

ZONING BOARD OF APPEALS

**Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – June 13, 2019
ZB 2019-6**

Present: Conti, DeCastro, Heuck, Machelor, Maggard, Attorney Seaman

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

Machelor: If you would read the minutes from May 9, 2019 and let me know what you think. I've read them.

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

Machelor: If you've never been to a zoning meeting before the purpose of the zoning meeting is to determine whether or not the things that you asked for, the project you would like to do are permitted within the Town Code. If they are not permitted in the Town Code to establish whether or not a variance should be granted to vary from the Code in order to allow you to do your project, change the project or deny it.

The first item on the agenda was a request from Eran Colbus, 4018 Dickersonville Road, SBL# 75.00-2-7.2, from a previously approved front yard setback of 37'' to now be 35' to allow for a front porch addition. The required front yard setback is 40'. The property is presently zoned RR, rural residential.

My name is Senora, I'm the representative for Eran Colbus, he's my husband.

Machelor: Tell us what you would like to do.

Senora: We came before this same Board last year and requested a 3' variance so that we could build a front porch on to our house and we were granted that. Since then we have talked to contractors and once they told us that would include the railings and everything else, they recommended that we ask for an additional 2' so that it's not too wedged in. So, I'm asking for 2'.

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Machelor: You got a 3' variance last year and now you're asking for a 2' variance? Is it a misprint or is it true that your home is about 178 years old?

Senora: It's true, 1840.

Heuck: I believe at the time that we did approve it that we were ready to give you I think the additional footage that you were requesting at that time but then it got compacted.

Senora: We originally wanted to 10'-12' and we compacted that because I guess there was some indication that would not work, so I squeezed it down as much as we could but honestly that's barely enough room for us to get furniture out on the porch. That is why we are coming back to request something in the sweet spot in the middle.

Heuck: I also remember that the road way was changed which reduced your front footage?

Senora: Yes. That curve on Dickersonville road was originally our property.

Conti: With the 3' we gave you last year, how far are you from the front then?

Senora: Right now, we are at 43' without the porch. But we are seeking to do an 8' porch so that's why we need the extra 5'.

Machelor: You're 43' back right now without any building?

Senora: Yes, without anything.

Machelor: So, if we gave you the 3' add the 2', so.....

(discussion over current setback)

Conti: She is at 37', she's looking for an additional 2' would bring her to 35'. The first 3' is within code. We already approved her for the other 3' last year so that got her to 37', this 2' gets her to 35'.

Senora: We haven't built the porch yet.

Machelor: Say it again....

Conti: Right now, you're 43' back without a porch, the Town zoning law says you can go up to 40'. We approved you 3' last year which gets you to 37' and you're looking for an additional 2' to get you to 35'.

ZB 2019-6B

Senora: Correct.

Machelor: Then you will end up with an 8' deep porch.

Conti: Yes, that is what they want.

Senora: We originally wanted 10'-12' but we're trying to find the sweet spot.

Maggard: You mentioned the neighbors around you were about the same distance?

Senora: Yes. Our house pre dates them by 150 years. It wouldn't be out of keeping with the neighborhood as far as setback.

Heuck: To me with the change in the road way which really affected their depth from the original cart path or stage coach back then. It does have a bearing as to the non-self-created problem that she faces.

Conti: How much road did they take?

Senora: A half-acre.

Machelor: Would anybody else like to speak to this?

Close the public hearing.

A motion to approve the variance request was made by Maggard, seconded by DeCastro and carried.

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

Senora: Thank you very much I appreciate it.

The next item on the agenda was a request from Harold & Jacqueline Sutor, 719 Hillview Court, SBL# 101.12-3-39 for a variance from the required 12.75' side yard setback to 6' to allow for an addition. The property is presently zoned R-1, single family.

Public Hearing Opened

Harold Sutor, 719 Hillview Court, Town of Lewiston.

Machelor: Explain what you want to do.

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Suitor: In short, we're looking to add an addition to our existing residence, a two-car garage with a second floor which would become a master bedroom, master bath. I actually have photos, some preliminary drawings. This is newer from the Architect. The concept hasn't changed nor have the widths.

Maggard: Right now, you have a ranch?

Suitor: I guess it's like a raised ranch. You walk up and this is why I brought some pictures. You walk up to the residence and you come up 3 and you come in to the main living floor and then there is an additional stairway inside the residence, up 4 stairs that comes up to the living area which causes the issues that any Architect that I've brought in has is we have to figure out a way to transverse coming in through the garage and then creating like a little corridor in the house to get up to the master bedroom over the garage. We discussed raising the roof but there is a pitch issue. There actually is a half cellar. We discussed putting a footer out and going to the back but we have the same recurring problem. The floor is a finished basement, is actually in here. There is no, they weren't able to design a place that would not throw off the complete pitch of the roof and almost go flat because you have to come up that 4' off of the....with the current grade. We even discussed going up and have the architect go in to the second floor but you have this additional, you have to add a lot of wood, there is this 4' ceiling raise between where the bedrooms are and that so when you come up you still have to make up this 4' space that is the ceiling of the existing bedrooms.

Maggard: You're going to demolish the non-attached garage which is in the back yard.

Suitor: Yes. The new addition should you approve it won't go past the back of the existing structure.

Conti: Right now, do you know what your distance is from here to here?

Suitor: I know it's going to be a 26' addition. I was advised to request width is a 6' variance. I will have 6' between the property line. This is characteristic of most of the houses in there. I actually shot a picture of.....that's roughly 26' from the house between Passanese's house and roughly that is what the perspective would look like from the road way to show the width.

Machelor: So, you currently have a 12.75' side yard?

Suitor: Yes, and yes this would be 26' from the foundation.

Machelor: You're less than 7' from the neighbor's property.

Conti: It would be 6'.

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Suitor: Chris did the measurements for me and what I needed to add to the paper work.

Machelor: Can you tell me the difference between this drawing and this drawing?

Suitor: I think the architect.....

Machelor: It's all the same size, just your decorations.

Suitor: Yes. I think he was giving examples of trying to not have a non-pleasing look. He was trying to keep in characteristic with the roof lines where the kitchen is located so it moved over so it didn't look like you had an addition.

Maggard: Have you talked to the neighbors?

Suitor: Actually, we talked to both neighbors. Mrs. Penzotti lives to the right if you're facing the residence. Passanese lives to the left of it. All of the neighbors I had conversation with are pleased.

Conti: That is a pretty substantial variance. Some of the reasons we have the zoning laws is to keep it standard somewhat and we can usually bend a few feet here or there but we don't want it to end up looking like the city where they are 5' from the property line. All of a sudden you build 5' and they decide they want an addition now they get within 5' of their property line and before you know it, it's like a city lot.

Suitor: Understood.

Conti: Was there any other option that you looked at as far as size wise to drop the amount of variance?

Suitor: We look at a 1.5 car but the issue comes to play again is he needs roughly 5' to create the stair well between the existing residence and the garage area. You lose that additional 5'-6' plus the wall space from the garage so it just keeps pushing it out. That's why we had the discussion to go up and out towards the back, to do many different things and the best option and it wasn't, it's not the most cost effective option let me tell you but for the many different conversations we had with them to go up to go out to go back it just throws in other issues and it really is, this request is based off the continuance of the way the house was built. We actually have to make up for the problems, it's a good house foundation wise. But because of the layout of the house, 1954 when it was originally built it was towards the size. This addition isn't necessarily a luxury because it's going to be expensive. The point is we weren't really able to find something that would make even close to being cost effective. Going up was a minimum of \$125,000 because they still don't even know how to make up for that 4' lift that is the ceiling in the bedrooms. If you go up in the attic you step on the joists for the lower living

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space and then you're looking at a 4' rise to where is the roof for the bedrooms. We even discussed blowing out walls in the living room and trying to build a stair case up but you still can't make up, you have this 4' deficit. Trying to build a stair case to get up to it, the only reasonable option is to put it between the structure and the new structure, it will be part of the new structure and he's got to make up that lift.

Maggard: How deep is your lot?

Suitor: 200' plus feet.

Maggard: Have you thought about putting it in the back?

Suitor: We did think about.....

Maggard: Your attached garage pushing it back and having it higher with your bedroom.

Suitor: Yes, we did. We talked to him about if we didn't go to a second story and just push out with a footer in the back. We have to make up, you can't put the garage in the back of that because it's only a 4' raise from the second story, but you can't put cars in there because you need to make up for that 4' raise.

Maggard: How are you going to get in to your back yard? What I'm seeing here you.....

Conti: He doesn't need to because he's getting rid of the garage.

Suitor: We have 14' on the other side of the house. There is substantial area between, you can drive a car back there.

Machelor: Can you explain again why a 1.5 car garage wouldn't be suitable?

Suitor: He couldn't make up the space for the 1.5 garage to be more than a 10'x10' small bedroom.

Machelor: It's tough for us because we're not architects. We really can't deal with what's going inside. We have to ask. It is substantial. It is pretty close to your neighbor. That's why it's an issue.

Suitor: It doesn't go, if you look at the existing plan, it actually is almost the same width as the existing garage when we go to tear it down. It comes close to the property line which is what the architect pointed out. Which is why we don't want two buildings that close together anyways so the existing structure has to come down. It's because the offset of the property line comes back diagonally. That's another issue of trying to make up things.

ZB 2019-6F

Machelor: It would have been different I imagine if they had just tilted the house a little bit.

Suitor: We did consider going out the back. The problem is that you have to come up 4' and you're not going to park a car obviously.....

Machelor: Once again we can't make a decision based on what the architect says about 4' and so on.

Maggard: I don't see a problem with it at all Norm. I think that having to deal with what he's dealing with on the inside of the house he had to do this to the outside. What I'm saying to you is I would approve it. I'll make a motion to do that.

Conti: We can't do that; we have to close the meeting and ask if there are other people.

Heuck: Did this house originally have a fire in it?

Suitor: Yes, it did.

Heuck: It burned out the center of the kitchen?

Suitor: Yes. When I was moving from the Town of Niagara to the Town of Lewiston, we sold our house and they were able to push it fast, we ended up with this house because time was of the essence. As we were examining it, I find more and more problems with the way it was remedied. It is what it is so we bought it. We didn't think we would be adding on we just thought we would find another house eventually and we've been house shopping for a couple of years. We keep calling architects back and asking what can we do. It's very weird, it has this gorgeous try 4' crawl space that isn't good for a 6.2' guy. The rest of it is a furnished basement. We completely remodeled down there and it's a furnished basement but you have to make up that half of that basement. Half of the cellar is actually above ground.

Machelor: Thank you.

Discussion over pushing the addition back.

Heuck: This is so close. When it's around 50%, that's really substantial.

Suitor: We've gone round and round many times and this is the best he could come up with.

Conti: Is there anything else your architect could do to cut down.....we can work with you footage wise but to 50% and getting that close to the lot line really makes it tough. That is a huge amount to take out. Is there any way to table it and talk to him or have him come back to the next meeting to go over it?

ZB 2019-6G

Suitor: We can. Honestly, I probably wouldn't build it. We'll just go out and find a house.

Machelor: It's a lot of house for a small lot.

Conti: If he was close, we could work with that.

Suitor: We just gave up on looking and decided we'll just add on.

Heuck: Right now, the substantiality of it is really great. That's the concern that we have.

Conti: We've turned this down numerous times being that close.

Machelor: What they trying to say can you do this thing and modify it somehow other than what you presented. Can you get what you need by modifying it?

Suitor: Respectfully I'm going to say probably not and I go back to the determination for the placement of the stair well is strictly on the architect. It wasn't because we wanted it there. I kind of saw it as we just took up 5'. We didn't have a choice. We have to punch out and take away a little bit of the kitchen and re-design the new kitchen that was put in 4 years ago when we got it just for making the stair well. It's because.....the width of the new bedroom, this is the stair well coming up, the greater portion of the bedroom is only 13'x12'. It's not a huge master bathroom or master bedroom. We've gone back and forth for months trying to decide. We even looked at losing a whole bedroom. We will probably scrap this whole idea then. I don't know what else to do.

Heuck: Do you have 2 bedrooms if I remember correctly?

Suitor: There are 3. The primary bathroom is here. We investigated many options. It's solely because the way the house is built. It's so difficult to overcome it. We thought going up would be the easiest option. No one can really overcome that 4'.

DeCastro: How many times did the architect come out?

Suitor: We've had 3 different architects. Rich Reese has been there 4 times minimum. We met with him 3 times minimum at his place. I've tried every option I could possibly think of. It's cumbersome which is okay, that's my responsibility to you before you vote on it. We've tried to overcome every obstacle but no matter what we do we're making up for the pre-existing layout of the house. We're just trying to make it better for the family. It's not a wide lot but it's certainly deep. It looks like a nice park back there. It's very beautiful with a lot of trees in a nice neighborhood.

ZB 2019-6H

Machelor: Is there anyone else that would like to address this? Nobody in the audience? Public hearing closed. Any further questions? The options are that we vote on this one way or the other. The other option I suppose is that you could come back with a different plan, a narrower plan.

Suitor: My response would be we did. We looked at a one car garage, you can see with the two-car bedroom it's still only 10'x13'. It's not a massive structure up there. We did have the discussion of a 1.5 car garage. The bedroom was just too small.

Conti: It's a tough situation to be in, even for you as far as to try to get a large master bedroom and not having the width of the lot to really do what you want to do and the weird configuration of the house.

DeCastro: How many people live in the house right now?

Suitor: 4.

DeCastro: Are you all on top of each other every day?

Suitor: My daughters, my one is 16 so the bedroom is not big enough. And the other one is 9 and we live in what I will call the bigger bedroom. It's a 1950's house. I'm not complaining about it. We're just very limited on anyone that we've spoken to, it's like we have a mess. So, you either give up on your mess or you try to make it look presentable, make sure the neighbors are happy. They are all great neighbors. Not one of them had an issue with it. We reached out to them. Mrs. Penzotti's house is very large, 3,000 square foot and Cindy's which is 1,600 square foot house. It's a complicated floor plan. Overcoming it is extremely difficult for all of us.

Machelor: Thank you.

A motion to approve the variance request was made by Maggard, seconded by DeCastro,

DeCastro: I would like to say that given 50% of the setback will be taken up, I think especially if it comes out looking like this, it's going to improve the neighborhood. The neighbors on both sides don't care already. I don't know how far down the road we have to look as to whether they sell it and the new buyer comes in and doesn't like it. I think this guy is in a pretty big pickle here. He has 4 people in that little house and it seems to be awkwardly oriented. This seems like the things in his favor should outweigh the substantiality of it.

Motion failed.

Heuck No, Conti No, Machelor No, DeCastro Aye, Maggard Aye

ZB 2019-61

The next item on the agenda was a request from Joanne DeMunda, 4795 Creek Road, SBL# 101.08-3-12, for a variance from the required 15' side yard setback to 8.15' to allow construction of a garage addition. The property is presently zoned R-1, single family.

Machelor: Would you come up and give us your name and address and tell us what you are up to.

Joanne DeMunda, 4795 Creek Road. I currently have a one-car garage and I would like to build a second car garage. The dimensions would be 12' wide and 36' back. With that said I would be requesting a 7' variance. I have some drawings here if you would like to see them.

Conti: What is the setback from the new garage to the side?

DeMunda: It's currently 12'x20'. The second car garage would be 12'x36' back, allowing me some storage area in the back.

Heuck: Your side yard setback to the garage now....

DeMunda: To the property line is 15'. Currently it's 20'.

Machelor: And you're asking for 12'. That would leave you 8' to the property line?

DeMunda: Correct. I am requesting 7'.

Machelor: It says request a 5' variance from the south side of my garage on the paper work?

DeMunda: I would like to have the second car garage possibly down the road for my mother. We're just trying to plan ahead.

Conti: Here you are saying 5' but now you are saying that changed?

VanUden: She didn't write it correctly. Technically she needs 15' is the required setback. She could come over 5' without asking for a variance.

Machelor: Let's start this again, right now she is 20' from her property line. If she wanted to put 5' there she would be on the 15'.

Conti: She's at 20' she wants to add 12' so that gets her to 8'.

Machelor: She wants to add 12' and not 5'?

Conti: She wants to go 12' where the house is now. It's 20' right now....

ZB 2019-6J

Heuck: From the original garage she has right now it would be 12' more feet.

Machelor: I understood from your narrative why you want to do this. What's the possibility of having a 1.5 car garage?

DeMunda: Putting one car in there and then just enough room for storage. Currently I have a one-car garage.

Machelor: You said you're going to build your storage in the back. If you had a 1.5 car garage that would allow you to drive a car in and take your mother out of the vehicle for example.

DeMunda: I currently have a one car garage.

Machelor: What I'm saying is you've asked for a substantial amount.

DeMunda: For a second car.

Machelor: I know. That's the problem. The problem is it's substantial.

DeMunda: It's currently one car. All the half would do would allow me storage on the side as opposed to putting 2 cars in to the garage.

Machelor: That's right.

DeCastro: We also have to factor in the wheel chair ramp. That is going to take up some space.

Conti: That's a possibility for the future. That is not set.

DeCastro: Did you look in to if that were to occur how much space you would need to get that ramp in there with a car? I'm assuming if you have a ramp 2 cars aren't going to fit.

DeMunda: The ramp would be from the back up in to the house. It would be inside the garage itself.

Machelor: Damon that is the future anyways. We have the same problem as we had with the last person that came forward for a variance. The narrative is compelling but the truth is that's a very substantial request you're making. Have you talked to your neighbors about it?

DeMunda: Yes, I have one neighbor on the side. The other side of me is just an empty wooded lot. I believe it belongs to Washuta now.

ZB 2019-6K

Machelor: We always ask whether your neighbors are in for it or not.

Conti: That doesn't hold a real lot.

Machelor: It would be worse if they were against it. The point is you aren't always going to have that same person as a neighbor. Once you build this it's there forever.

VanUden: I think that side is a right-of-way to property in the back so if anything, it would be a road at some point. The wooded side is a right-of-way.

Conti: A normal two-car garage is usually 20'x20'. You're going back 36' for back storage.

DeMunda: That doesn't necessarily have to approved either.

Conti: You're within code as far as going back. It's the width going to the side. A 20'x20' you would only be looking for a 5' variance. You would still have a 10' side setback. 24' wide two car garage is a wide garage.

DeMunda: Can he come up here? He knows more.

Joe: What is it the Board would allow? We're more than flexible also. We understand you guys have a job to do. We were only asking for the 24' in the event, we don't know, that we had to put that ramp in there, it's going to take up additional space. I understand what you're saying we're approaching x amount of feet in to the property line. What would the Board be willing to give us?

Conti: You have a 12' width right now on the garage, 8' would get you 20'. You're only looking for a 3' variance at that point. My own opinion I think that would be doable. You still have 12' versus 15' from the lot line which I think is more than doable. It's not substantial.

Joe: I'm going to ask for everything and see what we can get too.

Machelor: Once you get an architect or somebody to design this.

Joe: I don't want to spend the money unless you said no....

Conti: As you saw from the last one, it's very substantial. We try to keep the lots and land in this area more like a country than city. If you went to a 20'x20' garage, you have a 12', you're adding 8', you're only looking at a 3' variance at that point which would get you a 20'x20' and 36'.

Joe: Could we split that in half then 22'?

ZB 2019-6L

DeMunda: I'm just trying to cover all grounds and possibilities of what the future can be.

Joe: Currently the gable runs north and south so we would continue the roof line north and south, the gable and probably put a one-car door in at that point. What we would also do is put a garage door on the back side to access the back yard even though we would have 15' to the wood line side, the right-of-way side. It would still give us ample amount of space to the right even if we went to 20' to get around but we're still.....

Maggard: Are you going to continue with the 36' out the back?

Joe: Absolutely. If we did decide to expand, the current garage the additional 16' along with the addition you're saying we don't have to come back to the Zoning Board? All we are here for is the side yard setback.

Conti: Yes.

Tom Seaman: It sounds to me like the Board is going to entertain a 3' variance rather than the requested 7' variance. I just want the record to be clear the Board grants this conditioned it on being a 3' variance alone or that there is a clear record that you guys are amending your application to request a 3' variance or both of those things. So just so the record is clear that ultimately you have they're looking for.

Conti: I guess we need you to state you are willing to amend your original request to say that you are looking for a 3' variance now.

DeMunda: I'm requesting we amend the variance to 3'.

Public hearing closed.

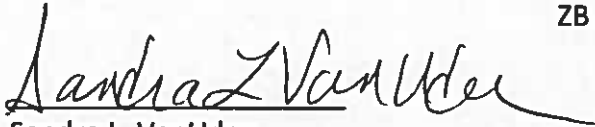
A motion to amend the variance request to 3' instead of 7', whereas the Zoning Board of Appeals finds that pursuant to the prior discussions that the benefits of the applicant outweighs the detriment to the health, safety and welfare of the community was made by Conti, seconded by Heuck and carried.

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

The next meeting will be July 11, 2019, at 6:30 P.M.

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

Respectfully submitted,



Sandra L. VanUden
Zoning Secretary



Norman Machelor
Zoning Board 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 June 13, 2019, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following applications:

Eran Colbus, 4018 Dickersonville Road, SBL# 75.00-2-7.2, requests a variance from the previously approved front yard setback of 37' to now be 35' to allow for a front porch addition. The required front yard setback is 40'. The property is presently zoned RR, rural residential.

Harold & Jacqueline Sutor, 719 Hillview Court, SBL# 101.12-3-39, requests a variance from the required 12.75 side yard setback to 6' to allow for an addition. The property is presently zoned R-1, single family.

Joanne DeMunda, 4795 Creek Road, SBL# 101.08-3-12, requests a variance from the required 15' side yard setback to 8.15' to allow construction of a garage addition. 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
#N250146

6/6/2019