

ZONING BOARD OF APPEALS

**Town Hall 1375 Ridge Road Lewiston New York
Thursday – July 11, 2019
ZB 2019-7**

Present: Conti, DeCastro, Heuck, Machelor, Maggard

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of June 2019, was made by Heuck, seconded by Maggard and carried.

Machelor: If you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to grant or deny 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 a denial to prohibit the project as presented.

The first item on the agenda was a request from Donald & Jeanette Stump, 450 Tryon Drive, SBL# 101.06-2-42, for a variance from Section 360-38 (1) (2), yards required front yard depth of 30' to come an additional 3' to have a 27' front yard setback to allow construction of a new front porch. The property is presently zoned R-1C, one family residential.

Jeanette and Donald Stump, 450 Tryon Drive.

Machelor: Mrs. Stump briefly describe your petition of what you would like to do.

Stump: Currently our home is approximately 50' wide and the porch is a small pad which is 4'x7' goes to the building line. We are requesting a 3' variance in order to build a small addition on the front of the house that would permit us to have a coat room and entry way to the house. Currently we don't have a proper entrance for our house, you come directly in to the living room. There is a small platform that's raised about a foot above the floor and it's to me somewhat hazardous becausewinter take your coats off and your boots and everybody is balancing on the side and so you have to enter right in to the living room on the hardwood floor. We're requesting this variance that would push out the front of our house approximately 3' beyond what is currently there which is a 4'x7'.

Machelor: This is a structure, right?

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Stump: It's an enclosed structure when completed about 7'x11' and then on the side would be a porch that would go the remaining distance. The other side is a garage.

Machelor: Sometimes we get pictures and drawings and so on so it's easier for us to understand what you're up to. Your house is built within how many feet of the property line? It's on an angle.

Stump: It will be 3 more feet beyond the building line. It will be 30.58' from the street line.

Discussion over survey

Seaman: It's my understanding the current doesn't have a specific number based on the average.

Conti: It says 30' right here.

VanUden: 30' or in line with other existing homes. They have an existing 4' now and they want to come out 3' more.

Stump: The existing platform will no longer be there. It would be replaced by a foundation that's 3' larger.

Machelor: The writing says you request a variance of 1-2 yards requiring front depth of 30' to come an additional 3' to have a 27' front yard setback.

Heuck: That's the way it was worded yes.

Machelor: Thank you. Does anyone else have anything to say on this project?

Public hearing closed.

Maggard: I would like to know if there is any other means on which this benefit could be achieved?

Stump: Technically you could, I'm not sure if we could go out the side of the garage and put another distance on the garage and then go up 2 flights to create an entry in the front that would afford us entering through the garage and in to our living room this way and create a space in the garage.

Mr. Stump: But then the garage would need to be added on.

Stump: Then we would need a variance for the other side

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Maggard: I wouldn't think that would be conducive to what you're trying to do.

Stump: Technically I guess that could be a possibility. There really isn't any other possibility.

Mr. Stump: It wouldn't be practical cost wise.

A motion to approve the variance request per code Section 360-38 was made by Heuck, seconded by Conti and carried.

Heuck Aye, Conti Aye, Machelor Aye, DeCastro Aye, Maggard Aye

The next item on the agenda was a request from Michael Opalinski, 2832 Lower Mountain Road, SBL# 104.00-2-15 for a variance from Section 360-185 E, Accessory uses and structures to allow for a pole barn from the maximum height of 18' to be 24'. The property is presently zoned RR, rural residential.

Michael Opalinski: Basically, I recently purchased the property on Lower Mountain Road. I would like to put up a pole barn behind the intended house that I'm building. The pole barn itself will be approximately 250' back from the road. The main use for the pole barn is I have an RV I want to be able to store indoors. I don't want to park it outside. The RV is a class A and it's 12.2'. I met with 2 different builders both Parco and Morton. Parco came in basically with the lowest height that we could put in, in order to pull the RV in to the building and still be able to have the door raise and get the RV in. The barn basically will be used to store yard equipment and stuff for the property.

Machelor: Are you paving?

Opalinski: Yes. There is nothing there right now. It's actually an empty lot.

Machelor: So actually, you are going to put a paved driveway back to this building?

Opalinski: Correct. I'm currently working with Shawn Schott as far as building a house on the property too.

Conti: Are you doing the house and the barn together?

Opalinski: The house and the barn. The house will probably be started first. Shawn will probably be out within a week or so to start clearing the weeds and stuff like that and make some determination as far as the land itself. One of the concerns is because the amount of rock that's on the property. Not sure from a foundation stand point what type of foundation we will be able to put in. The house itself will be a single-story ranch, no basement and then the barn will be behind it.

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Machelor: That will be a concrete pad also?

Opalinski: Yes, both will be concrete pads.

Machelor: I have to say we have heard these requests before because it seems the peak of the roof in order to be able to get a door.

Opalinski: That's really the problem is to be able to get the door in because the RV being 12.2' tall and then with the air conditioning and everything else that's on, you have to have at least a 14'-16' door. With a 3/12 roof basically that portion of the roof will be 24'. Morton actually wanted to go a little bit higher than that. In talking with both Pete from Parco as well the gentleman for Morton, Parco seemed to be the best alternative for that.

Machelor: Who are your neighbors?

Opalinski: On one side, Joan and Curtis Davis. I met with them about 2 weeks ago and let them know what I would be building there. They seemed to be okay with it.

Machelor: What do they have? Do they have any structures besides a home?

Opalinski: Just a home.

Machelor: What about the other side?

Opalinski: The other side I believe the property is, I'm not 100% sure but I believe the property is condemned. The house that's there is in really bad condition.

Machelor: Are people living in it?

Opalinski: I don't believe so. It was Edward and Patricia Mussal. I believe they are no longer living there. I met with Tim and he had mentioned that he didn't think anybody was living on the property next door.

Conti: Is the lot you have now is it treed?

Opalinski: It has trees on it and a lot of scrub.

Conti: Where the proposed barn is going to be will trees be left in front of it? Kind of shelter it from the road?

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Opalinski: There may be some trees in front of it. The barn itself is going to be 250' back from the road. The property itself is almost 1,100' deep. I'm moving the barn back as much as I can. I would like to leave some woods in the back. I don't want to tear everything down.

Machelor: I think Joe's point is we like to keep as much greenery as we can. If you can save some trees.

Conti: It's 30' from the lot line?

Opalinski: 30' from the lot line correct. That can be moved. Basically, at this point I'm meeting with different builders to see where is the best place to put it.

Machelor: The illustration we have appears to have greenery behind where you are putting it as opposed to in front of it.

Opalinski: If you go far enough back there will be greenery in front and behind it.

Machelor: Questions? Is there anyone here that would like to speak to this project?

Public hearing closed.

Seaman: Before you make a motion, you need to do the SEQRA declaration which you could rely largely on your building code that Tim Masters has already provided for you in the packet. Officially you are the Lead Agency so you can make the negative declaration if you're going to follow what Tim has recommended. There should be a motion first on SEQRA. If you are inclined to follow what Tim's recommendation is because he has already analyzed it, what I would recommend is you reference Tim's information and what he's recommended and move for a negative declaration, that there is no significant or adverse environmental impacts with regards to SEQRA. This one is a little bit different because normally you don't have to do it for variances in terms of front yard and side yard variances. This is a height variance and it just puts it in a strange category. That is why you have to do the SEQRA on it.

Heuck: Is the applicant familiar with SEQRA?

VanUden: He filled it out.

Heuck: That doesn't mean anything. Is he really knowledgeable? You don't have any questions about the SEQRA?

Opalinski: As far as environmental impact I know one of the concerns obviously is the height of the building. At the height it's going to be at there should not be any impact in terms of

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environmental. I know that there is an individual that has a private airport further back but I don't believe that would impact it.

**A motion to accept Lead Agency on the SEQRA for a negative declaration as presented by Tim Masters was made by Conti, seconded by DeCastro and carried.
Heuck Aye, Conti Aye, Machelor Aye, DeCastro Aye, Maggard Aye**

**A motion to approve whereas the Zoning Board of Appeals finds that pursuant to the prior discussions that the benefit to the applicant out weighs the detriment to the health, safety and welfare of the community was made by Conti, seconded by DeCastro and carried.
Heuck Aye, Conti Aye, Machelor Aye, DeCastro Aye, Maggard Aye**

The next item on the agenda was a request from Dennis Hannon, 2844 Albright Road, SBL# 90.00-3-37.11, for a variance from Section 360-185E, Accessory uses and structures to allow for a farm storage building from the maximum height of 18' to 22'. The property is presently zoned RR, rural residential.

Machelor: Please state your name.

Dennis Hannon, 2844 Albright Road, Ransomville: My project is very similar to the previous gentleman. It's a farm storage building and I'm requesting a variance to go from 18' it's going to 24' just because I didn't know the truss height at the time when I filled it out. It's an additional 2' so it will be from 18' to 24'. The reason being is a 14' door requires a 16' side wall to bring hay equipment and any ag machinery to get it in the door.

Conti: That is part of your farming equipment for your land.

Hannon: Correct. The building is 35'-40' away from the property line and it's roughly 700' from the road.

Machelor: What else is on the property?

Hannon: There are 2 other barns currently there.

Machelor: It's unclear to me what this is. Can you come up and show me?

Looking at survey

Hannon: This is my home right here. That is a farm lane.

Machelor: How far from this property line would your barn be?

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Hannon: About 30' plus.

Machelor: Have you talked to the neighbor about this?

Hannon: I have not. I've seen her a few times. I believe she got a notice for the hearing.

Conti: They've been notified.

Hannon: I have other buildings very similar to this. It's a stone road.

Machelor: This home is built very close to the property line.

Hannon: It's pretty close.

Machelor: You use this gravel road every day.

Hannon: Yes, every day.

Machelor: What is the size of the building?

Hannon: 42'x64'.

Maggard: You mentioned you have more buildings on your property?

Hannon: I do.

Maggard: How many more are there?

Hannon: Two other barns.

Conti: The amount of buildings is not in front of us, it's just the height of this one.

Public hearing closed.

A motion to take Lead Agency on the SEQRA for a negative declaration was made by Conti, seconded by Heuck and carried.

Heuck Aye, Conti Aye, Machelor Aye, DeCastro Aye, Maggard Aye

A motion to approve the variance request with the amended new height of 24' and whereas the Zoning Board of Appeals finds pursuant to the prior discussion that the benefit to the applicant outweighs the detriment, health, safety and welfare to the community was made by DeCastro, seconded by Heuck and carried.

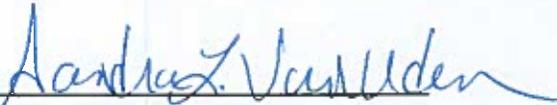
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Heuck Aye, Conti Aye, Machelor Aye, DeCastro Aye, Maggard Aye

The next meeting will be August 8, 2019, at 6:30 P.M.

A motion to adjourn was made by DeCastro, seconded by Maggard and carried.

Respectfully submitted,


Sandra L. VanUden
Zoning Secretary


Norman Machelor
Zoning Chairman

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 July 11, 2019, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following applications:

Donald & Jeanette Stump, 450 Tryon Drive, SBL# 101.06-2-42, requests a variance from Section 360-38 (1) (2), yards required front yard depth of 30' to come an additional 3' to have a 27' front yard setback to allow construction a new front porch. The property is presently zoned R-1C, one family residential.

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Dennis Hannon, 2844 Albright Road, SBL# 80.00-3-37.11, requests a variance from Section 360-185 E, Accessory uses and structures to allow for a farm storage building from the maximum height of 18' to be 22'. The property is presently zoned RR, rural residential.

Information concerning these requests are 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.

Norman Machelor
Zoning Chairman
#N251965

7/4/2019