

**VILLAGE OF SCOTIA  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
SEPTEMBER 27, 2021  
7:00 P.M.**

**ATTENDANCE:** Susan Duchnycz, Keith Brown, Brian Ives, Village Attorney Lydia Marola, Building & Plumbing Inspector, Luis Aguero, Board Liaison Justin Cook and Catherine Busher.

Excused: Chairperson Jackie Bekkering was recused from this case.

Absent: Charlena Ward

The meeting was called to order at 7:15 p.m.

Voting members for tonight's meeting are Susan Duchnycz, Brian Ives, Keith Brown. Acting Chairperson for this meeting will be Susan Duchnycz. Susan stated that the Board is in need of one new member and one alternate member.

The Board introduced themselves.

**MOTION:** There was an October 26, 2020 Zoom/In Person meeting and Keith Brown made a motion to accept the minutes as submitted. Seconded by: Susan Duchnycz

**MOTION CARRIED.**

**CASE #1: CHERYL GAUTHIER – 172 SIXTH STREET - SCOTIA, NY 12302  
(Section Block Lot 29.83-1-29).**

The applicant, Cheryl Gauthier, is requesting an area variance to build an attached carport on her property located at 172 Sixth Street, Scotia, NY 12302 (SBL 29.83-1-29). The proposed carport will be over her driveway on the side of the house and the adjusted setback request will be 4'1" from her property line. This application requires an area variance because the proposed carport does not comply with Village of Scotia Code Section 250-12 – Lot Area Requirements – Minimum side yard setbacks shall be 8' from the property line.

Acting Chairperson Susan Duchnycz stated the 5 criteria for area variances:

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting

of the area variance.

The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The applicant, Cheryl Gauthier and her son Mike Gauthier were in attendance. Cheryl Gauthier explained that this is her retirement home and she is very happy with the neighborhood and community. She needs the carport to have a cover for her car and so that she has less snow blowing to do in the winter as she ages.

Zoning Board member Keith Brown asked for clarification on the timeline of this case. He was told that the plans for this case have not changed. The building permit was issued in error by the Building Inspector Luis Aguero due to a code issue but then it was discovered that there was a different code and an area variance was needed for the side yard setback.

Mr. Robert Tietz, Jr., the owner of 174 Sixth Street was in attendance along with his attorney, Mr. John Seebold. Mr. Seebold addressed the Board and distributed photos and a survey. The survey was done for Mr. Tietz by Raymond Koch P.L.S. Land Surveyor. Both the photos and the survey were presented to the Board. The following are the concerns of Mr. Tietz as presented by Mr. Seebold:

The proposed carport could have been built 4' shorter in width which would still allow the applicant to have room to park her vehicle inside. If the proposed carport was 4' shorter in width, it would have a positive impact on the property at 174 Sixth Street. With the shorter width of the proposed carport snow melt and rain from 172 Sixth Street would minimize the drainage issues onto the property at 174 Sixth Street. The proposed carport is significant because this area is zoned an SR-5 and that requires an 8' side yard setback. The request is for 4' and it is a 50% request of the variance. Also, the length of the carport is 30' long which is a considerable length. Mr. Seebold stated that the alleged difficulty was self-created because regardless of the time line and error, the permit should not have been issued in the first place and therefore, the said permit should be revoked.

There was a question as to whether the carport would be able to hold the weight of snow accumulation and the applicant stated that the carport is a stable structure and will support it.

Mr. Tietz, was concerned that the snow melt that comes off the roof and proposed carport will cause drainage problems on his property. He is also concerned that the water runoff from the snow melt of the proposed carport will accumulate and puddle near his foundation causing damage to it. He indicated that crusher run near the gutter will not solve the drainage issues. Mr. Tietz explained that Ms. Gauthier's property is at a higher level than his property which would cause water seepage onto his property.

He is asking for the structure to be in accordance with the SR-5 Code Section 250-12 with a minimum of an 8' sideyard setback from the property line. He does not agree with the granting of an area variance.

There was confusion as far as the 1980 drawing submitted by the Building Inspector. Luis

stated that the former owner of 172 Sixth St. submitted the 1980 drawing and the former and present building inspectors wrote notes on that drawing for clarification. All ZBA members have copies of this drawing.

Acting Chair Susan Duchnycz asked Mr. Tietz if there were any measures taken by the applicant that he would agree to for building the proposed carport. He agrees that installing gutters with drainage to her backyard would be okay. Susan asked if Mr. Tietz would be amenable to the installation of a fence by the applicant for the length of the carport. Mr. Tietz replied that he wants the applicant to install an 80' long x 6' high fence on her property. There was some discussion about building a fence along the side of the property. Ms. Gauthier asked if there is a fence regulation and does it have to be built for the entire length of her property or just where the carport is located. There would be a considerable cost for installing an 80' long x 6' high fence for the entire length of the property as opposed to a 31' long x 6' high fence for the length of the carport only. The board stated that there is not a fence regulation in the Village. However, they could add a condition to the minutes for granting a variance which states a 31' long x 6' high fence must be installed by Ms. Gauthier.

There was a question about how to prevent drainage of the water/snow onto the adjacent property at 174 Sixth Street. Installation of a French drain with underground trenching or a gutter on the carport that empties into a drywell were mentioned. The Board agreed that a French drain was not needed but a gutter that drains into a drywell located in the backyard of 172 Sixth Street would be sufficient.

Board Member Keith Brown asked Luis what a reasonable strategy is for granting this variance. Luis explained that there are similar properties in the village where the side yard setbacks are at 3'5", 4' and 5' from the property lines. For example, in one instance a 2½ story house was granted a side yard setback variance at 5' from the property line.

Attorney Marola stated that the motion should include specific information about the installation of a fence which includes the size, materials and location.

Mr. Tietz and Ms. Gauthier are amenable to the installation of the fence being 31' long x 6' high of solid vinyl with wooden posts. Ms. Gauthier also agreed to installing gutters with drainage to a drywell placed in her back yard. Ms. Gauthier will pay for the fencing and drainage.

Keith thanked everyone for being patient with all the Board's questions and concerns in regards to this case.

The Public hearing portion of the meeting was closed at 8:28 p.m.

Scotia Police Department and Scotia Fire Department did not have any concerns with this case. Schenectady County Department of Economic Development and Planning deferred this case to local consideration (there is no significant county-wide or inter-community impact.).

The Zoning Board of Appeals adopted the following resolution:

**SEQR Motion:** Keith Brown Seconded by: Brian Ives

That this project will result in no significant adverse impacts on the environment and

therefore, an environmental statement need not be prepared, and the board is issuing a negative declaration under SEQR.

**Ayes:** Keith Brown, Susan Duchnycz, Brian Ives **Nays:** None

**MOTION GRANTED.**

After a lengthy discussion, the following motion was made.

**MOTION:** Board Member Brian Ives made the following motion. I move that the application submitted by Cheryl Gauthier for an area variance for the proposed carport at 172 Sixth Street be granted. The proposed application will allow Ms. Gauthier to continue the building of the carport on her property. Conditions in granting this area variance must include the erecting of a 31' long x 6' high vinyl fence with wooden posts. The applicant must also provide gutters that drain into a drywell.

There will be a detriment to the property at 174 Sixth Street but the granting of the variance includes fencing and gutter drainage as stated above which will alleviate negative impact to 174 Sixth Street. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue because the carport already had a permit issued. The applicant then began construction but was told later that the wrong Village Code was considered and she would have to apply for an area variance for a side yard setback. The carport is substantial but it is consistent with other variances granted in the village for 3'5", 4' and 5' side yard setbacks. The proposed variance will have an adverse effect on the environmental conditions of the neighborhood but the Board has considered snow/ice accumulation, pitch of the carport and water runoff and have addressed these concerns with positive solutions. Building a 31' long x 6' high vinyl fence with wooden posts will also add to the aesthetics of the neighboring property located at 174 Sixth Street. The alleged difficulty was not self-created. The applicant did not create this situation and therefore, it does not preclude the granting of the variance by the Zoning Board of Appeals.

**MOTION:** Brian Ives Seconded by: Keith Brown

**AYES:** Brian Ives, Keith Brown, Susan Duchnycz **NAYS:** None

**MOTION GRANTED.**

**There wasn't any new business discussed.**

**Training Status Report as of December 2021:**

Current Training Hours:

Susan Duchnycz	4 Hrs.
Jackie Bekkering	1 Hr.
Keith Brown	-7
Charlena Ward	0
Brian Ives	0

**MOTION:** There was a motion to adjourn the meeting at 8:40 p.m.

**MOTION:** Keith Brown Seconded by: Brian Ives

**AYES:** Keith Brown, Brian Ives, Susan Duchnycz **NAYS:** None

**MOTION GRANTED.**

Respectfully submitted, *Catherine Busher, ZBA Clerk*

*File Date October 12, 2021*