

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – August 14, 2025
Agenda- Robert Smith 735 Hillview Ct. (A)

Present: Conti, Fontana, Heuck, Machelor, Warnick

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of July 10, 2025, was made by Heuck, seconded by Fontana and carried. Abstained Conti.

Barbara Hoffman: Can you speak a little louder please.

Machelor: Sure. We asked the board to read the minutes of the prior meeting and asked them to approve the minutes and we got a second and they said yes except for one person who abstained because he wasn't here last time. Ok. If you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to deny or grant requests to vary the Town of Lewiston Code, hence a variance request to allow or disallow a project brought to us because it cannot be built or performed as presented without a hearing to determine whether upon presentation of the details of the request the Board will grant a variance to continue the project or denial to prohibit a project as presented. And with that I would like to open the public hearing. Notice is given that a public hearing will be held with the Zoning Board of Appeals with Town of Lewiston for Robert Smith 747 Hillview Ct Lewiston SBL 101.12-3-31 is requesting an area variance for the height of a proposed garage with a height of 26 feet 8 inches. Mr. Smith anyone here please come to the microphone and state your name and so on for the record.

I am not Mr. Smith I'm the builder I am his cousin Jay Wendt.

Machelor: Oh ok.

Conti: Do we have...

Wendt: He's on his way he's coming from work from Buffalo and trying to get here.

Machelor: Ok.

Wendt: I apologize. And there was the height of that was supposed to be 25.8 we actually got as low as 24 foot now, if you can change that.

Machelor: So, he asked for 25 8 and he doesn't want that he wants 24.

Wendt: Yeah, I talked to the architect about the building we got it down. That's as low as we can get it to do what we want.

Machelor: Ok. Do you happen to know how high his house is? The peak of his house.

Wendt: About 24 feet. I just went down and measured it today.

Fontana: What size is the garage door?

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Wendt: I think its going to be 12 by 8 feet high.

Machelor: It seems to be very pitched.

Wendt: His house is pitched very well too it's the same pitch as the house. I was just doing it for look and to give him upstairs storage.

Machelor: We have these drawings that show what he intends to do.

Fontana: 11 foot 6 and shows here with the 25 8 and I don't know if that 11 foot 6 has come down.

Wendt: It's come down to 11 and that will give enough room for the joist being the proper height for the garage door.

Fontana: If you put an 8-foot door you only need 9-foot side walls, technically.

Wendt: If they shrink it anymore, they would have to get the low clearance door rails.

Machelor: You say that you took 6 inches off the height of the side wall.

Wendt: Yes.

Machelor: So how did you get a foot and a half off the top dimensions.

Conti: He changed the pitch.

Wendt: We changed the pitch from 7 12 to 16 12. I was incorrect with first number.

Machelor: Am I misunderstanding, are you saying that he wants that roof to be that size because it mirrors the part of his house pitch.

Wendt: Not just for that reason. To mirror it yes.

Machelor: Well, the point it's a substantial amount to ask for above the recommended amount which is 18 feet. So, we are trying to figure out what in particular he needs that 6 more feet for.

Conti: From 18 to 24.

Machelor: 18 to 24.

Conti: 18 is tall.

Wendt: It just gives him you can walk up use the upstairs as a working space and storage space.

Conti: Oh ok.

Machelor: I think it's not stated that way though, is it?

Wendt: It should be.

Machelor: That, that was to be a working space upstairs.

Wendt: Well storage space.

Talking

Conti: Well storage and working are 2 different things. Storage your kind of just piling stuff in. Working space is something that you are going to work in now that changes is it going to become an office is it going to become a working garage your talking 2 different things now. So, storage space you said you're going to put something up there and leave it and come back to it another time and get something out right.

Wendt: Yeah.

Conti: A working garage, working space is something that you are going to be physically working.

Wendt: I doubt that he's going to be using it as a working space, there will be storage space.

Machelor: So, do you have any idea of the size of that room that he proposes?

Wendt: Yes.

Machelor: What's the dimensions of the room up there.

Wendt: I don't have the exact size. I don't know can I come up.

Machelor: Yeah sure.

Talking.

Machelor: What's this distance?

Wendt: Probably 8 feet I'm guessing.

Machelor: You know I think that's the difference. You wouldn't have a garage that's 6 feet tall and work in.

Wendt: Right.

Machelor: 8-footer that's a room.

Wendt: Right. But I just thought that we could do that...

Machelor: Well yeah but except that you are 6 feet above the recommended amount.

Wendt: Ok.

Machelor: And that's substantial we give the authorization for less substantial than that. We've even asked the Town to give us permission to we asked them if they would like to raise that amount. But for now, it's a lot of space. It's 6 feet more than recommended.

Wendt: I had the girls from the pole barn company she did one of those overlay picture things where she tried to. That's the front of his house and that's the garage it's a little close, it just didn't work out as well as we thought it would. So its looking a little bigger than the house.

Conti: It looks bigger than the house.

Wendt: Which it's not. It's the best she could do.

Machelor: You just put that in.

Wendt: Yes.

Talking

Machelor: The reality would be that they are both same height.

Wendt: Yes.

Machelor: They both would be 24 feet.

Wendt: Yes exactly.

Machelor: And that would still be 6 feet above.

Wendt: Right, yeah.

Machelor: Ok. Do you have any idea when your owner is going to show up?

Conti: He's...

Machelor: Ok good.

Conti: I assumed that was him.

Machelor: Well, you never know. Can you come up.

Conti: Just to the microphone.

Machelor: Just to the microphone. We gotta ask the same kind of questions over again, I guess. The amount that was asked for originally was almost 26 feet. Which was 8 feet above.

Conti: It was 10 feet.

Machelor: 18 to 26 right. 25 8

Conti: Now it's going down to 6

Machelor: No, no not that part. So, the builders talking about reducing the side wall that took 6 inches off your height. And then we are asking right now the size of the room that's going to be above the garage and whether its going to be a work room or a storage room.

Smith: It's going to be for storage.

Machelor: Ok. If its going to be for storage we are wondering why it has to be 6 feet above the recommended height for the whole building.

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Smith: for accessibility.

Conti: He was saying that the room up there was about 8 foot high on the second floor. Which is pretty large for storage. Is there any way that you can bring that down?

Heuck: Yeah.

Conti: I know that. Is there any way you can bring that down... you're looking for 6 feet of variance request. Because he already told us you are going to 24 vs 25 8 you knew that part.

Wendt: He might not know that yet.

Conti: Oh ok.

Wendt: We correct the job and we also lowered...

Conti: So now instead of being 25 8 what you're asking for from 18 now you're asking for 24 is what he's telling us.

Machelor: That's a third more than it's suppose to be s owe are trying to find a way for you to say yes, I can probably make it a little shorter than that. So that the substantiality of it goes away.

Fontana: What's the actual height of the side walls? Like are you going to use 9 footers or 10's or...

Wendt: 11

Fontana: That's what's going to be framed at where you put the rafters on and floor joist? Can you bring that down to say 10 because you're changing the side walls.

Wendt: I think the 11 foot 6 for the floor joists.

Fontana: I see that for some reason the floor joist are up above looks like into the rafters. There not sitting on a double plate for the side walls.

Wendt: That section below that is probably... its not very well put in here.

Fontana: Are they going to use 11-foot studs for side walls? Before, to set...

Wendt: It won't be it's a pole barn. So, it will be post and...

Fontana: Alright. So, its going to be 11 foot before they actually put the rafters on or the trusses depending on what they are using.

Wendt: I don't think so. Its going to be probably lower than that. For some reason they are giving a height of top of the floor of the second floor. So, you're by the time you get down you're probably going to be a little over 10 feet.

Fontana: Because when you say I mean with an 8-foot door 10-foot side walls is plenty. Plenty of room.

Machelor: Perhaps you want to consult each other for a minute. How can you get more feet off the total.

Wendt: Well, we can we just gotta wait.

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Machelor: We don't want to give you a number and say ok why don't you try so many feet. I want you to tell us what you could do which allows us to say yes give you a variance. You can go out in the corridor if you want.

Wendt: Ok. Thank you!

Conti: Want to let her talk while we are waiting.

Machelor: Oh yes. The public hearings still open ma'am.

Seaman: No, no.

Conti: Wait till they come back in.

Seaman: Don't do continuation until they come back.

Talking

Hoffman: Can I ask a question.

Seaman: Ma'am you might just want to wait until the applicant comes back in.

Hoffman: I just want to know if you have a picture of the diagram.

Conti: Picture of what diagram?

Seaman: Ignore my scribbling.

Talking

Seaman: If you're going to debate the case.

Conti: We're not debating anything we're just talking

Seaman: And you should wait for the applicant's presence.

Conti: Ok.

Talking

Seaman: Want me to check on them.

Machelor: I could.

Seaman: I'll take care of it.

Conti: Give them another minute or so just let them know.

Talking

Machelor: Come on up.

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Wendt: Just to answer a question that Lou had. Talking about the height of the 11 foot 6 that's up to here. I think, I know the walls are 10 it's called a 10-foot eve height. And she just put this number in here I think to show you where that floor is so that's the question there. So, he doesn't want to go down to a 7-foot door he wouldn't be able to get his truck in there. Because my truck won't fit in a 7-foot door either so we gotta keep that. So, we gotta keep the eve height I mean we could maybe grab 6 inches and we change the door they have a low. So, we could maybe grab 6 inches there and then as soon as we start adjusting the top roof, we are going to change the pitch so it's not going to look the same with the house which...

Warnick: Mine doesn't either.

Wendt: A lot of them don't. It just something I got in my head. And you're going to lose head room fast.

Warnick: Yeah. So, side wall.

Machelor: I think we are back to the same place.

Wendt: Yeah.

Machelor: We do give variances for height here but we don't give one's that substantial. So, some how you gotta get that overall height down.

Talking

Machelor: And if you are going to take it out of that storage room that's not our business where you take it. I understand why you don't want to fix the door and the eve and all that, that's fine. But that height is in the top part here. Yeah, you have to change the pitch.

Conti: You probably should go back to the mic.

Wendt: I am sorry.

Conti: That way everything on is on the recorder for her. What he is explaining right now is the fact that wherever you have to get it but I know you want the storage area up top and you want the 8-foot door because you want to get your truck in which is understandable. What did you come up with when you were out there?

Wendt: Were right back to where we were because I say the reason for this its 20-foot wide these are truss, these are trusses that are built to carry that load across there and if we were to start dropping that down we are going to eliminate that walkway head room.

Conti: Can I ask a question I am just kind of wondering is there a reason why you decided to go with storage up above and not behind or along side of the garage.

Warnick: Make that foot print of the building...not have to worry about the pitch of the roof.

Conti: It was just a thought that...

Wendt: If I remember correctly, we have the 20 foot by 24-foot garage now for the size and that gives him his bench in the back and he can park his truck in front and still get in with no trouble. So, your saying...

Conti: I don't know I just saying is there a reason why you decided to go up vs just making it a little bit wider or a little bit longer and you would have your storage space there vs up above and just a thought I don't know.

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Smith: I just didn't want to go larger.

Wendt: Because his lots not real wide.

Warnick: But its real tall right now though. I said its real tall right now opposed to real wide so I mean its like pick your poison kind of things is they wat I look at it.

Wendt: I just didn't think we would be affecting anything I thought it would be something. Because there is the woods behind there were not affecting anybody's view.

Machelor: Currently. That's why we do this in Zoning because we kind if plan the future here. When somebody says why did they do that that was a stupid thing to do.

Conti: And the Zoning laws are there to protect you as much as your neighbors and anyone else in the Town. Right so that's we keep some sort of conformity within the Town Zoning laws. And were lenient at times we will give and take and we try to sit though and talk though it and stuff to try and help you out were not just here saying sorry you can't have it but when you're asking for as much as you initially would 25.8 and now you down slope to 24 that's still 6 feet a third as Norm said.

Wendt: There is another option I guess would be to build a gambrel Roof and drop that upper pitch down.

Machelor: Yeah, you can do that.

Fontana: They can design those trusses to still give you the storage.

Machelor: You guys got all the talent you need to figure out how to do this. We don't try to propose solutions we just say here's the rules try to fit within there. Were able to give you variances for some but not for 6 feet. So, you're going to have to come up with a plan that's than 6 feet or more or postpone and come back next month with a new plan.

Heuck: That's it.

Seaman: Maybe you should listen to the other person.

Conti: I was just going to say That. Why don't you guys have a seat. And we will let her speak she can come to the microphone.

Machelor: State your name and address please ma'am.

My name is Barbara Hoffman 738 Ridge Road. I do have some questions.

Conti: Sure.

Hoffman: How far from the back lot line are you going to build?

Conti: It looks on his picture 20/30 feet. The back of the new proposed garage to the back of your lot line. It looks like 20 to 30 feet I am looking at the picture here I am guessing.

Warnick: Is this the back lot line?

Wendt: It's in the same spot as the old garage is.

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Conti: 150

Machelor: it's 150-foot lot

Conti: 150 feet here it's a 100 foot back so if its 20 foot so between 20 to 30 feet. I don't have exact. Its gotta be at least 5 feet from the lot line so they are well within zoning laws.

Seaman: It's over 100.

Warnick: Yeah.

Conti: No, no, no. You're talking from the front she's talking from the back of the lot line. Right. You're not talking the street you're talking the back.

Hoffman: I am talking the back I live behind him.

Conti: So, she's talking from the back lot line to the back of that new garage would be about 20 to 30 feet.

Seaman: No. How deep is your lot sir.

Conti: 150 feet according to the print.

Seaman: Well, no there's another lot behind that, that's 92.67 feet that looks to me its included is that right.

Wendt: That's all on it.

Seaman: So how deep is your lot?

Smith: 242 feet

Seaman: So, it's the 150 plus the 91.6 right.

Conti: So that is your lot behind it.

Smith: Yep.

Conti: And then this. Ok so then he's like 120 130 feet from the lot line.

Hoffman: I have a wooded lot in the back of my property. The Garage is going to be a pole barn.

Wendt: Pole barn spec. that just means the foundations put in.

Machelor: Ma'am, please address us and you have to speak up a little bit I can't hear you at all.

Hoffman: Ok. So, if I took the woods out would I be seeing an ugly building?

Warnick: Probably not.

Conti: From the pictures he's put here...

Machelor: You could see a building I don't know if it would be ugly or not.

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Conti: It will probably be sided corrected. Its going to be sided like their house. So, it's going to be a similar building sided like their house is now. So, no I would say no but its...

Hoffman: Would it effect my property value?

Members talking, we can't say that.

Hoffman: Would they be having a wood's or something so that I wouldn't see if from my yard?

Machelor: No, that's not part of what we do. He can have anything on his property. If he wants to cut all the woods down he can.

Hoffman: Ok

Machelor: Thank you!

Conti: Thank you!

Machelor: So, Mr. Smith.

Wendt: We're going to just for the time move this along. I am going to have the designer make it into a gambrel style roof almost I am pretty sure we can lose another 3 feet off that 24 so that would put us at 21. That's the best we can do and keep what he would like to have and its going to be a nice-looking barn.

Machelor: Yeah.

Wendt: There's no question there.

Machelor: Alright board any further questions.

Conti: So, what you're asking for is 21 foot.

Fontana: 3-foot variance.

Conti: Right. OK.

Warnick: But we have to table it right.

Seaman: No, he can make that adjustment.

Warnick: Ok.

Machelor: Other questions from the board any further questions? I will close the public hearing and once again does anyone have any question?

Conti: I'd like to make a motion.

Seaman: Don't forget Joe on the height you gotta do the SEQRA.

Conti: I was just going to say we have to do the...

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Machelor: Can I have a motion on the SEQRA.

Heuck: I will make a negative declaration on the SEQRA.

Warnick: Second.

Machelor: Moved, second ok. I will call the question on the SEQRA. All those in favor say AYE.

Members: AYE.

Machelor: Opposed. Ok.

Conti: I'd like to make a motion now on the variance. Based on the Board's discussion and the following consideration: Whether an undesirable change would be produced in the character of the neighborhood or a detriment to near by properties, no because we were able to get it in to down to 21 feet. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance, for what he's looking for no because of the size and what he wants to do. Whether the requested variance is substantial, we got it down to 3 feet now from 18 to 21 so no it is not. Would the variance would have an adverse impact on the physical or environmental conditions of the neighborhood, no. And was the alleged difficulty self-created, yes it was. So based on these 5 variances. This Zoning Board determines that benefit of the variance to the applicant outweighs any detriment to health, safety and welfare of the community that the variance requested at 21 feet is minimum necessary and the variance be granted with the condition that it is 21 foot height.

Machelor: Everyone understand that any questions? Can we have a second.

Warnick: I'll second.

Machelor: Ok we have a motion made in seconded. First I'll call the question, all those in favor say AYE.

Members: AYE

Machelor: Lisa poll the board please.

Wisnieski: Joseph Conti: AYE, Lou Fontana: AYE, Gary Heuck: AYE, David Warnick: AYE, Norman Machelor: AYE.

Machelor: It's been approved see the Building Department for permit. Ok. Adjourned?

Warnick: I'd like to make a motion to adjourn.

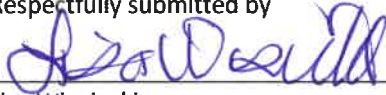
Conti: I'll second it.

Machelor: Motion made and seconded to adjourn all those in favor say AYE.

Members: AYE.

Machelor: We are adjourned.

Respectfully submitted by

A handwritten signature in blue ink, appearing to read "Lisa Wisniewski", written over a horizontal line.

Lisa Wisniewski

Building Dept Clerk

A handwritten signature in blue ink, appearing to read "Norman Machelor", written over a horizontal line.

Norman Machelor

Chairman