

ZONING BOARD OF APPEALS  
Town of Lewiston 1375 Ridge Road  
Lewiston, New York 14092  
Thursday – August 8, 2024

**Agenda- 4092 Calkins Road Kevin Cramer (A), 4746 Model City Road Citrine Power LLC (B), 5894 Ward Road Austin Scaccia (C), 5002 Callan Drive Nicolas Zuccari (D), 742 Powell Lane William Carpenter (E)**

Present: Conti, Machelor, Warnick, Sandonato

Absent: Heuck

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

**A motion to approve the minutes of July 11, 2024**

**Conti: There is only one person that can make a motion to approve.**

**Machelor: You will have to approve.**

**Serianni: Let me just raise a quick question.**

**Machelor: He will have to make the motion.**

**Serianni: There were 3 members was it Joe**

**Conti: Dave and I were not here last month.**

**Serianni: Norm was here last month.**

**Conti: Norm was here.**

**Serianni: I don't think you guys can approve your minutes.**

**Conti: Why because only 2.**

**Serianni: Because you only have 2. I would suggest tabling that until you have Gary here.**

**Machelor: Ok. Motion to table until we have forum.**

**Sandonato: Make a motion to read the minutes the next meeting.**

**Machelor: Second**

**Conti: Second**

**Machelor: I will second. All in favor**

**Members: AYE**

**ZBA- 08-2024 (A)**

**Machelor: Motions tabled until next meeting.** 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. So, with that I'd like to open the variance request open the public hearing for Kevin Cramer 4092 Callen Road SBL 73.00-1-5.1 is anyone here for that? Go to the microphone please it records for the clerk.

Conti: Just state your name and address please

Cramer: Kevin Cramer 4092 Calkins Road.

Conti: OK

Machelor: Explain what you want to do.

Cramer: Build a pole barn. The pole barn size is 42 wide 48 deep and approximate height the peak is 23 feet.

Machelor: For the record why do you feel you need the 23 feet.

Cramer: I have 4 young children we are getting into camping.

Conti: That just records for her so.

Cramer: So, I have 4 young children and we are getting into camping and most campers, tow behinds 5<sup>th</sup> wheels and RVs are over 12 feet tall so to accommodate the camper fitting inside the building we have to have a larger door which will require larger wall which will require a larger roof so.

Machelor: Alright. The board has dealt a lot of these lately and it seems that the requirements that use to be in were ok because the vehicles were smaller so we recognize that it's different now. Any questions from the board on this?

Conti: I noticed that you mentioned here your at least 50 feet from all the property lines right

Cramer: Yes.

Sandonato: I am looking at the map that came with this application. It says proposed house location. Is that house already been built?

Cramer: Yes sir.

Sandonato: Oh ok.

Members talking

Machelor: You have the SEQRA appendix B short form

Conti: Yeah

**Machelor: Ok I am looking for a motion.**

**ZBA- 08-2024 (A)**

**Conti: You have to ask if anyone wants to talk.**

**Machelor: Ok is there anyone else that would like to speak to this issue? Anyone else?**

**Conti: You can have a seat.**

**Machelor: I will close the public hearing then. And ask the board for a motion.**

**Conti: I will make a motion.**

**Sandonato: I will make a motion to approve this request.**

**Machelor: Ok**

**Conti: We have to take a negative declaration on the SEQRA first?**

**Serianni: You do not need a negative declaration you just need to make a finding that the action is a type 2 action pursuant to SEQRA and no further action is necessary.**

**Conti: So, it's a type 2 declaration on the SEQRA so there is no further action needed.**

**Machelor: No further action needed. Negative declaration.**

**Sandonato: I will make a motion to approve.**

**Machelor: As presented.**

**Sandonato: As presented yes.**

**Machelor: Second?**

**Conti: I'll second**

**Machelor: Ok motion has been made in the seconded any further discussion question from the board? Hearing none I will call the question. All those in favor say AYE**

**Members: AYE**

**Machelor: Opposed. Lisa Poll the board**

**Wisnieski: Joseph Conti: AYE, Norman Machelor: AYE, Henry Sandonato: AYE, David Warnick: AYE**

**Machelor: Ok it's been approved. Thank you! You can stay if you'd like or you can beat it. Some people stay for the entertainment.**

ZBA- 08- 2024 (B)

Machelor: Ok. The second item is a variance request from Citrine Power LLC Model City Road SBL 102.02-2-1 it was tabled in July is there anyone here that wishes to speak to this issue?

Henry Zomerfeld I am counsel to Citrine Power I just wanted to make note of my appearance here. Last month I was here with Cele Bernie she's the principal for Citrine Power she had a personal conflict and couldn't be here tonight. I understand that last month the public hearing was closed but if you have any questions, I'm here so we can address those.

Conti: Thank you!

Machelor: Ok. Have you read the proposition?

Conti: Yes

Sandonato: Yes.

Machelor: Do you have any comments? Do you have any questions that haven't been answered?

Sandonato: I do not.

Conti: I don't.

Machelor: Alright. Well, I'd like to read in the resolution, read it into the minutes. **4746 Model City Road, Model City NY. WHEREAS, Citrine Power LLC, representing the Washuta Family Trust, 4746 Model City Road, Model City, NY 14107 (Applicant) has submitted an application seeking an area variance to the Town of Lewiston Zoning Board of Appeals ("ZBA"), and WHEREAS, a public hearing was held on such application, and all persons wishing to speak at such hearing having been heard, and WHEREAS, this Board having taken 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, and having further considered those factors set forth in the Town of Lewiston Code and the relevant New York State Codes, now therefore be it RESOLVED that the following findings are hereby adopted:**

**The benefit sought by the applicant cannot be achieved by some other feasible method, other than by the granting of an area variance. The applicant's proposal consists of construction of a solar energy system located on top of a capped landfill at the subject property. The applicant demonstrated that closed landfills with a cap cannot be punctured for environmental regulatory reasons. Consequently, solar energy systems constructed on landfills, such as the proposal in this application, must be constructed with ballast blocks that sit atop crushed stone on top of the closed landfill. This method of construction increases the project's construction costs. The applicant, seeking to maximize its economies of scale, has proposed placement which requires the minimum variances necessary to make the project viable. Alternative solutions would either make the project not viable, or would more negatively impact neighboring property owners. The character of the neighborhood and nearby properties will not be undesirably changed by the granting of the requested area variance. The proposed construction will take place in an I-1 Zoning District, where solar energy systems are permitted. Further, the variances requested are relative to the property's north and west boundaries, which do not abut residences on either side. The property on the premises' north boundary is owned by Modern Disposal Inc., which is owned or controlled by the same entity which owns the subject parcel. On the western boundary, the subject premises abuts a parcel owned by Niagara Mohawk Power Corp., which did not notify the Zoning Board of Appeals of any objection to the relief requested. Finally, the applicant did not request an area variance relative to setbacks against any of the residences located along Ridge Road, and the solar energy systems placed along said location meet the minimum setback requirements set forth in the Zoning Code. The requested area variance is not substantial. The proposal will provide for 50 feet of setback space along both the premises' north boundary and west boundary. All other remaining setback requirements for the proposed solar system will be in compliance**

**ZBA- 08-2024 (B)**

**with the Town of Lewiston Zoning Code. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The proposed variance will allow the construction of a solar energy system which has been recognized by New York State to have a beneficial impact on the environment in pursuit of the State's effort to increase renewable energy and reduce the State's carbon footprint. The alleged difficulty was self-created because the requested relief is self-imposed and based on the desire by the applicant to construct a solar energy system, by creating a practical difficulty which does not currently exist. Accordingly, this board will vote to grant applied for an area variance.**

**Conti: I will second that motion.**

**Machelor: Any questions?**

**Sandonato: No.**

**Machelor: Ok. No questions then I will call the question. All those in favor say AYE**

**Members: AYE**

**Machelor: Opposed? Lisa, please poll the board.**

**Wisnieski: Joseph Conti: AYE, Norman Machelor: AYE, Henry Sandonato: AYE, David Warnick: AYE**

**Machelor: Ok motions passed. And you can have a copy of that anytime.**

**Zomerfeld: Thank you very much. Just for clarification was SEQRA handled last month before the public hearing was closed?**

**Machelor: Yes**

**Zomerfeld: And deemed a type two.**

**Serianni: Yes, it was.**

**Zomerfeld: Thank you very much I appreciate your time.**

**Machelor: Yes sir.**

ZBA- 08-2024 (C)

Machelor: Ok next item public hearing opening variance request for Austin Scaccia 5894 Ward Road SBL 133.08-1-15.

Hi my name is Steve Gabasno I am Austin's partner at the Marlboro Kitchen and Pub.

Machelor: Ok

Gabasno: That's 5894 Ward Road.

Machelor: Ok. Explain what you'd like to do.

Gabasno: In the tradition of the building, we want to put signage up. But we want it to look like an old billboard that's been there for years. We just want the permission to do that to make the building look nostalgic it's the building history goes back 100 years and we want to keep that look to the place. But as you probably know it's had a couple failed locations in there it's a tough spot. We need to let people know we are there and people go down Ward Road quick and we need something to grab their attention that still fits into the environment.

Conti: This sign is going to be on the side front and side of the building, correct? There will be 2 signs?

Gabasno: Both sides of the building. Not the front.

Conti: Not the front ok.

Warnick: The north and south sides of the building.

Conti: And its attached right to the building.

Gabasno: Yes.

Machelor: And the reason you are here because you could do a 6-foot sign but you want and 8-foot sign.

Gabasno: Yes. Back in the day everything billboards were painted on the sides of the buildings and they took up the entire building we figured that might be a little greedy but...

Conti: So instead of a 10x6 you're going to do a 10x8 is what you are looking to do and you are still underneath the 100 square foot amount of the sign. Your only at 80.

Gabasno: Yeah

Machelor: Questions? You know we don't really deal with let's say taste whether it's a sign bigger or smaller than you know people think is the best use. But if you are under the 100 square feet and those are your only 2 signs

Gabasno: Yes.

Machelor: I can't see any reason to deny it.

Conti: But you have to ask if anyone else wants to talk.

Machelor: Alright well thank you! Is there anyone else that wants to address this issue? Ok hearing none does the board have any more questions?

ZBA-08-2024 (C)

Members: No

Machelor: Close the public hearing. And ask for a motion.

**Conti: I will make a motion. Based on the board's discussion and the following considerations whether and undesirable change would be produced in the charter of the neighborhood it would not because it would be right on the building and not blocking any traffic. Whether the benefit of the applicant achieved by a feasible alternative variance you could make the signs smaller but its not really. Whether the requested variance is substantial no it's not but its still within the 100 square foot size. Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood no it would not. And whether the alleged difficulty was self-created yes it was because you want a sign. So based on that there the ZBA determines that the benefit of the variance of the applicant outweighs and detriment to health safety and welfare of the community and that the variance request is the minimum necessary and the variance be granted.**

Warnick: I'll second that.

Machelor: Ok motions been made and seconded any further discussion questions? I'll call the question. All those in favor say Aye.

Members: AYE

Machelor: Opposed? Lisa poll the board

Wisnieski: Joseph Conti: AYE, Norman Machelor: AYE, Henry Sandonato: AYE, David Warnick: AYE

Machelor: It's approved.

ZBA- 08- 2024 (D)

Machelor: Ok next one variance request Nicholas Zuccari 5002 Callan Drive SBL 102.14-1-18 yes sir, name and address for the record.

Nicholas Zuccari 5002 Callan Drive.

Machelor: Speak up a little so I can hear you.

Zuccari: Nicolas Zuccari 5002 Callan Drive.

Machelor: Ok. Explain what you would like to do.

Zuccari: I'm trying to build an addition on my current property. The garage and sunroom that exit already to be tore down and I'm new in that place. So, it will be the same foot print but because it requires to go to the new code it's...I am asking for what I already have instead of the new code which is suppose to be 20 but it's at 18.

Conti: It's at 18 not.

Zuccari: Yeah, I want to say its off the property it's a little over 18. But it's still under whatever the new code would be.

Conti: You taking the foundation and everything else down too.

Zuccari: It's going to have new foundation.

Conti: But you are not coming any further forward from it.

Zuccari: It's coming further forward but its to the existing where the house is its just the one side toward Elliott.

Conti: OK.

Machelor: So, it's a 2-foot variance.

Zuccari: Correct.

Conti: Basically, what he has now. That's what he has now but when he's tearing it down the new code says he has to be 20 feet.

Machelor: Oh, I see.

Conti: He's 18 right now.

Zuccari: Pretty much my existing other than coming on forward. The existing toward where it starts.

Machelor: I assume its not practical to make it go to 20.

Zuccari: No not at all. If it went to 20, I would have to start from the beginning. I don't even think my truck or cars would fit in the garage.

Machelor: Ok



ZB- 08-2024 (D)

Conti: So basically, the code changed from when the house was built. When the house was built to today the code changed and instead of being 18 feet now its 20 feet.

Zuccari: Correct.

Conti: So, you just want to redo it there but leave it within the 18-foot side set back.

Zuccari: I just want to basically tear downs what's there and build fresh.

Conti: Ok.

Machelor: Ok questions?

Sandonato: No questions.

Machelor: This is a public hearing anyone else wish to speak to this issue? Yes sir. If you would come up.

Mark Domingues, I live at 5014 Callan Drive and I recommend to the board that they approve this.

Machelor: Ok. Thank you! Anyone else in the audience want to speak to this? Ok hearing none I will close the public hearing and ask the board if they have any further questions like to make a motion.

**Conti: I will make a motion. Based on the boards discussion and following considerations whether and undesirable change would be produced in the character of the neighborhood no because it's staying the same size of where its at now. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance not without making major changes to roof lines and size. Whether the requested variance is substantial no it is not its basically staying same to where it was. Would the variance have an adverse impact on the physical environmental conditions of the neighborhood no. And was the alleged difficulty self-created yes it was but. And based on the zoning board determines that benefit of the variance of the applicant outweighs and detriment to health safety or welfare of the community that the variance request is minimum necessary and the variance be granted.**

**Warnick: Second that.**

**Machelor: Ok motions been made in the seconded. Any further questions from the board. Ok hearing none I will call the question. All those in favor say AYE.**

**Members: AYE**

**Machelor: Opposed? Lisa, would you poll the Board.**

**Wisnieski: Joseph Conti: AYE, Norman Machelor: AYE, Henry Sandonato: AYE, David Warnick: AYE.**

**Machelor: Approved. Thank you!**

**ZBA- 08-2024 (E)**

Machelor: Ok our final business tonight is variance request William/ Joann Carpenter 742 Powell Lane SBL 101.08-1-77. Yes, sir come on up.

William Carpenter 742 Powell Lane Lewiston.

Machelor: Tell us what you want to do.

Carpenter: Oh ok. We want to install a generac generator on the what would be the southwest side of the house. I think we fell short about 1 foot. It comes up actually where the property line is the town owns the property off to the side of that.

Machelor: Oh.

Carpenter: There is a right of way to go from the area behind our houses on Powell and Scovell and Mary Lane.

Machelor: Come up here would you. So, this is it. This is your house right.

Carpenter: Yes.

Machelor: Is this the town property?

Talking

Machelor: Once they did that, they told you that in order to comply with their rules you were going to be closer to the property line

Carpenter: They didn't really because we didn't measure anything at that point in time. What we did was then come to the town and go to the building permit and they explained that there was a little bit of a problem.

Talking

Machelor: Ok thank you

Conti: Ok go ahead back to the microphone. So, for the measurements we are showing here right now it's 11.25 inches from the lot line your house and you want to go to 9.25 so you are looking for a 2-foot variance.

Carpenter: Yes.

Machelor: This is an open public hearing I don't see anybody else out here so I don't think they want to do this. So, I'll close the public hearing and ask the board if they have any further questions of the petitioner.

Sandonato: I have no questions.

Machelor: Ok. Motion

**Sandonato: I motion to approve this variance.**

**Machelor: Ok we have a motion to approve. Do we have a second?**

**Warnick: I'll second it.**

ZBA- 08-2024 (E)

**Machelor:** And a second. Motion to approve in second. I'll call the question then. All those in favor say AYE

**Members:** AYE

**Machelor:** Opposed hearing none. Lisa would you poll the Board

**Wisnieski:** Joseph Conti: AYE, Norman Machelor: AYE, Henry Sandonato: AYE, David Warnick: AYE.

**Machelor:** It's approved Mr. Carpenter.

**Carpenter:** Thank you!

**Machelor:** Ok

**Members talking**

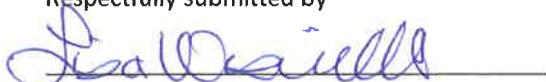
**Machelor:** I'd like to close the meeting

**Conti:** I'll make a motion to close the meeting

**Machelor:** Alright all those in favor say AYE

**Members:** AYE

Respectfully submitted by



Lisa Wisnieski  
Building Dept Clerk



Norman Machelor  
Chairman

