

**CITY OF OGDENSBURG
ZONING BOARD OF APPEALS**

**APPROVED MINUTES FOR
MARCH 26, 2019**

Members Present: William Flynn, Chair, Patricia Redden Sargent, Steve, Chris Lalone, and Chris Lowery (Alternate)

Members Absent: Malcolm Casselman, absent

Staff Present: Andrea Smith, Director Planning & Development, Gregg Mallette, Code Officer

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

4:30 PM Chairman Flynn called the **Regular Meeting** of the ZBA to order. Chairman Flynn noted that this was a regular meeting of the Zoning Board of Appeals and that they would follow the agenda. Chairman Flynn outlined the procedures of the meeting before conducting roll call. Chairman Flynn noted that each request would require 3 affirmative votes for approval. Chairman Flynn noted that Mr. Lowery, as the Alternate, would be a voting member in Mr. Casselman's absence.

All members present introduced themselves along with Ms. Smith and Mr. Mallette.

1. Approval of previous minutes

- a. November 27, 2018: Mr. Flynn stated the draft minutes had been submitted and required approval.
Motion to approve the minutes as corrected by Ms. Redden- Sargent, 2nd by Mr. Lalone.
All members voted in support of the motion to approve the minutes as submitted, 5/0.

2. Correspondence –

- a. **Ex Parte Communication** – Chairman Flynn asked the board if there was any ex-parte communication to be disclosed, there was none.
- b. **239-M Review** – Chairman Flynn inquired if there was a need for any County review, Ms. Smith responded, no.

3. Variance Requests, Public Hearing –

- a. **231 Lake Street:** Chairman Flynn asked the Applicant to orally present their request. Mr. Chris Todd of Aubertine and Currier presented on behalf of TLS. Mr. Todd noted that there have been no substantive changes from the application submitted in 2016. Transitional Living Services (TLS) is requesting 2 variances to support the addition of 6 units at 231 Lake Street: rear yard setback and relief of the setback required for edge of pavement.

Discussion: None

Chairman Flynn inquired if there was any public comment. There was none.

Mr. Lalone to approve the variance as requested by the Applicant, providing a 10' rear yard setback, where 20' is required in the R/B district, 2nd by Ms. Redden-Sargent.

Mr. Lalone read aloud the following resolution:

RESOLUTION

CITY OF OGDENSBURG ZONING BOARD OF APPEALS

2019-001 (1 of 2) AREA VARIANCE TMN 59.022-4-61.1
VARIANCE REQUEST

WHEREAS, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg, St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221 entitled Zoning, where 20’ setback is required for rear yards, Applicant requests 10’. Requested by Aubertine and Currier on behalf of Transitional Living Services (TLS) (“Applicant”) for 231 Lake Street, Ogdensburg, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Ogdensburg Journal and sent written notice to all persons listed in the petition as owning property within 100 feet of the premises in question and held a public hearing on said application at City Hall, 330 Ford Street, Ogdensburg, New York today, March 26, 2019. All those desired to be heard were heard and their testimony duly recorded at this hearing; and

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

WHEREAS, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has determined this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(7) and is not subject to further environmental review; and

WHEREAS, Members of the Board are familiar with TMN 59.022-4-61.1, and the area in which the proposed setback relief in the City’s R/B district is sought; now therefore,

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

CONCLUSIONS OF LAW

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

FINDINGS OF FACT ANALYSIS

The standard to be used in the weighing of the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community 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.

DEPARTMENT COMMENTS – Applicant requests relief of Table 1 – 20’ rear yard setback

Applicant is requesting relief of the 20’ rear yard setback to accommodate a 2,418 SF addition to 231 Lake Street, an existing multi-family facility. The request to provide relief of the 20’ requirement to provide 10’* will not result in a detriment to nearby properties in and of itself. However, when reviewed in conjunction with the additional variance request for relief of the edge of pavement setback also requested and the waiver request previously granted

1 by the Planning Board, it appears that the applicant may be seeking to overdevelop the property in a manner that
2 may have negative implications to the character of the neighborhood.

3
4 *Note: The November 2016 approval was for 12', however, the 12' did not include the proposed overhang which
5 has been accounted for here, hence the 10' request.

6
7 **2. Whether the applicant can achieve his goals via a reasonable alternative which does not involve
8 the necessity of an area variance.**

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

12 DEPARTMENT COMMENTS – The original application submitted in August 2016 proposed a covered
13 entrance at the rear, requesting a 5' setback. This was reviewed and increased to the 10', which again takes into
14 consideration a 2' overhang. The applicant further states that they are unable to reduce the overall footprint of the
15 building and add a third story due to complexities in the roof lines and adverse impacts to roof runoff.

16
17 **3. Whether the variance is substantial.**

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

20 DEPARTMENT COMMENTS – The requested relief of the 20' year yard setback to 10' is substantial.

21
22 **4. Whether the variance will have an adverse impact on physical or environmental conditions in the
23 neighborhood or district.**

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

27 DEPARTMENT COMMENTS – The proposal was reviewed by the Fire Chief Michael Farrell in August 2016.
28 No additional comments have been added to the record, the area is well served for fire protection. There are no
29 recognized environmentally sensitive areas. However, the proposed development will result in increased noise and
30 traffic to the neighborhood.

31
32 **5. Whether there has been any self-created difficulty.**

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

36 DEPARTMENT COMMENTS – This is a self-created hardship. The Applicant purchased this property in
37 March of 2016 from the City of Ogdensburg with all existing setback requirements in place, closing of this sale
38 occurred in early November 2016. However, it is worth noting that the Applicant was willing to combine all of the
39 lots as a condition of site plan approval which would have alleviated the need for this variance. Due to funding
40 limitations a subdivision is required which has created this need.

41
42 Chairman Flynn asked Ms. Smith to read aloud the recommendation from staff.

43
44 Ms. Smith read aloud the staff recommendation:

45 The Applicant has demonstrated an inability to procure reasonable use of the lot without these
46 variances. In balancing the benefit to the Applicant against the detriment to the health, safety, and
47 welfare of the neighborhood, staff finds that the request will not result in an undesirable impact.

48
49 Therefore, staff recommends approval as requested of: Applicant requests relief of Table 1 – 10' rear
50 yard setback, where 20' is required.

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

2

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

3

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

8

9 Ms. Smith explained that the request for a variance has been approved and that the Board would vote on
 10 the edge of pavement variance separately.

11

12 Mr. Schlieter: Motion to approve the variance as requested by the Applicant, providing a 0’ setback
 13 between edge of pavement, where 3’ is required in accordance with standards for off-street parking, I so
 14 move.

15

16 Second: Ms. Redden-Sargent.

17

18 Mr. Schlieter read aloud the following resolution:

19

RESOLUTION

20

CITY OF OGDENSBURG ZONING BOARD OF APPEALS

21

2019-001 (2 of 2) AREA VARIANCE TMN 59.022-4-61.1
VARIANCE REQUEST

22

23 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
 24 St. Lawrence County, New York (“ the Board”) seeking a Variance under §221-51-C-4-B, where 3’
 25 setback is required for edge of pavement, Applicant requests 0’. Requested by Aubertine and Currier on
 26 behalf of Transitional Living Services (TLS) (“Applicant”) for 231 Lake Street, Ogdensburg, New York;
 27 and,
 28 and,
 29

30

31 **WHEREAS**, the Board, acting on said application, duly advertised in the Ogdensburg Journal and sent
 32 written notice to all persons listed in the petition as owning property within 100 feet of the premises in
 33 question and held a public hearing on said application at City Hall, 330 Ford Street, Ogdensburg, New
 34 York today, March 26, 2019. All those desired to be heard were heard and their testimony duly recorded
 35 at this hearing; and
 36

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

3
4 **WHEREAS**, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQRA has determined
5 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(7) and is not subject to further
6 environmental review; and

7
8 **WHEREAS**, Members of the Board are familiar with TMN 59.022-4-61.1, and the area in which the
9 proposed setback relief in the City's R/B district is sought; now therefore,

10
11 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
12 Conclusions of Law in this matter:

13
14 **FINDINGS OF FACT ANALYSIS**

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

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

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

22 DEPARTMENT COMMENTS – Applicant requests relief of §221-51 C (4) (a)

23 Applicant requests to reduce the required 3' setback for edge of pavement to the property line to 0' to accommodate
24 a shared parking facility for two adjacent and contiguous properties, both owned by Transitional Living Services
25 will not present a detriment to the neighborhood character.

26
27 **2. Whether the applicant can achieve his goals via a reasonable alternative which does not involve**
28 **the necessity of an area variance.**

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

32 DEPARTMENT COMMENTS – Due to the topography of this site and the adjacent sites under common
33 ownership, the Applicant is severely limited in their ability to provide off-street parking for their multi-family
34 facility (proposed and existing). Their request to construct a contiguous, shared parking facility is reasonable, but
35 will require easement and deed restrictions to protect ingress and egress for both parcels after subdivision.

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

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

40 DEPARTMENT COMMENTS – The request for 0' setback where 3' is required is substantial, but will result in
41 a better use of the property for off-street parking purposes.

42
43 **4. Whether the variance will have an adverse impact on physical or environmental conditions in the**
44 **neighborhood or district.**

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

48 DEPARTMENT COMMENTS – Providing relief of the 3' setback will allow the expansion of the existing
49 parking facility to serve two contiguous lots under common ownership. This will conserve open space and
50 ultimately reduce the impervious surface required to meet the planning board required off-street parking standards.
51 There will be no detrimental impact to emergency access vehicles, conversely, the contiguous parking areas will aid
52 in emergency access.

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.

DEPARTMENT COMMENTS – This is a self-created hardship having been purchased in March of 2016 with current ordinances in place.

Chairman Flynn asked Ms. Smith to read aloud the recommendation from staff.

Ms. Smith read aloud the staff recommendation:

Applicant requests relief of §221-51 C (4) (a) - Staff recommends approval as requested. The proposed relief will reduce impervious surface, and will be a greater benefit to the applicant than detriment to the neighborhood.

Chairman Flynn asked if there were additional comments or questions, there were none.

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

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

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

- (b) **11 Rensselaer Ave:** Chairman Flynn asked the Applicant to orally present their request. Mr. Chris Todd of Aubertine and Currier presented on behalf of TLS. Mr. Todd noted that there have been no substantive changes from the application submitted in 2016. Transitional Living Services (TLS) is requesting 2 variances to support the construction of a new multi-family/SRO facility at 11 Rensselaer Ave: rear yard setback and relief of the setback required for edge of pavement. He added that the relief of the edge of pavement will allow the expansion of the parking area at 231 Lake Street to be contiguous.

Motion by Mr. Lowery to approve the variance as requested by the Applicant, providing a 16’ rear yard setback, where 20’ is required in the R/B district, I so move.

1 Motion was seconded by Mr. Lalone.

2
3 Mr. Lowery read aloud the following resolution:

4
5 **RESOLUTION**

6
7 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

8
9 2019-002 (1 of 2) AREA VARIANCE TMN 59.022-4-59.1
10 VARIANCE REQUEST 1 of 2

11
12 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
13 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 Dimensional
14 Requirements, requiring that a 20’ rear yard setback be provided in the R/B district; where applicant
15 proposes 16’ setback. Requested by Aubertine and Currier on behalf of Transitional Living Services
16 (TLS) (“Applicant”) for 11 Rensselaer Ave, Ogdensburg, New York; and,

17
18 **WHEREAS**, the Board, acting on said application, duly advertised in the Ogdensburg Journal and sent
19 written notice to all persons listed in the petition as owning property within 100 feet of the premises in
20 question and held a public hearing on said application at City Hall, 330 Ford Street, Ogdensburg, New
21 York today March 26, 2019. All those desired to be heard were heard and their testimony duly recorded
22 at this hearing; and

23
24 **WHEREAS**, in accordance with 239-m requirements, the application did not require review by the St.
25 Lawrence County Planning Offices; and

26
27 **WHEREAS**, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has determined
28 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(7) and is not subject to further
29 environmental review; and

30
31 **WHEREAS**, Members of the Board are familiar with TMN 59.022-4-59.1, and the area in which the
32 proposed setback relief in the City’s R/B district is sought; now therefore,

33
34 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
35 Conclusions of Law in this matter:

36
37 Ms. Smith presented the findings of fact:

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

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

42 DEPARTMENT COMMENTS – Rear yard setback 16’ requested – Applicant is requesting relief of
43 the 20’ rear yard setback to accommodate the construction of a new three-story, 4,524 SF Single
44 Resident Occupancy (SRO) building. The request to provide relief of the 20’ requirement to provide
45 16’ will not result in a detriment to nearby properties in and of itself.

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

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

4 DEPARTMENT COMMENTS – Since applying in August 2016, the application remains unchanged.
5 The existing topography of the site does severely limit the Applicants options for reasonable
6 alternatives.

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

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

10 DEPARTMENT COMMENTS – Rear yard setback 16’ requested – The requested relief of the 20’
11 year yard setback to 16’ is substantial.

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

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

18 DEPARTMENT COMMENTS – The proposal was reviewed by the Fire Chief Michael Farrell in
19 August 2016. No additional comments have been added to the record, the area is well served for fire
20 protection. There are no recognized environmentally sensitive areas. However, the proposed
21 development will result in increased noise and traffic to the neighborhood.

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

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

26 DEPARTMENT COMMENT –Rear yard setback 16’ requested – This is a self-created hardship. The
27 Applicant purchased this property in March of 2016 from the City of Ogdensburg with all existing
28 setback requirements in place, closing of this sale occurred in early November 2016. The Applicant has
29 combined this parcel with former tax map parcel 59.022-4-58 and has been willing to combine this lot
30 with 59.022-4-61.1, but due to funding limitations was required to keep 231 Lake Street separate from 11
31 Rensselaer Ave.

32 Chairman Flynn asked Ms. Smith to present the staff recommendation.

33
34 The Applicant has demonstrated an inability to procure reasonable use of the lot without these variances.
35 In balancing the benefit to the Applicant against the detriment to the health, safety, and welfare of the
36 neighborhood, staff finds that the request will not result in an undesirable impact.

37 Therefore, staff recommends approval as requested of:

38 Applicant requests relief of Table 1 – 16’ rear yard setback, where 20’ is required.

39 There were no public comments, or additional comments from the Board.

40 Chairman Flynn requested that Ms. Smith call the role:

41

Moved:	Lowery	
Second:	Lalone	

VOTE	Aye	Nay	Abstain	Absent	Reason
Mr. Schlieter	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				I agree with the findings of fact and staff recommendation.
Chairman Flynn	X				I agree with the findings of fact and staff recommendation.
Mr. Casselman				X	
Mr. Lowery (alt.)	X				I agree with the findings of fact and staff recommendation.

1
 2 Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted,
 3 testimony at the hearings, and other documents submitted by the Applicant, the Board determines that the
 4 area variance requesting relief of *Table 1* will be granted 5 yay, 0 nay, 0 abstain, 1 absent, the request is
 5 approved as modified 5/0.

6
 7 Ms. Smith stated that the variance had been approved as requested adding the Applicant would receive a
 8 letter with the determination of the Board along with a copy of the unapproved minutes documenting the
 9 discussion and findings of the board. Ms. Smith stated that permits are required and can be obtained in
 10 the Building Code Office. She further noted that variances are valid for 6 months, after which they are
 11 require additional action by the Board. She asked if the Applicant had any questions, Mr. Todd replied no.

12
 13 Motion by Ms. Redden-Sargent to approve the variance as requested by the Applicant, providing a 0'
 14 setback between edge of pavement, where 3' is required in accordance with standards for off-street
 15 parking., I so move.
 16 Motion was seconded by Mr. Schlieter.

17
 18 Ms. Redden-Sargent read aloud the following resolution:

19
 20 **RESOLUTION**

21
 22 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

23
 24 2019-002 (2 of 2) AREA VARIANCE TMN 59.022-4-59.1
 25 VARIANCE REQUEST

26
 27 **WHEREAS**, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,
 28 St. Lawrence County, New York (“ the Board”) seeking a Variance under §221-51-C-4-B, where 3'
 29 setback is required for edge of pavement, Applicant requests 0'. Requested by Aubertine and Currier on
 30 behalf of Transitional Living Services (TLS) (“Applicant”) for 11 Rensselaer Ave, Ogdensburg, New
 31 York; and,

32
 33 **WHEREAS**, the Board, acting on said application, duly advertised in the Ogdensburg Journal and sent
 34 written notice to all persons listed in the petition as owning property within 100 feet of the premises in
 35 question and held a public hearing on said application at City Hall, 330 Ford Street, Ogdensburg, New
 36 York today March 26, 2019. All those desired to be heard were heard and their testimony duly recorded
 37 at this hearing; and
 38

1 **WHEREAS**, in accordance with 239-m requirements, the application did not require review by the St.
2 Lawrence County Planning Offices; and
3

4 **WHEREAS**, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQRA has determined
5 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(7) and is not subject to further
6 environmental review; and
7

8 **WHEREAS**, Members of the Board are familiar with TMNs 59.022-4-59.1, and the area in which the
9 proposed setback relief in the City's R/B district is sought; now therefore,
10

11 **BE IT RESOLVED**, that the Zoning Board of Appeals makes the following Findings of Fact and
12 Conclusions of Law in this matter:
13

14 Ms. Smith presented the findings of fact:

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

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

19 DEPARTMENT COMMENTS – The request to reduce the required 3' setback for edge of pavement
20 to the property line to 0' to accommodate a shared parking facility for two adjacent and contiguous
21 properties, both owned by Transitional Living Services will not present a detriment to the
22 neighborhood character.

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

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

28 DEPARTMENT COMMENTS – Due to the topography of this site and the adjacent sites under
29 common ownership, the Applicant is severely limited in their ability to provide off-street parking for
30 their multi-family facility (proposed and existing). Their request to construct a contiguous, shared
31 parking facility is reasonable, but will require easement and deed restrictions to protect ingress and
32 egress for both parcels after subdivision.

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

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

36 DEPARTMENT COMMENTS – The request for 0' setback where 3' is required is substantial, but
37 will result in a better use of the property for off-street parking purposes.

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

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

44 DEPARTMENT COMMENTS – Providing relief of the 3' setback will allow the expansion of the
45 existing parking facility to serve two contiguous lots under common ownership. This will conserve

1 open space and ultimately reduce the impervious surface required to meet the planning board required
 2 off-street parking standards. There will be no detrimental impact to emergency access vehicles,
 3 conversely, the contiguous parking areas will aid in emergency access.

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

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

8 DEPARTMENT COMMENT – This is a self-created hardship having been purchased in March of 2016
 9 (closing occurred November 2016) with current ordinances in place.

10 Chairman Flynn asked Ms. Smith to present the staff recommendation.

11
 12 The Applicant has demonstrated an inability to procure reasonable use of the lot without these variances.
 13 In balancing the benefit to the Applicant against the detriment to the health, safety, and welfare of the
 14 neighborhood, staff finds that the request will not result in an undesirable impact.

15 Applicant requests relief of §221-51 C (4) (a), Staff recommends approval as requested. The proposed
 16 relief will reduce impervious surface, and will be a greater benefit to the applicant than detriment to the
 17 neighborhood. There were no public comments, or additional comments from the Board.

18 Chairman Flynn requested that Ms. Smith call the role:
 19

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

20
 21 Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted,
 22 testimony at the hearings, and other documents submitted by the Applicant, the Board determines that the
 23 area variance requesting relief of §221-51 C (4) (a) will be granted 5 yay, 0 nay, 0 abstain, 1 absent, the
 24 request is approved as requested 5/0.
 25

26 Ms. Smith stated that the variance had been approved as requested adding the Applicant would receive a
 27 letter with the determination of the Board along with a copy of the unapproved minutes documenting the
 28 discussion and findings of the board. Ms. Smith stated that permits are required and can be obtained in
 29 the Building Code Office. She further noted that variances are valid for 6 months, after which they are
 30 require additional action by the Board. She asked if the Applicant had any questions, Mr. Todd replied no.
 31

32 **4. New Business**

1 a. Meeting Dates – Ms. Smith noted that the next regular meeting is Tuesday, April 23rd but
2 she will be out of town at a conference. She inquired if the Board would prefer to keep
3 that date with Mr. Mallette in attendance, or if the preference is to move the meeting one
4 week later to April 30th?

5 Discussion among the members present ensued with the consensus to reschedule the
6 regular meeting for April 30, 2019 at 4:30 PM.

7 Motion by Mr. Schlieter to approve the 2019 meeting dates as amended, second by Ms. Redden-Sargent.

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9 All members voted in support of the motion to approve the meeting dates as modified, 5/0.

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12 **5. Old Business –**

13
14 **6. Member Comment –**

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16 **7. Adjournment –**
17 Motion by Mr. Lowery to adjourn the meeting was made, second by Mr. Lalone

18 **Vote –** The board voted in favor 5/0, meeting adjourned at 5:23 PM.

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20
21 **NEXT MEETING DATE:** Tuesday, April 30, 2019 at 4:30 PM