



TOWN OF LEWISTON
1375 Ridge Road
Lewiston, New York 14092
(716) 754-8213
www.townoflewiston.us

ZONING BOARD OF APPEALS

**Thursday – May 11, 2017
7:00 P.M. – Town Hall**

- A. Variance Request – Colangelo – Callan Drive – SBL# 102.14-1-16**
- B. Variance Request – Lewiston Fire Co. No. 1 – Swann Road – SBL# 88.00-1-7**
- C. Variance Request – Augustyniak – Westwood Circle – SBL# 87.19-3-21**
- D. Miscellaneous**

**PLEASE NOTIFY SANDY IF YOU CANNOT
ATTEND**



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Fee 135.00 Date Paid 4/12/17 Hearing Date 5/11/17 Approved _____ Denied _____

Appeal to the Zoning Board Area Variance, Use Variance and/or Interpretation

Applicant	Owner(s) (If not applicant)	Attorney/ Agent
Name <u>Michael Colangelo</u>		
Address <u>4992 Callan Dr</u>		
Phone/Fax <u>(716) 471-5109</u>		
Email <u>mc72883@yahoo.com</u>		

Property Information

Property Address 4992 Callan Dr Side of street (north, east, etc.) West

Tax Parcel No 1021446

Date acquired by owner April 1st 2016 Zoning District when purchased R-1 single family

Present use of property Residential Current Zoning District R-1 single family

Has previous ZBA applicant/appeal been filed with property? Yes _____ No X If yes, when? _____

For what _____

Is property located within a 500' of a State Park, town or city boundary or county/state highway? No

Brief description of the proposed action I would like to build an
attached garage offset from the front of my
house on the North east part of the house 20' wide
by 28' deep. This building would bring the garage
forward towards the street and would leave 5' to the side property line.

Is there a written violation for this parcel that is not the subject of this application? Yes No

Has the work, use or occupancy to which the appeal relates already begun? Yes No

Identify the type of appeal you are requesting Area Variance Use Variance Interpretation

Area Variance - Please answer the following (add additional information as necessary)

That applicant has requested relief from the following Town of Lewiston Zoning Ordinance(s) (Please provide the Article Numbers) 360-38 A, B.

Dimension Requirements	To	From
<u>Side ?</u>	<u>5 feet</u>	<u>13.5 feet</u>
<u>Front ?</u>	<u>24.47'</u>	<u>52.47</u>

Additional Information If approved, garage would be 5' from the side property line and the front of garage would be 24.47' from the front of the property, but just over 50' to the street.

In order for the Zoning Board of Appeals to grant an Area Variance, it must fully and carefully balance the benefits to the applicant with the health, safety and welfare of the neighborhood and community, taking into consideration ALL of the following.

I. Whether the benefit sought by the applicant can be achieved by other feasible means. Identity what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc) and why they are not feasible.

I have attempted to purchase land from the neighbor at 1074 Escarpment Dr that is adjacent to my property. That purchase would've allowed me to attach the garage to the side of the house and have enough footage between the property line that is allowed. That neighbor verbally agreed before I purchased the house but then reneged when I approached after closing on the house.

II. Whether granting the area variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons.

If approved, this garage addition would not bring any undesirable change to the neighborhood because it will be sided the same color as the existing house. The house does not currently have a garage and I feel that adding this one would add symmetry to the front of my house and would make the house fit the neighborhood. There are no adjacent buildings or structures that this garage would affect or impede.

III. Whether the variance is substantial. The Zoning Board of Appeals (ZBA) will look at the magnitude of relief sought by the applicant and compare it to the current Zoning Law. For example, if the applicant is seeking a variance for a 6 foot side yard setback and the Zoning Law states a minimum 10 foot side yard setback, the ZBA will decide if granting a variance for 6 feet is substantial or not.

I do not believe this is substantial if approved. The garage will fit within a reasonable foot print of the property. Also the side variance (5'), if approved would match the side allowance for a detached building. There would not be any sight lines obstructed for any of the neighbors.

IV. Whether the variance will have adverse physical or environmental effects on neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons.

There would be no adverse physical or environmental effect because the building would not obstruct any other property's view. Also there would be no damage or change to trees or any major landscape changes.

V. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance). Explain whether the alleged difficulty was or was not self-created.

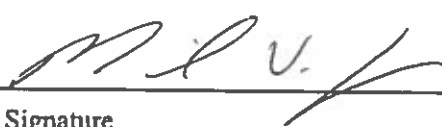
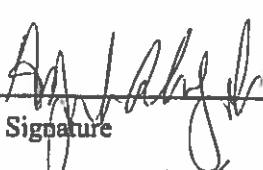
This difficulty was not self-created. There is no current garage at this property. There would be no other option in placement to avoid the necessary variance. Placing the garage directly in front of house with out offset would close off view of the front of the property. For security reasons, we do not want to block that window. Also electric and gas meters would have to be relocated, with my plan they would not be affected.

Applicant Signature

I/We the property owner(s), or purchaser(s), lessee(s) under contract of the land in question, hereby request an appearance before the Zoning Board of Appeals.

By the signature attached hereto, I/We believe the information provided within this application and accompanying documentation to be true and accurate. I/We further understand that intentionally providing false or misleading information is grounds for immediate denial of this application.

Furthermore, I/We hereby authorize the members of the Zoning Board of Appeals to enter the property associated with this application for purposes of conducting any necessary site inspections related to the fact finding process with regard to this pending application.

	
Signature	Signature
<u>4/21/17</u>	<u>4/21/17</u>
Date	Date



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Fee 135.00 Date Paid 4/13/17 Hearing Date 5/11/17 Approved Denied

Appeal to the Zoning Board Area Variance, Use Variance and/or Interpretation

Applicant	Owner(s) (If not applicant)	Attorney/ Agent
Name <u>Lewiston Fire Co. No. 1 Inc.</u>		
Address <u>145 N. 6th St. PO Box 748, Lewiston, NY 14092</u>		
Phone/Fax <u>716 754-4487</u> fax <u>716 754-8177</u>		
Email <u>info@LFD1.com</u>		

Property Information

Property Address 1495 Swann Rd. Side of street (north, east, etc.) North

Tax Parcel No 88.00-1-7

Date acquired by owner 1976 Zoning District when purchased unknown

Present use of property Fire Station Current Zoning District: I-1

Has previous ZBA applicant/appeal been filed with property? Yes No If yes, when? _____

For what _____

Is property located within a 500' of a State Park, town or city boundary or county/state highway? NO

Use Variance - Please answer the following (add additional information as necessary)

A use variance is requested to permit the following Allow the use of a fire training facility for live fire training.

This is in reference to Section 360 - 109 B of the code.

For the Zoning Board to grant a request for a Use Variance, an applicant **MUST** prove that the zoning regulations create an **UNNECESSARY HARDSHIP** in relation to that property. In seeking a use variance, New York State law **REQUIRES** an applicant to prove **ALL FOUR** of the following "tests".

I. That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property. "Dollars and Cents" proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons.

By not being able to conduct live fire training at our statio, our department is incurring additional costs associated with travel to remote training centers and creating an increased risk to our residents and firefighters loss of life and residents property.

When we have to travel outside of our district to train we leave our district short of equipment and manpower. Both of these have to be supplemented by our mutual aid departments. This mutual aid causes delays in responses that will always substantially increase risk of injury and/or loss of life or property. Past NFPA annual "Cost of Fire in the United States" reports, reflect a low estimate of \$ 166,000 per injury, civilian or firefighter.

A. Submit the following financial evidence relating to the property (attached additional evidence as needed):

1. Date of purchase _____ Purchase Amount _____

2. Indicate dates and costs of any Improvements made to property after purchase:

Date	Improvement	Cost
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Annual maintenance expenses _____ 4. Annual Taxes _____

5. Annual income generated from property _____

6. Town assessed value 83,100.00 7. Estimated Market Value 117,042.25

8. Appraised Value _____ Appraiser _____ Date _____

Appraisal Assumptions:

B. Has property been listed for sale with the Multiple Listing Service (MLS) Yes No

If Yes, for how long? _____

1. Original listing date(s) _____ Original listing price _____

If listing price was reduced, describe when and to what extent _____

2. Has the property been advertised in the newspapers or other publications? Yes No

If yes, describe frequency and name of publications _____

3. Has the property had a "For Sale" sign posted on it? Yes No

If yes, list dates when sign was posted _____

4. How many times has the property been shown and with what results? _____

II. That the financial hardship related to this property is unique and does not apply to a substantial portion of the neighborhood. Difficulties shared with numerous properties in the neighborhood or district would not satisfy) this requirement. This previously identified financial hardship is unique for the following reasons.

The departments location and travel distance to existing certified training centers.

III. That the variance, if granted will not alter the essential character of the neighborhood. Changes that alter the character of the neighborhood or district would be at odds with the purpose of the Zoning Ordinance. The requested variance will not alter the character of the neighborhood for the following reasons.

The character of the neighborhood will not be essentially changed if our ability to conduct live fire training is granted.

The facility will be used for training on a regular basis but the basis of the variance is to allow the live fire training.

The department already regularly trains at our sub-station property so there would not be an increase in traffic.

The Town Garage is to our west, woods and fields owned by the department border us on the north and a farm field is our easterly neighbor.

Burning small amounts of wood or hay for less than five minutes per burn would not have any effect on our surrounding neighbors or alter the character.

IV. That the alleged hardship is not self-created. An applicant (whether a property owner or someone acting on behalf of the (property owner) cannot claim "unnecessary hardship" if that hardship was created by the applicant, or if the applicant acquired the property knowing (or was in the position to know) the condition for which the applicant was seeking relief. The hardship was not self-created for the following reasons.

The current zoning creates the hardship of not being able to perform live fire training. The Department did not create this hardship or the hardship of having to travel outside of our district to conduct live fire training.

Brief description of the proposed action The Fire Department is requesting a use variance to allow for occasional live fire training within an enclosed training prop

Is there a written violation for this parcel that is not the subject of this application? Yes No

Has the work, use or occupancy to which the appeal relates already begun? Yes No

Identify the type of appeal you are requesting Area Variance Use Variance Interpretation

Applicant Signature

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Les Meyer Vice President

Signature

Signature

4/3/2017

Date

Date



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Fee 135.00 Date Paid 4/15/17 Hearing Date 5/11/17 Approved Denied

Appeal to the Zoning Board Area Variance, Use Variance and/or Interpretation

Applicant	Owner(s) (If not applicant)	Attorney/ Agent
Name <u>Forbes Homes, Inc.</u>	<u>David Augustyniak</u>	<u>William W. Tuyn (agent)</u>
Address <u>470 Cayuga Road, Buffalo, New York 14225</u>		
Phone/Fax <u>(716) 688-5597</u>		
Email <u>wtuyn@forbeshomes.com</u>		

Property Information

Property Address 4729 Westwood Circle Side of street (north, east, etc.) east

Tax Parcel No 87.19-3-21

Date acquired by owner March 24, 2011 Zoning District when purchased R-1

Present use of property Residential Current Zoning District R-1

Has previous ZBA applicant/appeal been filed with property? Yes No If yes, when? _____

For what _____

Is property located within a 500' of a State Park, town or city boundary or county/state highway? No

Brief description of the proposed action _____

Application for an area variance for dimensional relief from the side yard requirement regulating the
construction of a single family detached residential home in an R-1 Zoning District.

Is there a written violation for this parcel that is not the subject of this application? Yes No

Has the work, use or occupancy to which the appeal relates already begun? Yes No

Identify the type of appeal you are requesting Area Variance Use Variance Interpretation

Area Variance - Please answer the following (add additional information as necessary)

That applicant has requested relief from the following Town of Lewiston Zoning Ordinance(s) (Please provide the Article Numbers) _____

Section 360-38.B

Dimension Requirements	To	From
15% of the lot width, not required to exceed 15'	side property line	principal structure
_____	_____	_____
_____	_____	_____

Additional Information _____

In order for the Zoning Board of Appeals to grant an Area Variance, it must fully and carefully balance the benefits to the applicant with the health, safety and welfare of the neighborhood and community, taking into consideration **ALL** of the following.

I. Whether the benefit sought by the applicant can be achieved by other feasible means. Identity what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc) and why they are not feasible.

The home has already been constructed, therefore the benefit sought by the applicant can be achieved by no other feasible means.

II. Whether granting the area variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons.

The maximum side yard required by code is 15', therefore if each adjoining home provided the maximum required side yard, the homes would be separated by 30'. Even with the corner of the Augustyniak home set at 13.62', at the closest point the homes are physically 36.01' apart (i.e., the two front corners). Since the property line is only visible on a map, to all outward appearances of the neighborhood, the homes are fully compliant with the code, and thus there is no impact to adjoining properties and no alteration to the character of the larger neighborhood.

III. Whether the variance is substantial. The Zoning Board of Appeals (ZBA) will look at the magnitude of relief sought by the applicant and compare it to the current Zoning Law. **For example, if the applicant is seeking a variance for a 6 foot side yard setback and the Zoning Law states a minimum 10 foot side yard setback, the ZBA will decide if granting a variance for 6 feet is substantial or not.**

The requested variance is not substantial. The northwest corner of the home built on subplot 60 is 13.62' from the side line, 1.38' inside the 15' limit (a 9.2% variance). It is important to note that the side lot lines diverge to the rear of the lot, so only an extremely small portion of a corner of the home (roughly 5 sf) encroaches on the side yard. In fact the northeast corner of the home is 20.77' from the side line, 5.77' beyond the 15' maximum (38.5% in excess of the code).

IV. Whether the variance will have adverse physical or environmental effects on neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons.

The request is for dimensional relief from the code, not for a use variance. Accordingly, and as detailed above in the response to item II, this variance will have no adverse physical or environmental effect on the neighborhood or the district.

V. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance). Explain whether the alleged difficulty was or was not self-created.

The home was originally proposed to be constructed with a 64' front yard setback, in a location where the lot was wider. It is our understanding that the Town required that the home be moved closer to the front lot line, more consistent with other homes on the street, but to a point where the lot is narrower.

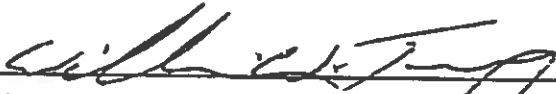
As can be seen by comparing the foundation location survey with the site plan, the home was constructed almost exactly where it was proposed, therefore it is our opinion that the hardship was not self created.

Applicant Signature

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Furthermore, I/We hereby authorize the members of the Zoning Board of Appeals to enter the property associated with this application for purposes of conducting any necessary site inspections related to the fact finding process with regard to this pending application.

	April 30, 2017
_____ Signature	_____ Signature
_____ Date	_____ Date