AREA VARIANCE TMN 48.071-5-42
13
14

15 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
16 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221 entitled
17 Zoning, where the front yard setback shall be no less than 20’, Applicant requests 5’6” for the improvement
18 of a porch. Requested by Scott Compo, (“Applicant”) for 911 Washington Street, Ogdensburg, New York;
19 and,
20

21 **WHEREAS**, the Board, acting on said application, duly advertised in the Watertown Daily Times and sent
22 written notice to all persons listed in the petition as owning property within 100 feet of the premises in
23 question and held a virtual public hearing on said application in accordance with COVID-19 Executive
24 Orders, today, June 23, 2020. All those desired to be heard were heard and their testimony duly recorded
25 at this hearing; and
26

27 **WHEREAS**, in accordance with 239-m requirements, the application did not require review by the St.
28 Lawrence County Planning Offices; and
29

30 **WHEREAS**, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has determined
31 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(17) and is not subject to further
32 environmental review; and
33

34 **WHEREAS**, Members of the Board are familiar with TMN 48.071-5-42, and the area in which the
35 proposed relief in the City’s SFR district is sought; now therefore,
36

37 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
38 Conclusions of Law in this matter:
39

40 Chairman Flynn asked Ms. Smith to read aloud the findings of fact analysis.
41

42 Ms. Smith read aloud:
43

44 **FINDINGS OF FACT ANALYSIS**

45 The standard to be used in the weighing of the benefit to the applicant against the detriment to the health,
46 safety and welfare of the neighborhood or community if the variance is granted. In making its determination,
47 the ZBA must take into account the following factors:

FINDINGS OF FACT ANALYSIS
The standard to be used in the weighing of the <i>benefit to the applicant</i> against the <i>detriment to the health, safety and welfare of the neighborhood or community</i> if the variance is granted. In making its determination, the ZBA must take into account the following factors:

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

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

Staff Comment: The property at 911 Washington Street is a pre-existing nonconforming lot (53' x 115') in the SFR district (where 75' x 75' is required). The Applicant has a pre-existing nonconforming front porch and the request is to expand the porch across the front of the house in a manner that will provide a 5'6" setback where 20' is required. The proposed expansion will provide a greater setback than what is current provided in the area of the existing porch and will not be a detriment to the character of the neighborhood.

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

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

Staff Comment: Being a pre-existing, nonconforming the Applicant is very limited in their ability to improve the property without seeking an area variance. The Applicant seeks to expand the front porch to its previous dimensions, but due to the time frame in which this is proposed, the variance process is required. This request is a reasonable accommodation from the standards as prescribed.

3. Whether the variance is substantial.

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

Staff Comment: The Applicant proposes a 5'6" front yard setback where 20' is required. The Applicant seeks relief equal to a 72.5% reduction from the requirement. Therefore, the request is substantial.

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

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

Staff Comment: The proposed porch expansion will not substantially increase runoff, traffic, or noise from the property compared to the property without the expanded front porch. There is no impact to sight lines impacting traffic or access for emergency vehicles. The property does not contain any sensitive environmental habitats or features.

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

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

Staff Comment: The property was purchased in 2013 with all current setbacks in place as prescribed by Table 1. Therefore, this is a self-created difficulty, but this alone shall not justify denial.

- 1
- 2 Chairman Flynn asked Ms. Smith to read aloud the recommendation from staff.
- 3
- 4 Ms. Smith read aloud the staff recommendation:
- 5 The Applicant has demonstrated an inability to procure reasonable use of the parcel without this variance. In
- 6 balancing the benefit to the Applicant against the detriment to the health, safety, and welfare of the neighborhood,
- 7 staff finds that the request will not result in any potentially undesirable impacts, and the applicant does not have

- 1 reasonable alternatives to this request. Therefore, in accordance with NYS standards for granting variances staff
- 2 recommends approval as requested.
- 3 Ms. Smith noted that she did agree with the condition that ice guards be installed.
- 4 No further discussion, Chairman Flynn asked Ms. Smith to call the roll.

Moved:	Schlieter				
Second:	Casselman				
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. Casselman	X				I agree with the findings of fact and staff recommendation.
Mr. Schlieter	X				I agree with the findings of fact and staff recommendation.
Mr. Lalone				X	
Mr. Lowery (alt.)	X				I agree with the findings of fact and staff recommendation.

5
6 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at this
7 meeting, testimony at the hearings, and other documents submitted by the Applicant, the Board
8 determines that the proposed area variance requesting relief of *Table 1 front yard setback* will be
9 approved with conditions, 5 yay, 0 nay, 0 abstain, 1 absent, the request is approved 5/0.

10
11 Ms. Smith explained that the request had been approved with conditions providing a 5’6” front yard setback.
12 She further noted that building permits would be required and could be obtained from the Code Office. She
13 asked if the applicant had questions, the Applicant responded no and thanked the board.

14
15 **b. 525 Ford Street** – Chairman Flynn asked the Applicant to orally present their request. Mr.
16 Widrick stated that he and his wife would like to resurface the existing driveway up to the
17 property line to remove the 1’ grass section.

18 Motion by Mr. Schlieter to approve the request for 0’ setback for the expansion of an existing driveway,
19 second by Ms. Redden-Sargent.

20
21 Ms. Smith read aloud the following resolution:

22
23 **RESOLUTION**

24
25 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

26
27 2020-006

28 AREA VARIANCE TMN 48.071-11-3

29
30 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
31 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221 entitled
32 Zoning, where the existing driveways may be resurfaced up to 1’ from adjacent property lines, Applicant
33 requests 0’. Requested by Lynn and Charlene Widrick, (“Applicant”) for 525 Ford Street, Ogdensburg,
34 New York; and,

1
2 **WHEREAS**, the Board, acting on said application, duly advertised in the Watertown Daily Times and sent
3 written notice to all persons listed in the petition as owning property within 100 feet of the premises in
4 question and held a virtual public hearing on said application in accordance with COVID-19 Executive
5 Orders, today, June 23, 2020. All those desired to be heard were heard and their testimony duly recorded
6 at this hearing; and

7
8 **WHEREAS**, in accordance with 239-m requirements, the application did require review by the St.
9 Lawrence County Planning Offices and was returned for local action; and

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

14
15 **WHEREAS**, Members of the Board are familiar with TMN 48.071-11-3, and the area in which the
16 proposed relief of §221-51 C (4) (b) is sought; now therefore,

17
18 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
19 Conclusions of Law in this matter:

20
21 Chairman Flynn asked Ms. Smith to read aloud the findings of fact analysis.
22 Ms. Smith read aloud:

23
24 **FINDINGS OF FACT ANALYSIS**

25 The standard to be used in the weighing of the benefit to the applicant against the detriment to the health,
26 safety and welfare of the neighborhood or community if the variance is granted. In making its determination,
27 the ZBA must take into account the following factors:

FINDINGS OF FACT ANALYSIS
The standard to be used in the weighing of the <i>benefit to the applicant</i> against the <i>detriment to the health, safety and welfare of the neighborhood or community</i> if the variance is granted. In making its determination, the ZBA must take into account the following factors:
<p>1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.</p> <p>This test requires the Board to consider such things as the undesirable changes and potential impacts on neighboring property values and character.</p> <p>Staff Comment: The property at 525 Ford Street is conforming lot in the R/B district, where the existing driveway provides a 2’ setback from the property line. The proposed expansion of the driveway will not be a detriment to the character of the neighborhood.</p>
<p>2. Whether the applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an area variance.</p> <p>This test charges the Board to investigate whether there is a reasonable construction or alternative to the proposal the applicant has made. For example, can the structure be placed so the existing zoning regulations would allow such construction without the need for a variance?</p> <p>Staff Comment: The Applicant could expand the driveway 1’ and maintain a 1’ setback as required; however, it is the department’s understanding from the Applicant this small area of grass presents more of a detriment and decreasing it to 1’ would only exacerbate that. This request is a reasonable accommodation from the standards as prescribed.</p>
<p>3. Whether the variance is substantial.</p> <p>The third test requires the Board consider how substantial is the variance in physical terms- i.e. to what degree will the regulations be varied.</p>

Staff Comment: The Applicant has proposed a 10' rear yard setback where 20' is required. The Applicant seeks minimal relief, 50% reduction which is substantial. Additionally, the applicant seeks relief of the combined side yard setback 13' where 20' is required and one side 3' where 4' is required, neither of these independently are substantial.

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

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

Staff Comment: The proposed driveway expansion will not substantially increase runoff, traffic, or noise from the property; there is no impact to sight lines impacting traffic or access for emergency vehicles. The property does not contain any sensitive environmental habitats or features. The driveway shall be graded to direct sheetflow from runoff away from the neighboring property.

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

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

Staff Comment: The property was purchased in 2013 with all current setbacks in place as prescribed by Table 1. Therefore, this is a self-created difficulty, but this alone shall not justify denial.

1
2 Ms. Smith read aloud the staff recommendation:

3
4 In balancing the benefit to the Applicant against the detriment to the health, safety, and welfare of the neighborhood,
5 staff finds that the request will not result in any potentially undesirable impacts, and the applicant does not have
6 reasonable alternatives to this request. Therefore, in accordance with NYS standards for granting variances staff
7 recommends approval as requested.

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

Moved:	Schlieter				
Second:	Redden-Sargent				
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. Casselman	X				I agree with the findings of fact and staff recommendation.
Mr. Schlieter	X				I agree with the findings of fact and staff recommendation.
Mr. Lalone				X	
Mr. Lowery (alt.)	X				I agree with the findings of fact and staff recommendation.

9
10 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at this
11 meeting, testimony at the hearings, and other documents submitted by the Applicant, the Board
12 determines that the proposed area variance requesting relief of §221-51 C (4) (b) will be approved, 5 yay,
13 0 nay, 0 abstain, 1 absent, the request is approved 5/0.

1 Ms. Smith explained that the request had been approved. She further noted that building permits would be
2 required and could be obtained from the Code Office. She asked if the applicant had questions, the
3 Applicant responded no and thanked the board.
4

5 **5. Old Business** – Chairman Flynn stated that the Board had not addressed the need to excuse Mr.
6 Lalone at the outset of the meeting. Ms. Smith stated Mr. Lalone had called in advance stating he
7 had a conflict with a medial appointment. There was consensus of the Board to excuse Mr. Lalone,
8 5/0.
9

10 **6. Member Comment** – Mr. Flynn inquired about future meetings using the virtual platform. There
11 was discussion about the current Executive Orders and Ms. Smith replied that she would be
12 continuing to monitor the guidance from the state and expected that the supplemental use of the
13 webinar for board members, applicants and the public would continue.
14

15 **7. Adjournment**–

16 Motion by Mr. Lowery to adjourn the meeting was made, second by Mr. Casselman.

17 **Vote** – The board voted in favor 5/0, meeting adjourned at 5:11 PM.
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NEXT MEETING DATE: July 28, 2020