



**TOWN OF LEWISTON**  
1375 Ridge Road  
Lewiston, New York 14092  
(716) 754-8213  
[www.townoflewiston.us](http://www.townoflewiston.us)

**ZONING BOARD OF APPEALS**

**Thursday – June 8, 2017**  
**7:00 P.M. – Town Hall**

- A. Variance Request – Gentilucci – Chicora Drive – SBL# 101.02-1-3**
- B. Code Interpretation – Advanced Design Group**
- C. Variance Request – Lewiston Fire Company No. 1 – Swann Road – SBL# 88.00-1-7**
- D. Miscellaneous**

**PLEASE NOTIFY SANDY IF YOU CANNOT ATTEND**



## TOWN OF LEWISTON

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Fee 135.00 Date Paid 5/31/17 Hearing Date 6/8/17 Approved  Denied

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

<u>Applicant</u>	Owner(s) (If not applicant)	Attorney/ Agent
Name <u>Michèle A Gentilucci</u>		
Address <u>636 Chicora Drive, Lewiston, NY 14092</u>		
Phone/Fax <u>754-2169 H   572-1328 C</u>		
Email <u>Micheleg1223@yahoo.com</u>		

### Property Information

Property Address 636 Chicora Drive Side of street (north, east, etc.) North

Tax Parcel No 101.02-1-3

Date acquired by owner August 17, 2012 Zoning District when purchased R1

Present use of property Single Family Current Zoning District R1  
Home

Has previous ZBA applicant/appeal been filed with property? Yes  No  If yes, when? May 2016

For what Rear addition

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** \_\_\_\_\_

Construct a 7' deep x 13' wide addition onto the rear of the existing structure. The benefit of this variance to the homeowner is significant, in that it will allow for additional space for a family dining area in the home. Granting this variance will not have any negative impact whatsoever on the health, safety or welfare of the neighborhood or community.

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) \_\_\_\_\_

Dimension Requirements	To	From
Rear Setback	10.4795'	17.4795'

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.

Applicant unsuccessfully sought to purchase additional land from the current owner to accommodate the addition within the current setback requirements.

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 addition will not be visible from the front and so will have no adverse impact on the streetscape. \_\_\_\_\_  
The property to the rear (north) of the addition is currently vacant; the owner of that property and the \_\_\_\_\_  
adjoining property to the side (east) are aware of and have no objection to the application or \_\_\_\_\_  
subsequent approval of this variance request. The adjoining property to the west is owned by the \_\_\_\_\_  
applicant. \_\_\_\_\_

The adjoining property to the east has an addition similar to what is being requested; there has been no \_\_\_\_\_  
negative impact on the neighborhood as a result of that addition. \_\_\_\_\_

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 required setback is 15% of the 116.53' depth of the property, equal to 17.4795'. \_\_\_\_\_

If the requested 7' depth variance is approved, the distance from the rear of the structure to the \_\_\_\_\_  
property line would be 10.4795', the required Town of Lewiston easement across the rear of the \_\_\_\_\_  
property is not impacted. \_\_\_\_\_

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.

No trees will be removed from the property. The addition will be placed on the existing lot which has \_\_\_\_\_  
adequate drainage. \_\_\_\_\_

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 shallow lot depth dictated the size of the house as-built. All front and rear setbacks were met at the \_\_\_\_\_ time of construction and the house was designed to fit the lot.

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**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.

Michele Agnolucci  
Signature \_\_\_\_\_ Signature \_\_\_\_\_

May 31, 2017  
Date \_\_\_\_\_ Date \_\_\_\_\_

COURTESY NOTICE of PUBLIC HEARING

Date June 2, 2017

APPLICANT: Michele Gentilucci, 636 Chicora Drive

NEIGHBORS: Samuel Talarico, 741 Chicora Drive  
Blair Hoplight, 654 Chicora Drive

PLEASE TAKE NOTICE THAT A PUBLIC HEARING IS BEING HELD AND THAT NOTICE THEREOF AS BEING PUBLISHED IN THE NIAGARA GAZETTE IS ATTACHED.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Lewiston on June 8, 2017, at 7:00 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following application:

Michele Gentilucci, 636 Chicora Drive, SBL# 101.02-1-3, requests a variance from the required 17.47' rear yard setback to 10.47' to allow construction of a 7'x11' addition. The property is presently zoned R-1, one family residential.

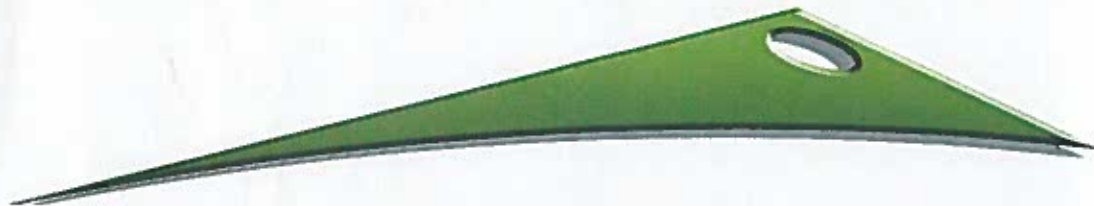
Information concerning this request is on file and available for inspection during normal business hours at the above named office. All citizens and persons of interest will be given an opportunity to be heard.

Anita Muzzi  
Zoning Chairwoman

AT THAT TIME THE BOARD WILL BE GLAD TO HEAR FROM ANY PROPERTY OWNER IN SUPPORT OF, OR IN OPPOSITION TO, THE APPROVAL OF THIS PETITION. THIS HEARING IS NOT LIMITED TO THOSE RECEIVING COPIES OF THIS NOTICE, AND, IF YOU KNOW OF ANY NEIGHBOR OR AFFECTED PROPERTY OWNER, WHO FOR ANY REASON, FAILED TO RECEIVE A COPY OF THIS NOTICE IT WOULD BE APPRECIATED IF YOU WOULD INFORM THEM OF THIS MEETING.

VERY TRULY YOURS,

  
Sandra Z. Vaulley Secty.  
TOWN OF LEWISTON



## ADVANCED DESIGN GROUP

PROFESSIONAL ENGINEERING & SURVEYING, PC

761 Cayuga Street  
Lewiston, NY 14092  
Phone (716)754-2256  
Fax (716)754-4252

May 1, 2017

Town of Lewiston Zoning Board, Chairwoman Anita Muzzi  
c/o Lewiston Building Department: Timothy Masters  
1375 Ridge Road  
PO Box 330  
Lewiston, NY 14092

Subject: Zoning Code Interpretation

Chairwoman Anita Muzzi:

Our office is working with a developer that is interested in constructing a self-storage facility on a parcel that is located in the B – General Business District. As part of the self-storage facility, the developer would like to provide outdoor storage of vehicles. We have reviewed the Town Zoning Code and it appears that the outdoor storage of vehicles is not specifically allowed in any Town of Lewiston zone. However, the Business Zone allows “Gasoline Service Stations” and “New and Used Automotive Sales and Service Establishments” with a Special Use Permit (Section 360-71) and allows “Private Garages, Parking Areas and Storage Buildings” as an Accessory Use (Section 360-72).

Please accept this letter as a formal request for interpretation of the Town’s Zoning Code to clarify if outdoor storage of vehicles is permitted within the Business Zone.

We are available to attend your next Zoning Board Meeting if necessary.

Thank you for your time and we look forward to hearing from you.

Sincerely,

Kristin L. Savard, PE  
Advanced Design Group Professional Engineering & Surveying, PC

cc: ADG File





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Fee 135.00 Date Paid 4/3/2017 Hearing Date \_\_\_\_\_ Approved  Denied

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

Applicant

Owner(s) (If not applicant)

Attorney/ Agent

Name Lewiston Fire Co. No. 1 Inc.

Address 145 N. 6th St. PO Box 748, Lewiston, NY 14092

Phone/Fax 716 754-4487 fax 716 754-8177

Email info@LFD1.com

### 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

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

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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

**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 1977 Purchase Amount 13,398.92

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

Date	Improvement	Cost
<u>1978</u>	<u>built two bay fire station</u>	<u>36,071</u>
<u>1978</u>	<u>installed hydant in rear of station for training</u>	<u>1,500</u>
<u>1978</u>	<u>installed siren to alert members of emergencies</u>	<u>2,667.81</u>

3. Annual maintenance expenses 2,000 4. Annual Taxes tax exempt

5. Annual income generated from property 0.00

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

8. Appraised Value 194,000.00 Appraiser Mike Johnson / Realty USA NYS Lic 30J00811084 Date 5/26/2017

**Appraisal Assumptions:**

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

If Yes, for how long? N/A

1. Original listing date(s) N/A Original listing price N/A

If listing price was reduced, describe when and to what extent N/A

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

If yes, describe frequency and name of publications N/A

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

If yes, list dates when sign was posted N/A

4. How many times has the property been shown and with what results? N/A

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. At present there are  
facilities in the Town of Lockport and Town of Wheatfield. There is added fuel costs for our vehicles  
to travel the added distance. We are then out of position for emergency response causing potential hardships  
as residents would have to wait for mutual aid departments for emergency response.

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.

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

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

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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.

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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.

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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.

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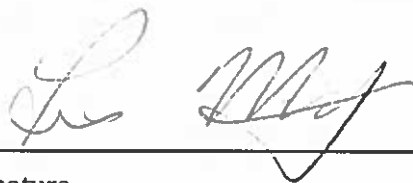
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Signature

Signature

**5/26/2017**

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Date

Date