

ZONING BOARD OF APPEALS

Town of Lewiston 1375 Ridge Road Lewiston New York

Thursday – July 9, 2020

Present: Conti, DeCastro, Heuck, Machelor, Maggard

Presiding: Norman Machelor, Chairman

Machelor: I would like to call the meeting to order and ask everyone if you are able to stand for the Pledge of Allegiance please do.

Pledge of Allegiance

A motion to approve the minutes of June 11, 2020, was made by Conti, seconded by Heuck 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 will grant a variance to continue the project or denial to prohibit a project as presented.

The first item on the agenda was a request from Stephen & Sally Guiliani, 4234 Dickersonville Road, SBL# 75.00-2-16 for a variance from Section 360-53E (1) Area and dimensional standards, to come 11' closer to the road to allow for a front porch. The property is presently zoned RR, rural residential.

Machelor: Please come up and give us your name and address.

Steve Guiliani, 5234 Dickersonville Road.

Machelor: Describe what you would like to do.

Guiliani: Basically, we want to take the front of the house and extend out beyond where the existing porch at 11'. Our existing porch is 8'x7' and we want to continue the front look of the house out to 12'x29' width to cover the whole front to carry that out with a steel roof with a gable end facing the street.

Conti: You're actually going from the existing 8' porch

Guiliani: No, total from the house would be 14'. Apparently, what has happened and we didn't know this, when we bought the house that 8'x7' is what Tim called a pre-existing non-conforming, it was supposed to be 3' and it's 8'. All we want to do is continue to 12', well actually 14' includes the steps.

Conti: So, you're going to go 9 additional feet without the steps?

Guiliani: Yes.

Conti: With the variance you are requesting do you know how close you are going to be to the front?

Guiliani: From the property line to the existing house is about 42'. I'm a little confused on that because this variance is involved in the gas line. There is some type of easement or something with National Fuel. I'm not exactly sure where we're supposed to measure from. I took from the property line stakes to the house. That distance, you still end up with about 15' to the edge of the road from those stakes.

Conti: You are going 42' from the stakes to the front of your house now to 31' with what you are looking at right with the stairs?

Guiliani: Yes.

Machelor: The stairs don't count do they?

Conti: I'm not sure, do the stairs count?

Seaman: I'm not sure that, I'm sure what you're saying is correct, I'm not sure that is where we would measure from. It would be the road right-of-way. The note I have here says you will be 63'.

Guiliani: There is a lot of grass between the pavement and what they are calling the property line based on where the property stakes are.

Conti: We go by the property line correct?

VanUden: Where the stakes are.

Seaman: His property line runs to the middle of the road actually. The right-of-way would be 33' to the middle of the road.

Heuck: How close is that going to get to the right-of-way from National Fuel? Do you know how far from that you can build?

Guiliani: I don't actually know where the gas line is.

Seaman: You have an easement. It's marked on here. It doesn't look to me that it will be an issue. If you look at your survey there is quite a bit of room between the existing porch and right-of-way. But you will want to make sure.

Machelor: Do you have neighbors on both sides?

Guiliani: Yes.

Machelor: We don't see where their buildings are. Are you going to be significantly forward of where their buildings are?

Guiliani: The one to my south would be a foot behind. The one to our north sits way back behind us. That's the old Slipko house. That one sits way back; they are actually behind our house. The closest one to the street on either side of us, we would actually still with that porch be a foot behind them.

Conti: With this variance you will be 31' from your stairs to the easement? Another 20' until you get to the Town property.

Guiliani: Yes.

Maggard: 51' total. At this particular point in time you have no roof on this porch?

Guiliani: No. Basically, what we are doing is future planning for us. I use a cane. We want to raise that porch about 4" down to make it match to the door entrance so that if need be it could be a roll in and out of the house without any issues. We would like to make it bigger also and roof it so that we could actually use it like on hot days like today. We would be able to have shade and things like that. It would become a more functional porch for us. 8'x7' isn't very big for 2 people.

Machelor: Any other questions from the Board?

Maggard: Is there any other way, I see on both sides of your house I see a space. Is there any other place you could put the porch and have it convenient for you?

Guiliani: No, one is the garage, the one to the north is the garage and driveway and on the other side is my son's bedroom. That little L, the gas meter is there and on the east west wall is our bedroom.

Maggard: Okay, thank you.

Machelor: This is a public hearing. Is anyone else here to speak about this issue?

Public Hearing closed.

A motion based on the Board's discussion and the following considerations, 31' from the road, the Zoning Board determines that the benefit of the variance to you outweighs any detriment to health, safety and welfare of the community that the variance request is the minimum necessary was made by Conti, seconded by DeCastro and carried.

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

Conti: As our attorney said please check with National Fuel to make sure it's not an issue before you start doing this.

The next item on the agenda was a request from Colin & Susan Smith, 4698 N. Fifth Street, SBL# 87.18-1-17 for a variance from Section 360-38, Yards required from the required 11.25' side yard setback to 6' to allow for a 12'x34' addition. The property is presently zoned R-1, one family residential.

Machelor: Please state your name and address for the record.

Colin Smith: I want to add a second garage, a car port type garage to a one garage home.

Conti: It's a car port not a garage?

Smith: It will be ultimately a garage but it will be open at both ends, if you call that a car port, open at both ends.

Conti: There is no garage door?

Smith: There will be a garage door in the front for decorative purposes and it will be open in the back.

Machelor: Mr. Smith do you have neighbors on either side of you?

Smith: Correct and both have expressed no concern or reservation.

Machelor: How many feet is your house from your side yard?

Smith: 18' I believe all together.

Machelor: From your current house to your property line on the north you say it's 18'?

Smith: Correct.

Machelor: You want to use 12 of the feet and that leaves only 6' on the side.

Smith: Yes.

Machelor: You said when you were talking, are you building this over top of an existing garage?

Smith: No.

Machelor: Is it there now?

Smith: There was no garage. I was here last year at this time and had it approved and I was delayed in implementing the plan, my fault and I didn't realize the 6-month restriction. I'm reinitiating last year's request.

Seaman: Is there a fence along that line?

Smith: Yes, along the north side, I installed a fence.

Seaman: Is that going to remain?

Smith: Yes. It runs along the property line.

Maggard: You have a single garage now?

Smith: Yes.

Maggard: It's all enclosed?

Smith: Correct.

Maggard: You are adding on the addition and the back side is going to be open?

Smith: Yes.

Conti: Look at the picture in the packet.

Machelor: Any questions? Thank you. Is there anyone else that would like to speak to Mr. Smith's project?

Public Hearing closed.

A motion to approve the variance request given the benefits outweighs the detriment, it's not a substantial request was made by Maggard, seconded by Heuck and carried.

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

Smith: I have a question. I delayed last year and eventually the weather just caught up with me and I put it off and then I found out about the 6 months. If I were to do a drive-way addition does that constitute shovel in to the ground?

VanUden: No.

Conti: You have 6 months from today to get a building permit. Then you have one year from the building permit to get it completed.

The next item on the agenda was a request from David & Kari Valente, 1052 Upper Mountain Road, SBL# 102.18-1-9.1 for a variance from Section 360-38, Yards required B, from the required 15' setback to be 7' to allow for a generator. The property is presently zoned R-1, single family.

David Valente, 1052 Upper Mountain Road.

Machelor: It's pretty self-explanatory what you want to do. Do you want to explain it further?

Valente: The power goes out quite often on Upper Mountain Road. A few years back we had water damage from the sump pump going out. The power was out for several hours. A couple of weeks ago our power went out again during the rain storm. I was down there bailing water until 2:30 in the morning. I told my wife we need a generator. Good thing it happened at night when I was home. During the day we would never know.

Conti: The generator is going to take up 8', is that with..

Valente: The generator width is 3', it has to be 5' from the house, then 3' for the generator width and then because I'm closer to the road I think the variance is 12' but I only have 16' to the property line so that would leave 8', so I'm short 4'. The one side is my aunt's house and the other side is my father's house.

Heuck: You had it as 48" wide now you're saying 3'.

Valente: Is it 48"? That was filled out I thought it was 3'. That was filled out by the contractor that is doing it.

Heuck: The pad is 48" to accommodate the generator which is 3'.

Machelor: That pad is 5' from the house.

Conti: It has to be.

Valente: I have a kitchen window there and it has to be 5' from a window. If it was a solid wall, we would be able to put it right up to the house.

Maggard: There is no other place to put it?

Valente: On the other side of my house I have the driveway and behind my house we have a gazebo and pond.

Machelor: Your service goes to that side now?

Valente: The service is on the driveway side. What they are going to do is they will run the electrical transfer box will be in my cellar and that will run out to the generator and then there would be a gas line that they put through that will tie in directly to the gas meter.

Heuck: Did you take a look at all the other alternatives that you have available to you such as water driven sump pump?

Valente: Yes, we did. We took a look at that and we had JR Swanson come over to the house. We had a hot water tank put in and we had him take a look at it because he put a new pump in for us. Our hole is not big enough. They would have to, the cost of digging all that out to make it wide enough to put one in he gave us a quote for over \$1,000. For that. I'm thinking okay we can do that and there are other alternatives with going with battery backups for the sump pump but my brother-in-law has one and he says it's nice especially during the summer if the power goes out your air will still keep running, your lights will be on if you want to watch TV. We are figuring if we go \$1,000., a generator is going to cost \$8,000. Fully installed with the building permit so we figured we would go that way. This way we have more options. The house would be totally functional during an outage. That's what we decided to do.

Machelor: I see no one out there.

Public Hearing closed.

A motion to approve the variance request that the benefits outweigh the detriment to the neighborhood was made by DeCastro, seconded by Heuck and carried.

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

The next item under previously tabled was Al Bax, Elliott Drive, SBL# 102.13-2-52 for construction of a garage addition.

Public Hearing opened

Machelor: This is the second time that we've addressed this issue. No one came last time either so we tabled it until this time. Has the owner been notified Sandy?

VanUden: Yes.

Machelor: What did he say?

VanUden: I sent him a notice that we tabled it, and then I sent him a notice for this month. I never hear from anybody.

Machelor: He didn't say he wasn't coming?

VanUden: No.

Machelor: What is the Board's opinion? What should we do?

Conti: He's too close to the lot line and unfortunately, he's not here to address the issue to see if we can work something out to make it, to bring the substantiality down. We did this last month and he was re-notified that we tabled it and he got re-notified that he needed to be here.

Heuck: He was given fair notice.

Conti: He's gotten it twice.

Machelor: I'm looking for a motion.

Conti: There are 3 things you can do, you can deny it, you can accept it or you can table it again.

A motion to deny the variance request based on the Board's discussion whether the benefit can be achieved by other means feasible to the applicant, we deem it cannot be but he's not here to guide us one way or the other and this is our second meeting. Undesirable change to the neighborhood, character or detriment properties, it is bringing his building much closer to the property line so we feel that is undesirable. Whether the request is substantial. It's very substantial, he wants to go within 5' of the lot line. Whether the request will have adverse environmental effects, without him being here I do not know that answer. Whether the alleged difficulty is self-created, from what I can tell it is, he has created the situation. Again, without him being here we can't know any more than that. The Zoning Board determined that the detriment to the health, safety and welfare of the community outweighs the benefit of the variance to the applicant and the variance be denied was made by Conti, seconded Heuck and carried.

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

The next meeting will be August 13, 2020, at 6:30 P.M.

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

Respectively submitted,



Sandra L. VanUden
Zoning Secretary



Norman Machelor
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 9, 2020, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following applications:

Stephen & Sally Guiliani, 4234 Dickersonville Road, SBL# 75.00-2-16, requests a variance from Section 360-53E (1) Area and dimensional standards, to come 11' closer to the road to allow for a front porch. The property is presently zoned RR, rural residential.

Colin & Susan Smith, 4698 N. Fifth Street, SBL# 87.18-1-17, requests a variance from Section 360-38, Yards required from the required 11.25' side yard setback to 6' to allow for a 12'x34' addition. The property is presently zoned R-1, one family residential.

David & Kari Valente, 1052 Upper Mountain Road, SBL# 102.18-1-9.1 requests a variance from Section 360-38, Yards required 8, from the required 15' setback to be 7' to allow for a generator. The property is presently zoned R-1, single family.

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
#N270094

7/2/2020