

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – January 11, 2024

Agenda- David Shurtleff Chicora Road (A), Evangl Christians in Spirt of Apostles Buffalo Street (B)

Present: Gallo, Warnick

Presiding: Joseph Conti, Chairman

Pledge of Allegiance

A motion to approve the minutes of November 9, 2023, was made by Warnick, seconded by Conti abstained Gallo and carried.

Conti: 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, for our meeting tonight we have a variance request David Shurtleff and Shari Posa 439 Chicora Road SBL 101.06-2-54 is anybody here to speak on behalf. Come up to the microphone and tell us what you are looking for.

Shurtleff: We are just looking to build the fence a little bit higher than 6 feet so we...because if you are standing on their back porch, you can see right over into our neighbors' windows and vice versa.

Conti: Do you already have the fence there now?

Shurtleff: Yep.

Conti: How tall is the fence now?

Shurtleff: It's 6-6 6-7

Conti: Cause the codes 6 foot

Shurtleff: I know.

Conti: Ok

Shurtleff: I figured I could like put dirt I found out it doesn't work that way.

Conti: Doesn't work that way.

Shurtleff: Yes.

Conti: But you got the permit you knew that was 6 foot.

Shurtleff: Yep. But I explained that I was planning on putting mulch on either side because I just planted a bunch of trees and just figured it would be fine. So

Conti: What is the reasoning why you want to go up so high?

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Shurtleff: When you stand on our back porch

Conti: You have a raised deck?

Posa: Our ground is sloops

Shurtleff: Our house is probably 2 feet higher than theirs. Standing on the porch you can see right in. In our windows they can see my knees so kind of weird.

Conti: I guess right off the bat we have to worry about the fact that the fence you got is not in compliance now. So, you know that's something right off the bat and there is no real reason, good reason other than I mean I read over your application and you were telling about seeing into your house and seeing from your knees up and seeing relatives coming out of the shower that all can be handled with drapes and blinds window film and arborvitae to plant in the back to hide all that stuff. I mean raising the fence up beyond where it's already not in compliant is a.

Shurtleff: The problem with the trees is that they just... We were going to plant trees and they planted trees but when they planted, they take forever to grow. There are different varieties that would grow faster but they did it the very next day. So...

Conti: They being your neighbor?

Shurtleff: People behind us yes.

Conti: Ok

Shurtleff: Nobody else there is no visible problem anywhere else just directly behind. And it takes a long time for those trees to grow. Once they grow, we can chop the fence down.

Conti: Anything else that you would like to add? At this point?

Shurtleff: I just don't want to be able to see into their house and see in ours.

Conti: How long have you lived at your house

Shurtleff: Almost 3 years. The people behind us said they like the fence. Everybody all the neighbors approved of the fence.

Conti: But that's not...There is still the Town code that we have to follow. The neighbors could all like a 12-foot fence back there but still it's still the Town code that we are here to uphold. So... Any questions from? Mark?

Gallo: You had something about a church is that the property behind you?

Shurtleff: Yes.

Conti: So that's a church?

Shurtleff: It's the Assembly of God.

Gallo: So, what is their take on it are they for or against it?

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Shurtleff: She said she likes the fence. I told her I would put mulch back there she's the one who planted the trees. I put up the fence just so it would do its job in the meantime she likes it I said I would put some mulch around her trees and grade it out and everybody would be happy.

Conti: Looking at it been a lot going on lately I looked at it though google earth and stuff and it's a house behind you is it just somebody owns the house that belongs to the Assemble of God?

Shurtleff: Correct.

Conti: So, it's not a church.

Shurtleff: Not

Posa: No

Conti: That's what he was asking.

Posa: Oh no I am sorry no I think that it is in their name the church's name.

Conti: But it's not a church.

Posa: No

Conti: So, it's just a residential home

Posa: Correct.

Shurtleff: you know they bring people from the church to work on the house and there is a work van they come and do their thing and that's... I don't know what it is I don't know if it's their house or if it's church I don't really know.

Conti: It' not a church. It's a residential house that maybe the church may own and they may allow their pastor or whoever to live there as part of the whole deal. But it's not a church.

Posa: Correct.

Conti: Ok. You can have a seat.

Posa: Thank you!

Conti: Is there anybody else to speak for or on behalf of this variance? Are you here for the variance for...

Kovac: Never been here before.

Conti: Ok are you here for on behalf of this variance for 439 Chicora?

Kovac: I can't hear you.

Posa: You're here about the fence?

Kovac: Right

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Posa: Right, he's asking if you would like to speak.

Kovac: I oppose the fence.

Conti: You want to come up to the microphone please. Just state your name and your address.

Paul Kovac: I got bad legs. Alright Hi I am Paul Kovac I just want to make it very official

Conti: Sir where do you live?

Kovac: Right behind him

Conti: You're the house right behind his house

Shurtleff: 438 Tryon

Conti: Ok

Kovac: 20 years ago, I asked for a permission to put a 7-foot fence up and they said no 20 years ago and the answer still is the same today. No

Conti: Ok

Kovac: I don't even know why I am here. Because that's one of the rules.

Conti: Ok

Kovac: And not only that he has 30 lights that he leaves on that lines the neighbor's house and mine they light up our yards. I don't want my yard in light.

Conti: Ok

Kovac: There's 30 lights up

Conti: Ok.

Kovac: Why? Is he alone? I don't know.

Conti: I can't answer that. I don't know that.

Kovac: I want it official that I oppose. And that's it.

Warnick: It's in the record.

Conti: Thank you! You can have a seat. Is his house the one we a referring to directly behind you?

Shurtleff: No, he's to the right. He was the first person I asked to build the fence. He said go ahead do whatever you want. So, I started the process.

Conti: Ok

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Conti: Well and again if you put a 6-foot fence in and you put it in within code then you are fine

Shurtleff: I get it.

Conti: Anybody else here to speak for or against this variance? Board anymore question? I would like to close the meeting. Any further discussion?

Warnick: No

Conti: Can I get a motion?

Warnick: I have a motion that we deny the request for the 7-foot fence on 439 Chicora Road.

Conti: I would like to just add to that also. That the fence itself also need to be brought into Town Code which would be 6 foot with a date of March 31, 2024. So, you have time you don't have to go out there this weekend and bring it within code but it gives you some time to bring it within code.

Shurtleff: Are we allowed to plant anything that can grow higher than that.

Conti: Absolutely. Trees shrubs there's no code on that correct

Serianni: Correct.

Conti: But fence there is a code. So, the motion on the floor then is to deny the additional fencing on the top and to bring the existing fence into code which is 6 foot by May 31, 2024.

Shurtleff: March or May?

Conti: May yeah, it's still going to be snowing probably.

Shurtleff: I would rather wait

Conti: May 31, 2024.

Shurtleff: Ok

Conti: We have a second

Gallo: I will second

Conti: All in favor.

Members: AYE.

Conti: Opposed?

Lisa Poll the Board please

Wisnieski: David Warnick: Aye Mark Gallo: AYE Joseph Conti: AYE

Conti: Ok. Did you hear sir what we said? They are going to bring it down to 6 foot which is within town code ok.

Talking (Kovac and Conti) explaining what happened

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Conti: Next variance Evangelical Christians in Spirt of Apostles 5861/ 5863 Buffalo Street SBL 133.08-2-43 it's been tabled in September, October, November and December we had no meeting in December so. Is there anybody here to speak to that?

Yes. Good evening my name is Ilya Nezgoronov I am one of the members were back I guess last time we spoke and you wanted to see if we could come forth with a plan, we submitted the plan we have the engineer here to

Conti: I think we all got our plans and the booklet for this. Because originally you were looking for how many spots originally, it's been a long time.

Nezgoronov: So, I think when we first came in, I think I mentioned that hey we're are looking to pave the space between the church and the pastors house and it was a little over I think we talked about up to 16 spots. But you said Hey you need to and we were looking for relief of 360 100 which is the green variance and I think that was too many spots so I guess we were trying to see if we would get approved before we go and spend all the money on site plans and layout and you mentioned we really needed to see this and I think we are glad we did that. Because we found out what is allowed to code, I think we are able to get about 8 parking spaces adding handicap spaces and then that actually decreased the green vs the I guess its impervious

Conti: Sir come up to the microphone please

Andrzejewski: When the church sketched it out, they had parking everywhere and anywhere to kind of maximize it which I get it. But when we actually laid out the parking spots to areas no bother paving you can't stick a car in that corner so that's why we came up with the new calculations that we did.

Conti: I should ask you that can you state your name.

Andrzejewski: Chris Andrzejewski Milex Engineering Civil engineering they hired.

Conti: Ok

Andrzejewski: So, with that increase of the pervious area is about 5% total lot size. And what we did I don't know if you want me to speak to the storm water?

Conti: Absolutely

Andrzejewski: So, the storm water drainage just having a sheet flow from the parking lot up to the north west corner of the lot in front of the pastor's house. We are going to put in a small shallow detention basin to manage the 10-year storm it will hold 10-year storm and that will be connected to a bio retention filter and that will go to the DOT system along Buffalo Street there. They will have to install a new catch basin on the road and that's where the connection will be from. The site to the storm water. We modeled the 10 25 with a 100-year storm and the 100-year storm is like .01 cfs we are that close it's almost having 100-year storm too.

Conti: Ok. Now you're staying you're putting a retention pond in front of the pastor's house or along the side?

Andrzejewski: Along the side it's on the south side there's like a sidewalk that goes up to building

Conti: Ok

Andrzejewski: Right to the left of there I am sorry right to the right there as you are looking at it. It's just a small depression it can be mowed it will be green just an under drain so when the water fills up it will be cleansed

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through the sand media it will drop down to a pick-up pipe on the bottom after its cleansed and then it will go to the DoT system.

Conti: So, it's not a standing pond per say

Andrzejewski: Correct

Conti: So, it's just going to be a green depression

Andrzejewski: It's a detention pond to retain water but it's not a wet pond

Warnick: Right

Conti: Ok

Warnick: So, about 2 feet deep then

Andrzejewski: About yep

Warnick: Yeah. Ok if its full

Andrzejewski: Yep

Conti: When you say 2 feet deep

Warnick: If it's 6 9 63 9.5 down to 63 7.5 at the lowest spot

Conti: Ok

Warnick: The dirt I am assuming once it's covered

Andrzejewski: It's just like a slight depression I think we got 3 on one slope they will be able to mow it and you know.

Conti: And what did that decrease as far as the green space?

Warnick: Yeah, I am trying to figure that out too.

Andrzejewski: About 5%

Warnick: From that area though not of the whole total property

Andrzejewski: Just of that site 1.0...

Warnick: Just at that site so 5% of that site you have eliminated not 5% of the total coverage of what they got as green space

Andrzejewski: It's the 1-acre site 1.04-acre site is what we are looking at

Conti: So, you're looking at the whole address the whole actual parcel of land not just where you are putting the parking lot.

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Andrzejewski: Oh correct, correct.

Conti: The whole parcel of land your dropping 5%

Warnick: So how much what's how much green space is on the property after if this was approved and completed.

Andrzejewski: Percentage wise?

Warnick: Yeah

Andrzejewski: Hold on

Nezgoronov: I think its page 2

Andrzejewski: Let's see we are going from 12,390 square feet to 10, 415 square feet for pervious impervious were going up 32882 to 34857. So, it shows the square footage then of percentage of developed and undeveloped as 73% developed or pervious to 77%

Conti: So, 4%

Gallo: That's kind of a boxed in area. Where will snow plowing where will that go?

Andrzejewski: The snow push will go over toward the detention area up in the front on the grassed area the green area we left some green space up along the building

Gallo: By the persons house? In from for the persons house would that be what you would say it would go here?

Andrzejewski: Yes, and you could also to the south of the park area there in between the church and the park that will be green space.

Warnick: In front of the church on the west side you are talking?

Andrzejewski: I think it's the south side

Warnick: The west side of the church is what I was talking I think you are talking about south side

Andrzejewski: South side to the asphalt drive is right here push snow there but yep that's the east side to so along the east there would be green space where they would push the snow. So, the east and then this is the pastors house right over by the detention area

Warnick: Yeah, I got that

Conti: So, the snow would be pushed toward the house

Warnick: It would be pushed to the pond over top of the pond and then to the this is asphalt drive so they gotta plow to here so it would be right

Conti: To the full area here before the concrete walk

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Nezgoronov: So right now, we are coming in and we are plowing up against the church so there's a driveway to the pastor's house so we are coming in we are putting the snow here and we put snow on this side so instead of like there's not it's a small space so we would be putting the snow in where that detention pond is

Conti: For just those parking spots basically

Nezgoronov: Parking spots and then when we enter, we would have to push through and just put it in front of the church.

Conti: Ok

Nezgoronov: So were going were coming in and we are always pushing the snow in here. So, once we come in, we can put the snow in from this parking we put in front of the pastor's house.

Everyone Talking

Warnick: I really have a hard time believing that they are at 77%

Conti: Because behind the church building to the what side is that here top part here to the north side of the church and to the east side of house is that all grass land there?

Warnick: It's where sub lot 8

Nezgoronov: Sub lot 8 sub lot 6. Sublot 8 yes that's green and then in front is also green

Warnick: So then behind it is black top

Nezgoronov: Sublot 6 is green subplot 8 green

Conti: So, it's all green almost around that side there that part of the church there. So can you whoever knows the property best come up here. So, this is green this is all green behind the church there correct

Nezgoronov: Correct

Conti: Sublot 8 is green

Nezgoronov: Yes

Conti: And this is green here

Nezgoronov: Yeah, that's green right here

Conti: So, what's changing is going to be this area right here.

Nezgoronov: Yes

Conti: Ok so this is all green here right behind this is green this is all green and then this section is green

Nezgoronov: Yep.

Conti: It's just going to be right starting here it's just going to be those spots here then correct

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Nezgoronov: Yes. And I think before what we did I did right as we were looking at this, I would take this I would say hey were going do everything up to here and go into here

Conti: that's what we originally right

Nezgoronov: And we said no because again we were glad that we had him and he said Hey we need to do this be able to have enough space we have extra handicaps because we going to have an exit entrance in here.

Conti: Right for handicap parking

Nezgoronov: That's the addition that we have been building to expand that.

Conti: Right alright. Ok you can go back over there.

Warnick: I have one question how come you didn't think to put the spots in the back of the church?

Nezgoronov: Say it again

Warnick: How come you didn't think to put the spots in the back of the church where

Conti: Where subplot 6

Warnick: Sub lot 6 I am just curious

Nezgoronov: So, the entrance to there we have I believe it's I don't want to say Town but we have the sewer line going through there and we have clean outs and I think it's an access for electrical lines and then the fence for the neighbors we put up the fence it's very close

Warnick: 22 feet yeah was just curious why that

Nezgoronov: We tried several different ways

Conti: Ok. Anymore questions?

Gallo: Nope

Conti: Dave?

Warnick: Nope

Conti: Do you have anything else you want to say? Ok you guys can have a seat. Thanks. I guess I don't have to ask if anyone else has anything else to say because there is nobody else here. I would like to close the open meeting. Any discussion within the board? If not, can I get a motion. And realize that all we are approving tonight or disapproving but all tonight is for the green space because at that point you have to go in front of the Planning Board and this all would have to go in front of the Planning Board at that point if it goes beyond tonight.

Andrzejewski: Another submittal?

Conti: Well that I don't know.

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Serianni: I am sorry what was the question?

Andrzejewski: Would it be another submittal if you approve it would be the same packet as this

Serianni: Yes, it would be a separate submittal but site plan approval to the Planning Board. I also I don't know if its clear for the record but I just want to request has been modified from 94% to 75 correct for the green space

Warnick: Its 2 foot deep I mean but my only concern is that with the run off that was my only concern because its close to the sidewalk its in the front of the building I know that there's not other place you can put it based on the that was my only concern. But when I originally looked at it, I thought it was going to be like 3 feet deep which its not its 2 which still

Gallo: It would then have a connection to the

Warnick: The sewer. That was my only concern aesthetically what it looks like

Andrzejewski: DOT in order to make that connection.

Warnick: Into the sewer yeah.

Andrzejewski: We included the prep safety diameters our curb sheet and we a kind of all set to apply.

Conti: Ok hear a motion from the board?

Warnick: I propose we approve I don't have paper work in.

Conti: The approval would be for the green space

Warnick: Green space variance to the property Evangelical Christians church on 5861/ 5863 Buffalo Street as the permit is written which we don't

Conti: I don't know if the permits written I would say that it's going to be as predevelopment green space 12390 square feet to post development of 10415 square feet correct that's

Warnick: Yeah

Conti: That's the pervious area.

Warnick: Yeah

Conti: So that would be what were looking at approving.

Serianni: Can I add

Conti: Absolutely

Serianni: The request with regards to the variance has to do with the percentage of non or approved space or non-green space on the site per the code the limitation is 70%. So, the variance request is from 70% to 77%.

Conti: Ok. Ok. So, it would be from 70% to 77%

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Gallo: 73-77

Conti: Well 73 was they changed the way that land is listed from business to

Serianni: Traditional neighborhood so at 73% the state that it is in currently it's considered a non-conforming use just because

Conti: It was grandfathered

Serianni: It was before the Zoning code was enacted but the variance is from 70 to 77

Gallo: Ok thank you!

Conti: It would be going from green space of 70 to 77%. Can I get a second for that motion

Gallo: Second

Conti: Mark. All in favor

Members: AYE

Conti: Opposed. Lisa poll the board

Wisnieski: David Warnick: AYE Mark Gallo: AYE Joseph Conti: AYE

Conti: Ok you have been approved at this step for your green space now you talk to the building department to go ahead with the planning staged of it.

Andrzejewski: Thank you so much.

Conti: Thank you!

Members talking

Conti: Alright any other questions from the board? I would like to officially welcome Mark Gallo to our board he was approved by our Town Board Rob's our representative last night. There is usually 5 of us here unfortunately the others are sick. But welcome

Gallo: Thank you!

Conti: I would like to have a motion to close the meeting.

Warnick: I motion to close the meeting.

Gallo: I second

Conti: All in favor

Members: AYE

Respectfully submitted by



Lisa Wisnieski
Building Dept Clerk



Joseph Conti
Chairman