

**CITY OF OGDENSBURG  
ZONING BOARD OF APPEALS**

**APPROVED MINUTES FOR  
MAY 12, 2020**

---

**Members Present:** William Flynn (Chairman), Patricia Redden Sargent, Chris Lalone, Steve Schlieter\*, and Alternate Chris Lowery

**Members Excused:** Malcolm Casselman

**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 remotely using Go To Webinar, Webinar ID 263-963-443. This meeting was recorded and transcripts are available.

\*Mr. Schlieter was visible through the webcam option of the webinar but was unable to be heard, therefore his vote was not recorded.

4:36 PM Chairman Flynn called the **Special Remote 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 role call.

**1. Approval of previous minutes**

- a. January 28, 2020: Chairman Flynn stated the draft minutes had been submitted and required approval.

Motion to approve the minutes by Ms. Redden-Sargent, 2<sup>nd</sup> by Mr. Lalone. Chairman Flynn noted a correction on page 7, line 24, Boar should be Board.

All members voted in support of the motion to approve the minutes as corrected, 4/0.

**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 816 Pickering Street and had been returned for local action with no binding comments.

**3. Public Hearing**

- a. Chairman Flynn opened the public hearing on variance request Z-2020-003, 816 Pickering Street 4:39 PM. There were no public comments, the Public Hearing was closed at 4:40 PM.

- b. Chairman Flynn opened the public hearing on variance request Z-2020-004 (a), (b), and (c), 806 Paterson Street 4:40 PM. There were no public comments, the Public Hearing was closed at 4:41 PM.

**4. New Business**

1 a. **816 Pickering Street:** Chairman Flynn asked the Applicant to orally present their request. Mr.  
2 Ramie explained that he wanted to construct a rear deck where there had been one previously, but  
3 that upon demolition of that deck the time period for rebuilding without variances has expired.  
4

5 Chairman Flynn moved to approve the variance as requested providing a 11’ combined side yard setback  
6 where 20’ required by Table 1 within the MDR district for Tax Map Parcel 59.023-3-22, second by Ms.  
7 Redden-Sargent.

8 No further discussion.

9 Ms. Smith read aloud the resolution as follows:  
10

11 **RESOLUTION**

12 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

13 Z-2020-003

14 AREA VARIANCE TMN 59.023-3-22  
15

16  
17 WHEREAS, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,  
18 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221 entitled  
19 Zoning, where the combined side yard setback shall be no less than 20’, Applicant requests 11’ for the  
20 construction of a deck. Requested by Kyle Ramie, (“Applicant”) for 816 Pickering Street, Ogdensburg,  
21 New York; and,  
22  
23

24  
25 WHEREAS, the Board, acting on said application, duly advertised in the Watertown Daily Times and  
26 sent written notice to all persons listed in the petition as owning property within 100 feet of the premises  
27 in question and held a remote public hearing on said application today, May 12, 2020. All those desired  
28 to be heard were heard and their testimony duly recorded at this hearing; and  
29

30 WHEREAS, in accordance with 239-m requirements, the application did require review by the St.  
31 Lawrence County Planning Offices which was returned on May 6, 2020 for local action with no binding  
32 comments; and  
33

34 WHEREAS, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has determined  
35 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(17) and is not subject to further  
36 environmental review; and  
37

38 WHEREAS, Members of the Board are familiar with TMN 59.023-3-22, and the area in which the  
39 proposed relief in the City’s Moderate Density Residential (MDR) district is sought; now therefore,  
40

41 BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and  
42 Conclusions of Law in this matter:  
43

44 Chairman Flynn asked Ms. Smith to read aloud the findings of fact analysis.  
45

46 Ms. Smith read aloud:  
47

48 **FINDINGS OF FACT ANALYSIS**

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

<b>FINDINGS OF FACT ANALYSIS</b>
<p>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>
<p><b>1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.</b></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><b>Staff Comment:</b> The property at 816 Pickering Street is a pre-existing nonconforming lot (36' x 161') in the MDR district. The Applicant is proposing the construction of a rear deck that will extend 3" beyond the footprint of the house in a northerly direction. From Pickering Street very little will be visible and does not present a detriment to the neighborhood.</p>
<p><b>2. Whether the applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an area variance.</b></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><b>Staff Comment:</b> Being a pre-existing, nonconforming lot, the Applicant is very limited in their ability to improve the property without seeking an area variance; the placement of the residence on the parcel presently provides 11'4" of combined side yard which does not meet the prescribed standards per Table 1. This request is a reasonable accommodation from the standards as prescribed.</p>
<p><b>3. Whether the variance is substantial.</b></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> <p><b>Staff Comment:</b> The Applicant proposes an 11' combined side yard setback where 20' is required. The Applicant seeks a 45% reduction which is not substantial.</p>
<p><b>4. Whether the variance will have an adverse impact on physical or environmental conditions in the neighborhood or district.</b></p> <p>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.</p> <p><b>Staff Comment:</b> The proposed deck will not substantially increase runoff, traffic, or noise from the property compared to the property without the deck. 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.</p>
<p><b>5. Whether there has been any self-created difficulty.</b></p> <p>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.</p> <p><b>Staff Comment:</b> 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.</p>

- 4
- 5 Chairman Flynn asked Ms. Smith to read aloud the recommendation from staff.

1  
 2 Ms. Smith read aloud the staff recommendation:  
 3 The Applicant has demonstrated an inability to procure reasonable use of the parcel without this variance.  
 4 In balancing the benefit to the Applicant against the detriment to the health, safety, and welfare of the  
 5 neighborhood, staff finds that the request will not result in any potentially undesirable impacts, and the  
 6 applicant does not have reasonable alternatives to this request. Therefore, in accordance with NYS  
 7 standards for granting variances staff recommends approval as requested.

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

9

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

10  
 11 Based on the above Findings of Fact, and after reviewing the application, sketches and plans at this  
 12 meeting, testimony at the hearings, and other documents submitted by the Applicant, the Board  
 13 determines that the proposed area variance requesting relief of *Table 1 combined side yard setback* will be  
 14 approved as requested, 4 yay, 0 nay, 0 abstain, 2 absent, the request is approved 4/0.

15  
 16 Ms. Smith explained that the request had been approved providing a 11' combined side yard setback. She  
 17 further noted that building permits would be required and could be obtained from the Code Office. She  
 18 asked if the applicant had questions, the Applicant responded no and thanked the board.

19  
 20 **b. 806 Paterson Street** – Chairman Flynn asked the Applicant to orally present their request. Mr.  
 21 Bouchey stated that he and his wife have recently purchased this property along with the property  
 22 next door. He noted that they have had it surveyed and were combining it by deed to support  
 23 their request for this addition and rear deck.

24 Chairman Flynn inquired if all three variance requests could be combined into one motion. Ms.  
 25 Smith replied yes, if the Board is so inclined it can be done that way.

26  
 27 Ms. Smith read aloud the following resolution:

28  
 29 **RESOLUTION**

30  
 31 CITY OF OGDENSBURG ZONING BOARD OF APPEALS

32  
 33 2020-004 (a), (b), & (c)  
 34 AREA VARIANCE TMN 48.080-5-40

1  
 2 WHEREAS, an application has been filed with the Zoning Board of Appeals of the City of Ogdensburg,  
 3 St. Lawrence County, New York (“the Board”) seeking a Variance under Table 1 of Chapter 221 entitled  
 4 Zoning, where the rear yard setback shall be no less than 20’ and the Applicant requests 10; combined  
 5 side yard setback shall be no less than 20’, Applicant requests 13’, and one side yard shall be no less than  
 6 4’, Applicant requests 3’ for the construction of a rear deck. Requested by Colin and Melissa Bouchey,  
 7 (“Applicant”) for 806 Paterson Street, Ogdensburg, New York; and,  
 8

9 WHEREAS, the Board, acting on said application, duly advertised in the Watertown Daily Times and  
 10 sent written notice to all persons listed in the petition as owning property within 100 feet of the premises  
 11 in question and held a virtual public hearing on said application today, May 12, 2020. All those desired  
 12 to be heard were heard and their testimony duly recorded at this hearing; and  
 13

14 WHEREAS, in accordance with 239-m requirements, the application did not require review by the St.  
 15 Lawrence County Planning Offices; and  
 16

17 WHEREAS, the Ogdensburg Zoning Board Appeals, as Lead Agency conducting SEQR has determined  
 18 this a Type II Action under SEQRA pursuant to 6 NYCRR 617.5(c)(17) and is not subject to further  
 19 environmental review; and  
 20

21 WHEREAS, Members of the Board are familiar with TMN 48.080-5-40, and the area in which the  
 22 proposed relief in the City’s Moderate Density Residential (MDR) district is sought; now therefore,  
 23

24 BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and  
 25 Conclusions of Law in this matter:  
 26

27 Chairman Flynn asked Ms. Smith to read aloud the findings of fact analysis.  
 28 Ms. Smith read aloud:  
 29

30 **FINDINGS OF FACT ANALYSIS**

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

<b>FINDINGS OF FACT ANALYSIS</b>
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:
<b>1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.</b> This test requires the Board to consider such things as the undesirable changes and potential impacts on neighboring property values and character. <u>Staff Comment:</u> The property at 806 Paterson Street is being combined by deed with 802 Paterson Street in an effort to reduce nonconformity and the need for relief through variances. Despite this combination the Applicant is requesting three variances to support the construction of an addition to the home. The proposed addition provides a 20’ front yard setback where 15’ is required. The proposed setbacks do not present a detriment to the character of the neighborhood and will provide adequate setback to mitigate any impact to adjacent properties including runoff and fire separation.
<b>2. Whether the applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an area variance.</b>

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:** The Applicant is very limited in their ability to improve the property without seeking an area variance. 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 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 addition will substantially increase runoff, however, the property and proposed setbacks are adequate to address this runoff within the confines of the parcel. The proposed addition will not increase traffic, or noise from the property compared to the property without the addition. There is no impact to sight lines impacting traffic or access for emergency vehicles, as stated previously there is a proposed 20’ front yard setback for the addition from Paterson Street. 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 with all current setbacks in place as prescribed by Table 1. The Applicant has acquired the adjacent parcel and combined it by deed to bring the property closer to conformity with dimensional requirements, however, this remains a self-created difficulty. Unlike in the case of a use variance, this alone shall not justify denial.

- 1
- 2 Ms. Smith read aloud the staff recommendation:
- 3 The Applicant has demonstrated an inability to procure reasonable use of the parcel without these
- 4 variances. In balancing the benefit to the Applicant against the detriment to the health, safety, and
- 5 welfare of the neighborhood, staff finds that the request will not result in any potentially undesirable
- 6 impacts, and the applicant does not have reasonable alternatives to this request. Therefore, in accordance
- 7 with NYS standards for granting variances staff recommends approval as requested.
- 8 No further discussion, Chairman Flynn asked Ms. Smith to call the roll.
- 9

Moved:	Lowery				
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 findings of fact and staff recommendation.

Ms. Redden-Sargent	X				I agree with the findings of fact and staff recommendation.
Mr. Casselman				X	
Mr. Schlieter				X	
Mr. Lalone	X				I agree with the findings of fact and staff recommendation.
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 at this  
 3 meeting, testimony at the hearings, and other documents submitted by the Applicant, the Board  
 4 determines that the proposed area variances requesting relief of *Table 1 side yard, rear yard, and*  
 5 *combined side yard setbacks* will be approved as requested, 4 yay, 0 nay, 0 abstain, 2 absent, the request  
 6 is approved 4/0.

7  
 8 Ms. Smith explained that the request had been approved. She further noted that building permits would be  
 9 required and could be obtained from the Code Office. She asked if the applicant had questions, the  
 10 Applicant responded no and thanked the board.  
 11

12 **5. Old Business –**

13  
 14 **6. Member Comment –** Mr. Flynn inquired about future meetings using the virtual platform. There  
 15 was discussion about the current Executive Orders and Ms. Smith replied that she would be  
 16 continuing to monitor the guidance from the state and expected that this would continue.  
 17

18 **7. Adjournment –**  
 19 Motion by Ms. Redden-Sargent to adjourn the meeting was made, second by Mr. Lalone.  
 20 **Vote –** The board voted in favor 4/0, meeting adjourned at 5:26 PM.  
 21

22  
 23 **NEXT MEETING DATE:** TBD based on applications and guidance from New York State.