

**ONEONTA, NEW YORK – NOVEMBER 25, 2013 - 7:00 P.M.**  
**REGULAR MEETING ZONING AND HOUSING BOARD OF APPEALS PG. 1**

**PRESENT:** Chair Ed May  
Commissioner Joseph Ficano  
Commissioner Karen Geasey  
Commissioner Louis Shields  
Commissioner John Rafter  
Commissioner Paul Robinson  
Council Member Bob Brzozowski (arrived 7:10 pm)

**ABSENT:** Commissioner Robert Lawson

Chair May called the regular meeting to order and asked the Clerk to call the roll.

**PETITIONERS**

There were no petitioners.

**CORRESPONDENCE**

City Clerk Kendall stated there was no correspondence.

**APPROVAL OF MINUTES**

**MOTION**, made by Commissioner Robinson and seconded by Commissioner Shields that the board approves the Zoning and Housing board of Appeals minutes of the regular meeting held October 28, 2013.

**Voting Ayes:** Chair May  
Commissioner Ficano  
Commissioner Geasey  
Commissioner Shields  
Commissioner Rafter  
Commissioner Robinson

**Noes:** None

**Absent:** Commissioner Lawson

**MOTION CARRIED**

**AGENDA ITEMS**

Chair May stated there was one item on the agenda:

*Peter & Sherry Barberio: 21 Valleyview Street (288.19-1-95); Short Environmental Quality Review (SEQR); Area Variance*  
*The applicants wish to covert the area in the front yard of their property into a driveway. The driveway will be approximately 580 square feet. Currently there is no on-site parking for this single-family residence.*

The Notice of Public Hearing appeared in The Daily Star on November 22, 2013 and 44 letters were sent to adjoining property owners within a 300' radius of the property in question.

Chair May asked who was present to speak for the appellants. Peter and Sherry Barberio identified themselves and described their desire to place a driveway in the front yard of their home to allow parking for two vehicles, as there is insufficient frontage on Valleyview Street to allow a driveway to the side or back of the property. Their intention is to use pavers that would allow drainage to occur.

Chair May indicated to the appellants that the new city Zoning law, which was adopted two years ago, prohibits new front yard parking and grandfathered existing front yard parking for 20 years only. Thus even were a variance granted in this case, it would expire in 18 years. Thus he felt the appellants face an uphill battle for a variance.

Chair May cited the relevant portions of the Zoning code:

**“§ 300-7. R-2 Moderate-Density Residential District.**

A. Purpose and intent. The general purpose of this residential zoning district is to ensure that future residential development respects the scale and character of the existing neighborhoods. In promoting the general purpose of this chapter, the specific intent of the Moderate-Density Residential District is to:

- (1) Provide for a walkable, pedestrian-oriented environment built around the existing mix of single-family, two-family and multiple-family residential dwellings;
- (2) Limit commercial or other uses that would substantially interfere with or be detrimental to the character of these residential neighborhoods;
- (3) Prohibit additional conversions from single-family homes to two-family or multifamily homes;
- (4) Encourage the reversion of previously converted existing multiple-family and two-family homes back to single-family; and
- (5) Encourage the conversion of existing higher-density unrelated individual occupancies to senior citizen, family, or adult housing.

B. Permitted uses. Please see the Table of Permitted Uses by District (§ 300-92) and the R-2 District Bulk and Use Table, § 300-94. Permitted uses are subject to the requirements specified elsewhere in these regulations, including, but not limited to, regulations applicable to all zoning districts in accordance with Article IV, site plan review and approval, if applicable, in accordance with Article VII, and subdivision of land, if applicable, in accordance with Article VIII.

C. Uses requiring a special use permit. Please see the Table of Permitted Uses by District (§ 300-92) and the R-2 District Bulk and Use Table, § 300-94. Certain uses require a special use permit from the Planning Commission, subject to the requirements of § 300-29. Such uses are subject to the general development standards for specific uses related to regulations applicable to all zoning districts found in Article IV, to site plan review and approval in accordance with Article VII and to other standards as may be required under site plan review by the Planning Commission to assure development and operation of the use without a detrimental impact on adjacent uses.

D. Projects requiring site plan review. Please see the Table of Permitted Uses by District (§ 300-92) and the R-2 District Bulk and Use Table, § 300-94.

- (1) All new buildings except buildings smaller than 200 square feet in floor area and additions to single-family dwellings, which additions are smaller than 600 square feet.
- (2) All uses permitted by special use permit.
- (3) Intensity thresholds requiring site plan review. When site plan review is required due to an intensity threshold only, the scope of the review shall be limited to consideration of the threshold.

(a) Surface and subsurface drainage:

- [1] Projects disturbing more than one acre of ground surface.
- [2] Coverage of more than 1/2 acre with impervious material.
- [3] Increase in impervious coverage to more than 30% of lot.
- [4] Projects involving the disturbance of more than 1,000 square feet of land surface with slopes greater than 15%.

E. Prohibited uses. Uses that are not expressly permitted in the Table of Permitted Uses by District (§ 300-92) are prohibited.

F. Lot size. Please see the R-2 District Bulk and Use Table, § 300-94.

G. Setbacks.

- (1) Front yard setback. The minimum front setback is 20 feet.
- (2) Side and rear yard setback. Please see the R-2 District Bulk and Use Table, § 300-94.

H. Maximum allowable impervious surface coverage. Impervious surface coverage of more than 1/2 acre or of more than 30% of the lot requires site plan review. Impervious coverage includes all impervious surfaces such as structures, parking areas, driveways and pedestrian walks.

I. Height limitations. Please see the R-2 District Bulk and Use Table, § 300-94.

J. Off-street parking requirements. Please see the Table of Parking Requirements by Use, § 300-101. In addition, all uses permitted in this district are subject to the additional parking and loading requirements set forth in § 300-61 of this chapter. The provision of new off-street parking for existing uses is prohibited.

### **§ 300-51. Buffer areas.**

B. Standards. Whenever a buffer is required by this chapter, it shall meet the following standards. It shall:

- (1) Provide a visual barrier.
- (2) Block the glare of lights.
- (3) Reduce noise produced on the site to a level no higher than that produced on conforming residential sites in the adjacent residential neighborhood.
- (4) Serve as a protective barrier by blocking physical passage to the site, unless specific points of passage are desired.
- (5) Prevent the passage of air pollution, dust and litter produced on the site.
- (6) Screen the activities on the site and block views of the site which are not in harmony with the residential character of the adjacent neighborhood.
- (7) Be maintained throughout the continuance of the use of the lot.

### **§ 300-61. Off-street parking and loading regulations.**

A. Intent. The intent of this section is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.

B. Applicability.

- (1) In all districts, every industrial, business, institutional, recreational, residential or other use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity in the City, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially site plan review in accordance with Article VII, and the Table of Parking Requirements by Use, § 300-101, provided in the Appendixes.
- (2) Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use a public right-of-way or parking area for standing, loading and unloading services.
- (3) Bus, taxi or passenger loading spaces may also be required, depending on the use.

C. Location of required spaces. Parking and loading spaces shall be located in accordance with the following:

- (1) Parking areas set back from lot lines and streets. In all districts, no part of any parking area, other than driveways for ingress and egress, shall be located closer to a lot line than five feet nor closer to a sidewalk than 10 feet. Parking is further restricted from front yards elsewhere in this chapter.
- (2) Parking of motor vehicles is prohibited on sidewalks and areas between the sidewalk and median strips separating travel lanes as defined in the New York State Vehicle and Traffic Law.
- (3) For single-family detached, semidetached, two-family, attached and accessory dwelling units, off-street parking shall be provided on the same lot with the building it serves.
- (4) For multifamily dwellings, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than 200 feet from the building it is required to serve.
- (5) Front yard parking requirements.
  - (a) No person shall keep, store, or park any motor vehicle, whether operable or inoperable, on any portion of a front yard or corner lot side yard facing a street of any property except on driveways previously approved by the Code Enforcement Officer, which may or may not consist of an impervious surface material. For the purposes of § 300-61 only, the term "front yard" shall mean either the front yard required for the zone district or the front setback of the existing primary building, whichever is greater.
  - (b) No owner, tenant, manager or occupant of property used as a residence shall allow any person to keep, store, or park any motor vehicle, whether operable or inoperable, on any portion of a front yard or corner lot side yard facing a street, except on driveways, which may or may not consist of an impervious surface material.
  - (c) The right to continue legitimate nonconforming front yard parking areas in all residential zones existing at the time of the adoption of this section, which parking areas have not previously been approved through the zoning variance procedure, shall expire on December 31, 2027, with the exception of those properties that have neither a driveway nor the unbuilt property width to create a driveway. Application may be made to the Zoning Board of Appeals for relief

from the date of expiration of rights, and no variance application fee will be charged for such applications.

D. Computation of required spaces.

(1) The required number of spaces is provided in the Table of Parking Requirements by Use, § 300-101, for each land use in each zoning district.

(2) In the case of a combination of uses, the total requirements for off-street auto parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use and/or shift employment would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.

(3) If spaces are provided on the basis of employees or participants, the number on the theoretical maximum shift or peak period shall be used.

(4) Unless otherwise specified, off-street parking standards are based on square feet of all floor area, including the area of any accessory buildings.

E. Dimensions of off-street automobile parking spaces. Off-street automobile parking spaces shall be no smaller than nine feet by 18 feet. Every such space shall have independent, direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:

(1) Parallel curb parking: five feet end to end, with an aisle width of 12 feet for one-directional flow and an aisle width of 24 feet for two-directional flow.

(2) Thirty-degree parking: an aisle width of 13 feet for one-directional flow and an aisle width of 26 feet for two-directional flow.

(3) Forty-five-degree parking: an aisle width of 16 feet for one-directional flow and an aisle width of 26 feet for two-directional flow.

(4) Sixty-degree parking: an aisle width of 21 feet for one-directional flow and an aisle width of 26 feet for two-directional flow.

(5) Perpendicular parking: an aisle width of 26 feet for one-directional and two-directional flow.

F. Nonconforming parking and loading. No building or lot alterations nor change of use shall be allowed which would increase the degree of nonconformity with the off-street parking and loading regulations of this chapter.

G. Off-street parking and loading standards by usage. The parking requirements listed in the Table of Parking Requirements by Use, § 300-101, reflect reasonable standards for uses in most locations. The City of Oneonta Common Council, in adopting these standards, is providing guidance to future developers, tenants and residents of uses requiring off-street parking and loading. From an environmental, community character and cost perspective, it is always desirable to construct the least number of parking spaces to accommodate a particular use. The following general requirements apply to all off-street parking.

(1) Applicants are encouraged to provide evidence of lesser parking and loading demand if appropriate, including the availability of nearby parking lots, parking garages, on-street parking, or shared parking lots.

(2) The Planning Commission may require less off-street parking or loading, if warranted, based on the information presented. In any case where less off-street parking is required, the Planning Commission reserves the right to require the set-aside of additional open space sufficient to accommodate the amount of off-street parking which would ordinarily be required.

(3) The Planning Commission also reserves the right to request additional information, such as but not limited to expected number of employees, participants, expected attendance or expected deliveries, relevant to judging the adequacy of listed parking and loading standards. Such information may result in application of off-street parking standards higher than those listed.

(4) For uses not listed, the required number of off-street parking or loading spaces shall be determined by the Code Enforcement Officer based on similarity to listed uses and information provided by the applicant.

(5) In all cases, the provided off-street parking and loading should be sufficient to prevent frequent on-street parking by users or employees or the loading and unloading of passengers or materials from the public right-of-way in such a manner that is disruptive to traffic.

(6) In addition to the off-street parking limits based on the standards in the Table of Parking Requirements by Use, § 300-101, one appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.

(7) The Planning Commission reserves the right to require off-street parking spaces suitable for vehicles with boats or trailers in the City.

(8) Parking of any tractor-trailer combinations or tractor without trailer, except in conjunction with provision of a commercial service to an owner or occupant of the property, shall be prohibited in any residential district.

(9) Use, storage, parking and placement of semitrailers, semi-van trailers, shipping and storage containers, and similar such containers shall not be used, stored, parked or placed except in conformance with this subsection. In residential zones: No such container or containers shall be used, stored, parked or placed on premises in any residential zone, except for:

(a) A single period of not more than four days in any twelve-month period; and

(b) Periods of more than four days and for more than one single period in any twelve-month period, only by special permit from the Code Enforcement office, for the number of periods and for a period of time to be determined by the Code Enforcement office, only when used as an accessory to an ongoing construction project at the premises where located.

(10) Buffering of existing parking areas in residential zones. No later than December 31, 2017, all rear and side yard parking areas occupying more than 750 square feet, exclusive of driveways but not maneuvering lanes, on properties located in residential zones, other than exclusively single-family home lots, shall provide buffers in accordance with § 300-51B.

(11) Enlargement of existing parking areas in the R-2 and R-4 Districts. No rear or side yard parking areas in existence at the time of the adoption of this chapter, on properties located in the R-2 or R-4 Districts, shall be enlarged to create additional parking spaces unless the enlargement is in the form of a permeable surface material.

ZONING

300 Attachment 11

**Table of Parking Requirements By Use  
(§ 300-101)**

See individual zone district regulations in Article II, and § 300-61 for additional parking and loading requirements.

Use	Required Parking <sup>1,2,3,4</sup>
Adult use	0.3 per occupant at maximum <sup>5</sup>
Animal hospital	1 per employee
Apartment complex	See below Note <sup>7</sup>
Bar, tavern, pub or nightclub	0.3 per occupant at maximum <sup>5</sup>
Bed-and-breakfast	1 per guest bedroom
Boarding, lodging or rooming house	1 per bedroom
Building, accessory	N/A
Building, mixed-use	Cumulative by floor and use
Building, office	3 per 1,000 square feet
Building, public	3 per 1,000 square feet
Car wash facility	1 per employee
Cemetery	5 per acre
Club, membership/club, private	0.3 per occupant at maximum <sup>7</sup>
College	1 per employee plus 1 per 3 seats <sup>6</sup>
Contractor's yard	1 per employee
Convenience store	3 per 1,000 square feet
Convention center	4 per 1,000 square feet
Cultural use facility or museum	2.5 per 1,000 square feet
Day-care center	1.5 per employee
Dormitory	0.5 per bed
Drive-in facility	N/A
Dry-cleaning outlet	1 per 1,000 square feet
Dry-cleaning facility	1 per employee
Dwelling unit, accessory	1 per accessory dwelling unit
Dwelling, multifamily	See below Note <sup>7</sup>
Dwelling, single-family	2 per dwelling unit
Dwelling, two-family	1.5 per dwelling unit

300 Attachment 11:1

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Use	Required Parking <sup>1,2,3,4</sup>
Family day-care home	N/A
Fraternity, sorority, chapter or membership association house	0.5 per bed plus 0.5 per nonresident member
Funeral home	2 per 1,000 square feet
Garage, commercial	2.5 per 1,000 square feet
Golf course	1 per employee
Greenhouse, commercial	2 per 1,000 square feet
Group family day-care home	N/A
Home occupation (Class A)	N/A
Home occupation (Class B)	1 per employee plus 1 per customer at maximum <sup>8</sup>
Homeless shelter	1 per employee plus 0.1 per guest at maximum <sup>8</sup>
Hospital	1.2 per bed
Hotel	1 per guest bedroom
Inn	1 per guest bedroom
Kenel	1 per 1,000 square feet
Laundry, self-service	4 per 1,000 square feet
Manufacturing, heavy	1 per employee
Manufacturing, light	1 per employee
Mobile home park	1.5 per lot
Motel	1.2 per guest bedroom
Motor vehicle repair, service station	2 per 1,000 square feet
Motor vehicle sales	2 per 1,000 square feet
Neighborhood market	3 per 1,000 square feet
Open space and usable open space	N/A
Outpatient health center	2 per 1,000 square feet
Parking garage	N/A
Personal storage facility	1 per 1,000 square feet
Place of worship	1 per 3 seats <sup>6</sup>
Planned unit development	N/A
Recreation, indoor commercial	2.5 per 1,000 square feet
Recreation, outdoor commercial	N/A
Residential care facility	2 plus 0.2 per resident
Restaurant	0.3 per occupant at maximum <sup>5</sup>
Retail, goods and services	3 per 1,000 square feet
School	1.5 per employee

300 Attachment 11:2

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ZONING

Use	Required Parking <sup>1,2,3,4</sup>
Shopping center	2.5 per 1,000 square feet
Swimming pool, private	N/A
Telecommunications facility or tower	N/A
Townhouse or townhome	See below Note <sup>5</sup>
Triennial occupancy	2 per dwelling unit
Warehouse, wholesale or distribution center	1 per employee

**NOTES:**

- <sup>1</sup> Shared parking is strongly encouraged.
- <sup>2</sup> Parking waivers may be obtained from the Planning Commission as specified in § 100-61 of this Code.
- <sup>3</sup> Range of 80% to 110% of number specified is acceptable.
- <sup>4</sup> For nonresidential uses, requirement is per occupied story, per structure.
- <sup>5</sup> Means at maximum permitted occupancy for all occupied space.
- <sup>6</sup> Where "per seat" is specified: or per 100 square feet if fixed individual seats are not the primary arrangement.
- <sup>7</sup> 1.2 spaces per one-bedroom dwelling unit; two spaces per dwelling unit for units with two or more bedrooms.
- <sup>8</sup> Means maximum expected number.

Chair May asked whether the other Commissioners had comments. Commissioner Rafter indicated that he concurred with the chair's statements. Commissioner Shields agreed that the Code is black-&-white; he asked whether the appellants could arrange access through the adjacent property owned by Dr. Joseph. Mr. Barberio stated that they had not contacted Dr. Joseph, as they hope to receive the variance. Commissioner Robinson stated that he cannot foresee any front-yard parking variance receiving approval. Commissioner Geasey concurred.

Mr. Barberio stated that they acquired the property as a retirement home and plan to live there; he wondered where the City expects residents to park, especially during snow emergencies.

Commissioner Ficano agreed with the other Commissioners and asked whether there was enough room to put a driveway along the side of the property. Mr. Barberio indicated there was not.

Chair May suggested that the appellants had better options to achieve access, either by acquiring a portion of one the neighboring properties or by obtaining an easement to either park on an adjoining property or access the backyard of 21 Valleyview. Because they are in an MU-2 zone there would be little difficulty putting up a garage if sufficient adjoining property could be acquired.

Chair May asked for a motion on the application.

**MOTION**, made by Commissioner Robinson and seconded by Commissioner Ficano, that the board deny the variance for front yard parking at 21 Valleyview Street.

**Voting Ayes:** Chair May  
 Commissioner Ficano  
 Commissioner Lawson  
 Commissioner Geasey  
 Commissioner Shields  
 Commissioner Rafter  
 Commissioner Robinson

**Noes:** None  
**Absent:** None

**MOTION CARRIED**

Chair May reiterated that the Board members are sympathetic to the Barberios' situation. While the Zoning law doesn't give the Board much leeway, he stated that he believes the appellants can work out something with one of the adjoining property owners.

There being no further business to come before the board, Chair May adjourned the regular meeting at approximately 7:30 p.m.

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DOUGLAS KENDALL, City Clerk

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