

Village of Youngstown

VILLAGE CENTER • 240 LOCKPORT STREET
P. O. BOX 168
YOUNGSTOWN, NEW YORK 14174-0168



INCORPORATED:
APRIL 18, 1854

TELEPHONE:
(716) 745-7721
FAX:
(716) 745-3400

Wednesday, October 26, 2022

Present: Chairperson Thomas Murphy, Member Tyler Finkle, Member James Carminati, Member William Lolo, Building Inspector John Stevens, Zoning Board of Appeals Clerk Amy Freiermuth

Absent: Member Keith Hartloff

The public hearing and meeting of the Village of Youngstown Zoning Board of Appeals for the application of Kristy Walters for property located at 330 Second Street, Youngstown was called to order at 7:00 p.m. by Chairperson Murphy.

The following notice was mailed to all residents within 500 feet of the property line (of the applicant) on October 18, 2022. It was also published in the Niagara Gazette on October 20, 2022.

VILLAGE OF YOUNGSTOWN ZONING BOARD OF APPEALS NOTICE OF PUBLIC HEARING

NOTICE IS HEARBY GIVEN THAT, pursuant to Village Law and the Zoning Ordinances of the Village of Youngstown, a public hearing will be held by the Zoning Board of Appeals, at the Village Center, in the Board Room at 240 Lockport St., Youngstown, NY on March 28, 2022 at 7:00 p.m. for the purpose of hearing and considering the following application for a variance:

Appeal by Kristy Walters, for property located at 330 Second Street, Tax Map ID: 45.18-3-48 from denial of building permit #054-2022 for a proposed shed that does not meet side yard setback requirements. A minimum of 5-feet or 1/2 the height of the accessory building (whichever is greater) is required while the request is to place the shed on a pre-existing foundation located on the property line.

The onsite inspection for the above application will occur on October 26, 2022 at 6:30 p.m. Applicant or representative must be present.

Complete application is available for viewing at the Village Clerk's office during normal business hours.

*Amy L. Freiermuth
Zoning Board of Appeals Clerk*

Dave Wyno, the applicant's father, was present to represent Kristy Walters' request.

The Board members conducted an inspection of the project (site prior to the meeting) at 6:30 p.m.

Chairperson Murphy described the particulars of the application as follows (in italic).

The application under consideration is submitted by Kristy Walters and concerns a proposed accessory building at 330 Second Street. The Code Enforcement Officer denied a requested building permit on the ground that the existing foundation of the accessory building does not comply with the minimum side-yard setback as required by Article 250 of the Village Code.

The property is located in the R-8A Zoning District. The property lot line in question borders an adjacent R-8A parcel. Because of this, Section 250-30 C(3) of the Zoning Law requires that the proposed accessory building be distant from the side yard lot line “not less than a distance equal to ½ the height of the accessory building or five feet, whichever is greater.”

The Code Enforcement Officer reports that the height of the proposed accessory building would be 8 feet. Under Section 250-30 C(3), therefore, the minimum required setback is five feet from the side yard lot line. The survey provided to the Board by the Applicant shows that the distance between the existing accessory building foundation and the side yard lot line ranges between 2.24 feet and 2.53 feet. The requested variance is therefore 2.76 feet, or roughly two feet nine inches.

Chairperson Murphy asked Mr. Wyno if he had anything he would like to add. Mr. Wyno stated that Ms. Walters is trying to improve the property, hence the request.

Chairperson Murphy stated that during the on-site inspection, neighbors were present and claimed they had no objections.

The following specific facts concerning the property and the Application were made at the hearing:

- 1. The foundation on which the Applicant wishes to build the new accessory building pre-dates the Applicant’s purchase of the property in April of 2022.*
- 2. The existing foundation previously supported a small garage, which was dilapidated and taken down by the Applicant after purchasing the property.*
- 3. The accessory building foundation is behind the residence, at least 90 feet back from the front lot line on Second Street.*
- 4. The proposed accessory building would not occupy the entire area of the existing foundation. According to the Applicant, the new shed would measure 8 feet by 12 feet, and the survey shows the pre-existing foundation measuring about 10 feet by 18 feet.*
- 5. The existing foundation has probably been in position for a long time, likely dating from before the Village Zoning Law was enacted.*
- 6. Whether or not the in-situ foundation predates the Zoning Law, the need for the side yard variance here arises from Village Code Section 250-36 D, addressing non-conforming structures, which requires that any repair, alteration or restoration of an existing non-conforming structure comply with the open space requirements of the Zoning Law.*

Chairperson Murphy explained that the Board considers the following five questions prior to granting a variance and stated that after the question is read, he wanted each member to agree or disagree.

- 1. Will the requested variance result in an undesirable change to the character of the neighborhood or be a detriment to nearby properties?*

Each Member stated no.

- 2. Could the benefit sought by the applicant be achieved by a feasible alternative to the requested variance?*

The Members agreed that there could be an alternative but it would not be cost effective.

3. *Is the requested variance substantial?*

The Members agreed it was not a substantial variance.

4. *Will the requested variance have an adverse impact on the physical or environmental conditions in the neighborhood?*

The Members agreed that there would be no adverse impact.

5. *Is the need for the requested variance self-created and, if so, does that factor pose a significant obstacle to the requested relief?*

All Members agreed that the location of the shed is where the garage was previously.

Chairperson Murphy asked if anyone in the audience had any comments. Neighbor Dolores Winslow stated that the improvements made on the property have been “wonderful” and has no problem with the request. Her husband, Mr. Winslow, concurred.

With no further discussion, a motion was made to approve the Variance as requested by Member Carminati and seconded by Member Lolo.

Roll was called:

Member Finkle: Yes Member Carminati: Yes Member Lolo: Yes Chairperson Murphy: Yes

This Application was granted on its specific facts, and with the expressed consent of the nearest affected neighbors. The granting of the requested area Variance for this small backyard shed is not intended to create, nor does it create, any precedent to the effect that an area Variance would or will be granted in future to any applicant merely because of the presence of a pre-existing foundation or structure on a property. The Board’s decision is strictly confined in its scope to the specific facts and merits of this particular Application.

This is a Type II action as defined by NYS SEQR regulations, because it involves a residential project and does not propose a zoning change affecting 25 or more acres.

A motion to adjourn the meeting at 7:08 p.m. was made by Member Lolo and seconded by Member Carminati. All in favor, motion carried.

Respectfully submitted,

Amy L. Freiermuth
Zoning Board of Appeals Clerk
Village of Youngstown