

SANGAMON COUNTY, ILLINOIS

ORDINANCE
NUMBER 23 - 05

**AN ORDINANCE AUTHORIZING A VARIANCE TO INCREASE THE HEIGHT OF
AN ACCESSORY STRUCTURE ABOVE THE ALLOWABLE HEIGHT OF 17 FEET AT
9245 GORDON DRIVE, CHATHAM, ILLINOIS**

DAVE KIMSEY, Village President
DAN HOLDEN, Village Clerk

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MEREDITH FERGUSON
JOHN FLETCHER
BRETT GERGER
TIM NICE
CARL TRY
Village Trustees

Published in pamphlet form by authority of the President and Board of Trustees of the Village of
Chatham

on February 14, 2023

Sorling Northrup – 1 N. Old State Capitol Plaza, Suite 200, P.O. Box 5131, Springfield, IL
62705

ORDINANCE NO. 23- 05

AN ORDINANCE AUTHORIZING A VARIANCE TO INCREASE THE HEIGHT OF AN ACCESSORY STRUCTURE ABOVE THE ALLOWABLE HEIGHT OF 17 FEET AT 9245 GORDON DRIVE, CHATHAM, ILLINOIS

WHEREAS, the Village of Chatham, Sangamon County, State of Illinois, is a duly organized and existing Village created under the provisions of the laws of the State of Illinois; and,

WHEREAS, an application for a variance from the Village of Chatham Zoning Code (“Zoning Code”) was filed by Matt Abell, the Owner of 9245 Gordon Drive in Chatham, Illinois for a variance to allowing construction of an accessory structure above the allowable height of 17 feet to a maximum height of 21 feet; and,

WHEREAS, a public hearing was noticed on January 5, 2023 and duly held by the Chatham Zoning Board of Appeals on January 23, 2023; and,

WHEREAS, the Zoning Board of Appeals met on January 23, 2023, and recommended the Village Board approve the variance to the Zoning Code with a with a 4-1 vote in favor of the recommendation; and,

WHEREAS, Section 158.121 permits the Village Board to approve variations from the Zoning Code to permit a height of accessory structures greater than allowed; and,

WHEREAS, the Village Board of Trustees and the President of the Village of Chatham believe it is in the best interests of the Village to grant the requested variance.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

Section 2. Findings of Fact. Regarding the need for all of the variations requested by Petitioner, the Board of Trustees find as follows:

- A. **Reasonable Return.** Due to the unique size, shape and location of the lot, the strict application of the regulations set forth in the Zoning Code would result in an unnecessary and undue hardship, and the property could not yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.
- B. **Unique Circumstances.** The variance is necessary solely as a result of the location of the lot and is unique to the property.
- C. **Not Alter Local Character.** The lot is located in an R-1 District and is in a rural area of Chatham. The planned location of the structure behind a grove of trees makes it so that it is not easily seen from Gordon Drive. Accordingly, the variance, if granted, will not alter the essential character of the locality.

Section 3. Description of the Property. The property is located at 9245 Gordon Drive Chatham, Illinois within a R-1 District. The property has a PIN #29-17.0-100-026 and is legally described as follows:

L 1 MAU'S LAKE SUB & PT
S 1/2 W 1/2 NW 1/4 SEC 17
LYING S OF L 1

Section 4. Public Hearing. A public hearing was advertised on January 5, 2023, in the Chatham Clarion and held by the Zoning Board of Appeals January 23, 2023, at which time the Zoning Board of Appeals unanimously recommended approval of the variance requested.

Section 5. Variance. The variations requested in the Petition for Zoning Variance to the Zoning Code, outlined herein, and recommended at the January 23, 2023, Zoning Board of Appeals meeting, is hereby granted as follows:

- A. A variance allowing construction of an accessory structure with a maximum height above seventeen feet (17') not to exceed twenty-one feet (21').

Section 6. Severability. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction,

all valid parts that are severable from the invalid parts shall remain in full force and effect.

Section 7. Repeal and Savings Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, action, or causes of action which shall have accrued to the Village of Chatham prior to the effective date of this Ordinance.

Section 8. Effectiveness. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

SO ORDAINED this 14 day of February, 2023, at Chatham, Sangamon County, Illinois.

	AYE	NAY	ABSTAIN	ABSENT
KRISTEN CHIARO	✓			
MEREDITH FERGUSON	✓			
JOHN FLETCHER	✓			
BRETT GERGER		✓		
TIM NICE	✓			
CARL TRY		✓		
DAVE KIMSEY				
TOTAL	4	2	—	—

APPROVED by the President of the Village of Chatham, Illinois this 14 day of February, 2023.


 Dave Kimsey, Village President

Attest:

 Dan Holden, Village Clerk

APPENDIX D: PETITION FOR ZONING VARIANCE

VILLAGE OF CHATHAM, ILLINOIS
PETITION FOR ZONING VARIANCE

TO: Zoning Board of Appeals and
Village Board
Village Hall
Chatham, IL 62629

Date: _____

(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)

Date Set for Hearing Jan 23, 2023 6:00 PM Fee \$ ~~1000.00~~ \$200.00

Notice published _____ Date Paid _____

Newspaper: _____

Notice Mailed to Adjacent Landowners _____

Notice Posted on Subject Property _____

Zoning Board of Appeals

Recommendation
 Approve Date 1/23
 Deny Chairman Initials W
 Approve with Modification

Village Board Action Date _____
 Denied
 Approved (Ordinance No. _____)

INSTRUCTIONS TO APPLICANTS: All information required by this Application must be completed and submitted herewith. Applicants are encouraged to visit the Village office for any assistance needed in filling out this form. An applicant for variance must show that (a) the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zone; (b) the plight of the owner is due to unique circumstances; (c) the variation, if granted, will not alter the essential character of the locality. The burden of providing substantiating evidence is on the applicant. See Section 7.11 of the 1994 Zoning Ordinance for further details.

NAME OF APPLICANT: Marta Akell

ADDRESS OF APPLICANT: 9245 Gordon Drive

PHONE NUMBER: 618 841-0066(m) (W)

Interest of Applicant In the Subject Property (if not owner): Contractor
(Custom Structures)

1. This application must be filed with an accurate legal description and one copy of a plat map of the property showing the location of all existing and proposed structures and setbacks, and structures on all adjacent properties drawn to scale not less than one (1) inch equals Two Hundred (200) feet.

LEGAL DESCRIPTION Parcel #. 29170100026
Lot, Block, Subdivision, Metes and Bounds--may be on attachment

2. Street Address of Property 9245 Gordon Dr. Chatham, IL
3. Area of land variance requested for 2560 square feet.
4. (a) Present Zoning District Classification of subject and adjacent properties (show zone district boundaries on plat): R-2 (property) P-2 (adjacent)
(b) Nature of requested variance: requesting approval for 20.6 ft height
on accessory building. 17 ft is max allowable per ord. 96-54.
5. Present use of Property: Side yard (Siv of House)
6. Names, addresses and phone numbers of all owners of record:

Math & Christine Abell (9245 Gordon Drive)

618-841-0066

7. A variance is requested to vary the requirements of the Zoning Ordinance with respect to the property described herein. A statement of the applicant's described reasons and factual information supporting the requested variance is attached.

DATE: 12-29-22

SIGNATURE: [Signature]

OWNER'S CONSENT

[This part need be signed only if the applicant is different from the owner or if there is more than one owner of record]

I consent to this requested zoning change

Cotton Lake (Custom Structures)

ZONING VARIANCE RECOMMENDATION AND FINDING OF FACT

To: Village of Chatham Board of Trustees

From: Zoning Board of Appeals

Re: Recommendation for Zoning Variance for 9245 Gordon Dr.

Date: January 23, 2023

On January 23, 2023, the Zoning Board of Appeals held a public hearing for a zoning variance at 9245 Gordon Dr. The notice of public hearing was published in the Chatham Clarion on January 5th, 2023.

Mr. Matt Abell, owner of 9245 Gordon Dr, petitioned the Village of Chatham Zoning Board of Appeals to allow for a variance to allow an accessory use building to permit a height greater than allowed. The maximum height of an accessory use structure is one story or 17 feet in height. Mr. Abell and his contractor Colton Pohl of Custom Structures request to build a pole barn of 20.6 feet to be able to fit equipment into the proposed pole barn. The property is Zoned R-1.

Based on the public hearing, the ZBA voted 4 – yes to 1– no, with no one abstaining. The ZBA further made the following findings of fact:

Below is a list of suggested guidelines which are to be used by the ZBA in making an informed vote concerning zoning variations:

(C) Standards

1. The Zoning Board of Appeals shall not recommend variance of the provisions of this chapter as authorized in this section unless it shall have made findings based upon the evidence presented to it that all of the following conditions apply:

(a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;

(b) That the plight of the owner is due to unique circumstances; and

(c) That the variance, if granted, will not alter the essential character of the locality.

Petitioner testified that neither he nor his contractor were aware of the Village height restriction on accessory structures until this month, and that a down payment had already been made and building materials were sitting on his property unused. Petitioner also testified that the intent of the accessory structure was general storage including a high loft, a home gym, and storage of a car collection with the goal of installing equipment that would allow the cars to be stacked top-to-bottom. Petitioner's contractor testified that the overall structure height the petitioner was seeking required a 17 foot door. Petitioner also testified that the location of the building was such that it would not be easily seen from Gordon Drive as it would be tucked behind a grove of trees.

2. The Zoning Board of Appeals, in making the foregoing determination may take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

(a) That the physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;

There was no evidence that the physical surroundings, shape, or topographical conditions of the property were factors in the petitioner's request for variance.

(b) That the condition upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;

Mr. Ken Martin, a neighbor of Mr. Abell's, testified that approximately 17 years ago he asked [Matt] Mau about building an accessory structure but was told it was not allowed. This ZBA has heard and approved other accessory structure height variance requests in the past, and there is nothing to indicate at this time that any variance request in this same vein would not be applicable to other properties zoned R-1.

(c) That the purpose of the variance is not based exclusively upon a desire to make more money out of the property;

There was no testimony that the purpose of the variance was to make more money out of the property.

(d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property;

There was no testimony that the alleged difficulty or hardship was created by anyone having an interest in the property.

(e) That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or

There was no testimony that granting the variance would be detrimental to the public welfare, surrounding properties, or neighborhood improvements. Mr. Martin asked during public comment whether neighborhood covenants could restrict the height of the structure, but the ZBA was not aware of any covenants nor whether they could override ZBA variance decisions, and no one from any relevant neighborhood association/HOA appeared to testify.

(f) That the proposed variance will not impair an inadequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

There was no testimony that granting the variance would result in any of the impacts immediately above.

3. The Zoning Board of Appeals may require such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this section to reduce or minimize the injurious effect of such variance upon other property in the neighborhood, and to implement the general purpose and intent of this chapter.

(E) Authorized variations. Variations from the regulations of this chapter may be recommended by the Zoning Board of Appeals only in accordance with the standards set forth in this section and only in the following instances:

(1) To permit a height greater than allowed.

(2) To permit a yard less than the yard required by the applicable regulation.

(3) To permit the use of a lot located in a Residential District having insufficient area and width for a single-family dwelling, provided such lot is of record on the effective date of this chapter.

(4) To permit the use of any lot not covered above, for the use otherwise prohibited solely because of insufficient area of the lot.

(5) To permit the same off-street parking spaces to qualify as required spaces for two or more uses, provided that the maximum use of such facility by each user does not take place during the same hours of the same days of the week.

(6) To reduce the applicable off-street parking or loading requirements.

(7) To authorize the use of land where an amendment to the village zoning district classification causes difficulties or hardships.

(8) To vary requirements for fences and swimming pools.

(F) Decisions

(1) The Zoning Board of Appeals at the conclusion of the public hearing promptly thereafter shall submit a report of its findings and recommendations on each petition to the Village Board.

(2) The Village Board, after receiving the report of the Zoning Board of Appeals and without further public hearing, except for any new matter not presented to the Zoning Board of Appeals and which the Village Board deems relevant, may grant or deny by majority vote and proposed variation or may refer it back to the recommending body for further consideration.

The ZBA did have a public hearing on **January 24, 2023**, in which (2) people (Mr. Matt Abell and Mr. Ken Martin) addressed the Zoning Board.

This zoning variance Recommendation and Finding of Fact was compiled by the Village of Chatham's Zoning Board of Appeals Chairperson.

Zoning Board of Appeals Chairperson: 

Date: **1/24/2023**

