

**ZONING BOARD OF APPEALS**  
**Town of Lewiston 1375 Ridge Road**  
**Lewiston, New York 14092**  
**Thursday – March 9, 2023**  
**ZB-2023-03A**

**Adgend: Dipietro-Buffalo St (A), Mayhue-Scovell Drive (B), Miljour-Walmore Road (C), Mislin-Bridgeman Road (D)**

**Present: Conti, Heuck, Machelor, Maggard, Warnick**

**Presiding: Norman Machelor, Chairman**

**Pledge of Allegiance**

**Machelor: Thank you! I would like to Board to read the minutes of the prior meeting for corrections and approval.**

**A motion to approve the minutes of February 9, 2023, was made by Heuck, seconded by Maggard and carried.**

**Machelor: Motion has been made in the second to approve the minutes of February 9, all those in favor say AYE**

**Members: AYE**

**Machelor: Opposed. None. Thank you!**

**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 of the code to continue the project or denial to prohibit a project as presented.**

**Machelor: With that I would like to open the public hearing. For Variance request Dave Dipietro Buffalo Street SBL 118.20-1-22 someone here. Would you like to approach the microphone state your name and address.**

**Dave Dipietro: Property address or my address?**

**Machelor: Your address.**

**Dipietro: 5805 Fairview Drive Sanborn, NY 14032**

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**Machelor:** Ok. Describe what your/ why you are here

**Dipietro:** I am here today for variance to put a utility shed on my property on Buffalo Street. 10 foot from the back property line. Asking for a variance for that because it said 40 feet because there is no principal structure on the building. That was the actual what they said was needed to be 40 feet from the property line rear property line so I wanted to put it 10 feet from back property line. To get it from the middle of the property near the back property line. That is what I am asking for.

**Machelor:** Ok.

**Dipietro:** They are commercial properties.

**Machelor:** The code says where a non-residential lot abuts a residential use or district the rear yard setback is 50 feet.

**Conti:** 50 feet

**Dipietro:** 50 oh. That's why I am asking for the variance to be 10.

**Conti:** So, from 50 to 10

**Dipietro:** Correct

**Conti:** But on your thing here you got it from 20 to 10

**Heuck:** That's from the side yard

**Machelor:** Come on up and let's see this map

**Dipietro:** That is my property at the back line I want to bring it even with the back of the garage.

**Conti:** And the back of the garage is how far from the rear setback

**Dipietro:** 10 feet it's going to be even with the back of the garage is what I am asking for and go forward.

**Conti:** It's supposed to be 50 feet

**Machelor:** How did this garage get here

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**Dipietro:** The garage is existing from a house that burned down on the property. That was grandfathered in when it burnt down

**Machelor:** You combined your properties

**Dipietro:** They are two they are my properties yes

**Machelor:** Are the separate properties.

**Dipietro:** They are parking lots for my big building across the street.

**Machelor:** I mean they have been officially

**Dipietro:** Combined. They are two parcels.

**Machelor:** They are two parcels not one

**Dipietro:** Correct

**Machelor:** That would change

**Dipietro:** Tax ID is 118.20

**Serianni:** For the record what side of the lot is the front of the property?

**Dipietro:** Side of the lot fronts up here

**Serianni:** Is it the east side or the south side?

**Dipietro:** East

**Machelor:** Is this north

**Dipietro:** North is here

**Conti:** This is front of the property right here right

**Dipietro:** Buffalo Street is the front of the property

**Conti:** So that's the garage that's back here and the shed is here

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**Serianni:** For the purpose of the record the area variance being requested is for a rear side setback not side yard setback from 50 feet to 10 feet and not from 20 feet to 10 feet.

**Conti:** Right

**Dipietro:** Correct

**Machelor:** What's over here

**Dipietro:** It's a residential property

**Machelor:** House in there somewhere

**Dipietro:** Yes. There's a yard and the house is over here

**Serianni:** Is anyone else here for this?

**Maggard:** Dave do you live across the street on Buffalo Street?

**Dipietro:** No, I have a commercial building across the street I own the commercial building

**Maggard:** Oh ok. Why aren't you using the back of that property?

**Dipietro:** There is not enough room there's no grass there at all.

**Maggard:** Ok

**Dipietro:** I don't have room

**Maggard:** So, you're going over into the old parking lot

**Dipietro:** I cannot use the back of my commercial building to place the shed because there is not enough room for a shed there are all.

**Maggard:** OK

**Dipietro:** It butts up to the firehall land

**Maggard:** So, you went across Buffalo Street

**Dipietro:** I want to put the shed over there for my lawn mowers and stuff

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**Maggard: I understand**

**Heuck: You've already got it there haven't ya.**

**Dipietro: Pardon**

**Heuck: You already have your shed there. Actually, you have 2 sheds there don't ya**

**Dipietro: No this is one shed**

**Conti: But what he is asking that you have already install the shed**

**Dipietro: I bought a shed over**

**Conti: Prior to a permit**

**Dipietro: Prior yes**

**Conti: So, the shed is not installed its just floating you can move it**

**Dipietro: Yes, it can be moved**

**Conti: Ok**

**Machelor: Come up again if you would and show me where it is comparison to where the garage is**

**Warnick: Right here**

**Dipietro: Right where I showed you sir**

**Members/Dipietro talking at counter**

**Machelor: You have 2 colors here beige one and a grey one**

**Dipietro: The grey one**

**Heuck: What's the beige one**

**Dipietro: The beige one is for a project for a site plan review that I was going**

**Conti: But that's getting moved**

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Dipietro: That is moved going to be moved yes.

Heuck: Where was the original house

Dipietro: That was before I bought it. It was up front

Heuck: Up forward

Serianni: Back to the microphone please I want to make sure everything is clear for our minute taker

Dipietro: Sure. I don't know where the house was that was burned down before I took the property.

Serianni: For the purpose record the proposed accessory structure is suppose to be flush the back of the existing correct

Conti: What's that I am sorry

Serianni: The proposed accessory structure that is the subject of this hearing is flush with back of the existing garage on the property

Conti: Correct

Serianni: And that's as reflected on the site plan that was submitted with the application

Conti: So, at this point your saying that, that shed just sits there you just brought it there because you bought it premade

Dipietro: Yes

Conti: So, it's just sitting there to get approval where you are going to put it

Dipietro: Yes sir

Conti: Nothing permanent on that shed

Dipietro: Nothing

Machelor: Why do you want to put it there? What are doing with the property that it can't go where it should go?

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**Dipietro:** I don't have room across the street to put it

**Machelor:** What you do across the street is different but I mean what are you doing with this property

**Dipietro:** What am I doing on that property?

**Machelor:** Yeah. I mean what are you doing with it?

**Conti:** You can put it in front of the garage on this here. The question is that why what are you doing with the property.

**Dipietro:** There are garage door is there that's rented by one of my tenants

**Conti:** The garage is?

**Dipietro:** Yes

**Serianni:** Why is there any impediments of you placing the shed within the 50-foot setback requirement? If so, what is that

**Dipietro:** Parking for the tenants in the middle of the property would be senseless to me

**Serianni:** So just to clarify your saying that the existing parcels would be used for parking.

**Dipietro:** Correct for my building across the street for the retail spots I have

**Serianni:** How many parking spaces are on that lot?

**Dipietro:** How many parking spaces?

**Serianni:** Yes

**Dipietro:** For the whole

**Serianni:** Is it lined off?

**Dipietro:** No self

**Serianni:** Ok

**Machelor:** That's why I was inquiring what use you are making of the property

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**Dipietro:** It's parking for the property across the street

**Machelor:** Ok

**Dipietro:** For tenants and retail

**Machelor:** Ok I am just going to comment that since you have this big area to put sheds why don't you come and ask us to put a shed where it's permitted? 20 feet from the side yard and 50 feet from the backyard

**Dipietro:** Well, I wanted to keep it back off the road cause it's for utility stuff and the other shed I was going to propose for a farm stand

**Machelor:** Well.. it isn't our.... you didn't come here to get... but what we are dealing with only is the setbacks. And what I am asking you isn't there a way to do what you want to do and be within the setback.

**Dipietro:** Well, I asked for the variance because I thought it would look best and keep it away and make the best use of my property

**Machelor:** Well, I think maybe so but that's a lot to ask. The code says 50 feet and you want to make it 80% less. It's a substantial amount. We usually don't grant substantial amounts deviations from the code.

**Dipietro:** Well, a shed would look odd in the middle of a property. Its not a house it's a shed

**Machelor:** Well, it could be other places besides but it has to be 50 feet from the back lot. It can't be 10 feet from the back lot. It can't be 10 feet from the back because there residence next to you that's why.

**Dipietro:** So, the accessory uses and structures it says to be located not less than 5 feet from any lot line on 360-185 is what I was reading there

**Serianni:** The only application for variance before the board right now is 360-74 (B3) rear yard depth placements of the accessory structure within the required setback of 50 feet. That's the only matter that's up for consideration before this board. Norman had a question

**Conti:** A residential lot you could put a shed minimum 100 feet back 5 feet from the lot line but this is not a residential shed

**Heuck:** It's a business



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**Conti:** This is a business lot zones business that's why the zoned business is a different. So, you can't look at something for a residential lot this is a business lot.

**Dipietro:** So commercial property

**Conti:** So commercial property has different regulations than a residential property. Where on your property here are talking about moving that stand the vegetable fruit stand your moving it up to here? This is where its going to be right here

**Dipietro:** yeah, there is a setback from the road to that

**Conti:** So why can't you put the shed right there?

**Dipietro:** I possibly could

**Heuck:** Why can't you put it right behind it

**Dipietro:** I could I mean that wasn't really my thought. I thought it would be better near the back of the property.

**Heuck:** You would still have the ability to use ingress and egress from that garage

**Dipietro:** Right

**Heuck:** Then you would also have the ability to have people and you would have it right there its actually closer to your business across the street

**Dipietro:** I could back them that's a possibility I didn't think it was going to be big of an issue to get it off the property line

**Conti:** But see it's a commercial property and there's certain regulations we have to follow. Go back to the mic please.

**Dipietro:** Sure

**Machelor:** I wanted to make sure we all have the thing ahead of us now that it has been altered.

**Serianni:** I believe the record has been corrected for this to go

**Machelor:** Ok

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**Serianni:** So, the board can make a decision on the corrected application the 40-foot area variance.

**Machelor:** Ok

**Dipietro:** Is that going to cause a us problem with the front setback or side setbacks

**Machelor:** Well front setback is 40 feet

**Heuck:** No front yard setback is 40 feet

**Conti:** 40 feet as long as that's 40 feet back

**Machelor:** 40 20 20 and 50

**Dipietro:** Being the 2 properties that's going to be in the middle of the line does that matter because I own them both

**Conti:** Well, that's a question you're putting this farm stand and this has nothing to do with our variance, but my question to you is this one piece of property or 2 separate properties? It's 2 separate properties

**Heuck:** 2 properties

**Conti:** So, you can't really put that farm stand in the middle of 2 separate properties

**Heuck:** Do you own both properties?

**Members talking**

**Dipietro:** It's not a permanent structure though

**Conti:** But your still. In other words, the 20-foot side setback your way off because now you're over the property line on both sides. You know what I mean if you don't combine the if you're going to combine that's one thing.

**Heuck:** That's why I said he should build it here

**Members talking**

**Maggard:** Would you keep the property as 2 separate parcels

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**Dipietro:** My intention is I don't really know the gratifications of combining them if there's a benefit or not to do that I do not know

**Machelor:** Well, it depends on how you wanted to use the property that's really up to you

**Dipietro:** I haven't really looked into it legal wise if it's good or not I don't know. Without a foundation or anything is there really does it matter if there

**Conti:** Your still on 2 separate lots. You're putting this building on the property line two separate lots. So, you would have to get 2 variances with that property because you're going away from the 20-foot side setback on that

**Machelor:** Both sides

**Conti:** Its not something that you have on a cart that you're just going to roll out and roll

**Serianni:** What if he combined the lots execution would you need it would just be a filing of the real property tax services. But just to the bring the conversation back. Really this discussion is about whether it the placement of the shed can be place somewhere else easily and there is the issue of the parking with it interfering with parking now. I wasn't totally clear about this vegetable stand issue. The proposal is to place the shed behind the vegetable stand

**Conti:** Do you have the paperwork in front of you

**Serianni:** I do

**Conti:** Ok see the dark section right in the middle

**Serianni:** Yes, right in front

**Conti:** That's what he's saying and right though the middle of that is the property line

**Serianni:** Ok

**Conti:** But that's not in front of us that has nothing to do with us here

**Machelor:** That's the point

**Conti:** But but right

**Maggard:** I think what he was looking at though it would look better if it was in the middle of the property rather than on one side all by itself. But in this case maybe that's not visible

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Machelor: Well, that's not up to us to decided. Thank you! Is anybody else here this is an open meeting want to speak to this issue. Please. State your name and address

Sean Edwards: I own Full City Roasters 5844 Buffalo Street. I'm not here against the project. I am actually for it. Mr. Dipietro bought this property 3 or 4 years ago prior to that it was a mess. I've cleaned up my property spent a lot of money. We had a real rodent problem prior to him moving in and me cleaning up my parcel. Every weekend he's out there weed whacking cleaning he's not an absentee landlord he's committed to that little community that we are all trying to make a living out of. Honestly this setback you guys have a tough job you can't just make a spot decision because it's going to benefit one person. That being said there's a garage back there that use to belong to the parcel with house how far is that off the line?

Serianni: The only issue is that non-conforming use he does not need a variance on that because its preexisting.

Conti: It was against code actually

Edwards: Yeah, the point I was just trying to make. Is it that big of deal. Personally, I benefit from that parking lot he's never charged me any rent my costumers use that parking lot the whole community uses that parking lot. When the firehall is full they park over there. I really don't know Mr. Dipietro that well at all other than a wave. But he's an asset to out little community Sanborn/Town of Lewiston and I apricate you if you would allow this variance to go through. Thank you very much.

Machelor: Thank you! Anyone else wish to speak to this. Ok I will close the public hearing and ask any further questions from the board?

Heuck: I just think that maybe we should have him go back talk to our building code officer because of what he's requesting would have to be pushed out. Is it possible to table that and have him go back and meet with our.

Conti: With Tim again

Serianni: You certainly can table you decision absolutely

Members: Talking

Heuck: Today we wouldn't have to make a vote on it so that he can talk and find out who's real legal

Machelor: We wouldn't have to pay another fee or anything

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Heuck: Right, that's what I am thinking about.

Serianni: I believe you have to make... there is a dead line before you do have to make a decision now that you closed the public hearing but

Conti: But we can reopen the public hearing to do this and table it

Serianni: If you close the public hearing and close the meeting

Conti: We have 31 days

Serianni: I believe it is

Conti: 31 days

Serianni: 31 days to make a decision on this which would be next month's meeting so you have to make a decision by next month

Conti: So, reopen the meeting

Machelor: Ok so we are going to reopen the public meeting and

**Heuck: I would like to make a motion that we table it and so Mr. Dipietro could meet with the building code enforcement officer so you can get a better idea actually of his legal responsibilities of that property. Right now, he seems to be confused and I would like to him go forward with what he would like to do but, in the meantime, he should have expert counsel on it.**

Machelor: You can ask about the combining the properties to see if that would help your situation.

Dipietro: Ok and I will talk to Mr. Masters also

Conti: That's good yeah right

Machelor: He could probably help you. That doesn't mean that you might be able to find someway to do this where you ask for a small variance. The minimal variance that you could use. That could be in the future too. Ok so we have a motion made in second who seconded it

Conti: I Seconded it

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**Machelor: Motion made in the second to table. Any further discussion. All those in favor say AYE. Opposed-None**

**Machelor: Ok Thank you!**

**Dipietro: Thank you!**

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**Machelor:** Ok the next one is variance request John/Linda Mayhue Scovell Drive SBL 101.08-1-19

**Conti:** Its Linda

**Members talking**

**Machelor:** Ok Linda come on up

**Linda Mayhue:** Hi I am Linda Mayhue I live at 741 Scovell Drive Lewiston

**Machelor:** Ok describe what you want to do.

**Mayhue:** We want to put in a Generac generator on the side of the house and need a variance for it.

**Conti:** And the variance you are looking for is to be 10 feet instead of 14

**Mayhue:** Yes

**Members talking**

**Conti:** The other side of the house there's a lot of land there. Is there a reason why?

**Mayhue:** Yes, a good reason. That's why we are doing it. It can't be near a window there's no windows on that side and it's the side of the house where we have hedging so its going to be blocked from the neighbor Cathy on that side. And on that side, it's her garage with no windows and she won't even see it. And she came over and told us it was perfectly fine. And if I put it on the other side of the house where there's no windows my other neighbor Cathy would have some kind of an eye sore to look at.

**Conti:** And all utilities are on the other side

**Mayhue:** The gas meter and all that stuff. So, it just makes sense to put it there where it's going to be hidden.

**Serianni:** Let me just quickly. The proposed generator would be placed on the west side of the house?

**Mayhue:** I was hoping you wouldn't ask me west or east side

**Conti:** Where's John

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**Laughing**

**Serianni:** If you are looking at the house from Scovell on the left or right side?

**Mayhue:** It's the left if you are looking at the house

**Serianni:** Where are the utilities

**Conti:** On the left side

**Machelor:** Everything is on the left side. You have an air conditioner out there

**Mayhue:** Yep

**Machelor:** You will have the generator and air conditioner.

**Mayhue:** Yep

**Machelor:** And where are the hedges? Along your fence line

**Mayhue:** Yeah, well there's no fence but that's part

**Heuck:** It's about 4 feet high

**Mayhue:** My husband would be here but he came down with COVID he's pretty sick right now. I tried getting out of coming and he says go

**Machelor:** So, she's 14 feet from the yard 13.58 or whatever

**Conti:** And she wants to go to 10 so they are asking for like 3 feet 3 ½ feet

**Machelor:** And she's still going to end up with how much on the lot

**Conti:** 10

**Machelor:** 10 to the side

**Conti:** Yeah, that's what she's asking for

**Heuck:** That's not bad

**Machelor:** Questions?



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Members: Nope

Machelor: Who wants to do it?

Conti: You have to close it first

Machelor: Ok Oh this is an open meeting so anyone else want to speak to this? Ok good close the public meeting

**Conti: I will make a motion based on the boards discussion the Zoning Board determines that the benefit of the variance to the applicant out weighs any detriment to health, safety and welfare to the community and that the variance request is minimal necessary and the variance be GRANTED.**

**Maggard: Second**

Machelor: Ok motions made in the second. Any further discussion from the board? If not, I will call the question. All those in favor say AYE

Members: AYE

Machelor: Opposed None. Call the board Lisa

Lisa: Joseph Conti AYE, Gary Heuck AYE, Norman Machelor AYE, Marjorie Maggard AYE and David Warnick AYE

Machelor: Ok thank you

Mayhue: Thank you

Conti: Hope he feels better quick

Members talking with Linda Mayhue

Conti: For some reason it doesn't make any sense they did a short form SEQRA

Serianni: Part 1 should be done with any of them Parts 2/3 do not need to be done because it's an area variance.

Conti: Ok

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**Serianni: She may have submitted part 1 but you do not need to take any action on that tonight**

**Conti: OK**

**ZB-2023-3C**

**Machelor:** Ok Variance request Robert/Jack Miljour

**Jack Miljour** 5900 Walmore Road

**Machelor:** Yes, sir tell us what you want to do

**Miljour:** My son wants to build a house I got a lot next to my property and he wants to put a house there. Special variance but I have to ask for room for farm equipment to get through. Do you want me to show you on the map?

**Conti:** We actually have it here

**Serianni:** So, my understanding is that part of the property is going to be subdivided out to your son.

**Miljour:** Right

**Serianni:** And you want to keep a sliver to provide access to the back

**Miljour:** You got it my friend

**Serianni:** Have you considered giving the entire parcel to your son and just leaving an easement to allow access

**Miljour:** I would rather have it with that property that way if I go to sell it or something 10 feet aint going to do much but if I got 20-25 feet for the equipment that goes with the property for a selling point. And still 110 feet left for a building lot which is bigger than all the other lots.

**Serianni:** Have you had any conversations regarding the easement.

**Miljour:** I would rather no easement. It would make it too difficult to sell off it's a lot of trouble. I would rather own it. It's always there for the tractors and combine to go through and what not and everyone is happy.

**Serianni:** How wide are the tractors?

**Miljour:** Nowadays 25 feet sometimes

**Serianni:** How much space do you want to leave?

**Miljour:** At least 20-25 feet at least that much

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Son Robert Miljour: It still leaves 110 feet

Conti: On the stuff that you sent us the paperwork the lot that you split off and gave to your son is 115 feet wide

Miljour: 115-110

Conti: It's 115 we can't go back and forth

Miljour: As much as I can because some of those combines at 25 foot I just don't want to go on somebody else's property

Conti: But here you're saying you're asking for 115 correct

Robert Miljour: yes 115

Miljour: that will give me 20 feet that's kind of pushing it but I would rather have 25

Conti: Ok I'm just kind of your saying 110 it's 115

Miljour: Yeah, that was just talk at the time the 115 with the surveyor. But now Paul knows me knows how wide the farm equipment is and that extra 5 feet would definitely get combines in there.

Conti: So, are you asking to change the variance?

Miljour: No cause I still have a 110 feet

Robert Miljour: No 115

Conti/Maggard: No 115

Maggard: It is 115 and most of the lots on that road

Miljour: It would give me 20 feet

Conti: 20 feet a southern 20-foot strip. Just making sure what you have here and what you're saying there

Miljour: Right. Understand another 5 feet would be safer to go another 5 feet

Conti: But 20 is enough he's saying though

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Miljour: Ok

Machelor: And none of this has happened yet.

Miljour: No, it's still in contingency

Serianni: Is there an existing road access road currently?

Miljour: Yes, there is one there it's 15 or 20 feet

Heuck: Its not a road it's a path

Serianni: Do you intend on changing that or is that path just going to stay the same?

Miljour: It's going to stay the same that how I have access to the property

Maggard: Most of the lots on that road is 100 feet

Members: Yes, they are 100 feet all the way down

Machelor: So, you son is going to have 115 feet instead of 100

Conti: Right

Machelor: Ok that's good the public hearing is open. Is there anyone else who would like to speak on this? Close the public hearing

Maggard: No, you have an extra person here to speak

Conti: No, he doesn't want to speak

Public: There is nothing for me to say because I use to farm it but he owns it now.

Maggard: OK

Machelor: Any further questions for the Board? If not, I look for a motion.

Serianni: Close the public hearing?

Conti: He closed it already

Maggard: I will make a motion to allow him have 115 feet from each for a new build Granted

**ZB-2023-3C**

**Warnick: Second**

**Machelor: Motions been made in the seconded. Any further discussion? All those in favor say Aye**

**Members: AYE**

**Machelor: Opposed Pull the board Lisa**

**Lisa: Joseph Conti AYE, Gary Heuck AYE, Norman Machelor AYE, Marjorie Maggard AYE, David Warnick AYE**

**Miljour: Thank you!**

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**Machelor:** Ok last one is William Mislin Jr Bridgeman Road, Sanborn Tax parcel 104.00-2-35.12 state you name for the record please

**William Mislin** 5157 Bridgeman Sanborn NY

**Machelor:** Ok. Ok tell us what you want to do

**Mislin:** I would like to build a pole barn and I would like to request a height variance. So, I can put a 14-foot door in so my camper fits

**Machelor:** Ok

**Conti:** The size of the building 50x100. Your storing other stuff in there I assume.

**Mislin:** Well, my camper with trailer is 75 foot long

**Conti:** Oh ok. Is there a reason why you need it for 24 ½ foot the height?

**Mislin:** That's what the builders said the roof pitch would be to accommodate the 14-foot door.

**Heuck:** What's the pitch of the roof?

**Mislin:** I don't know its being constructed by TNT builders

**Serianni:** Do you intend on using the attic space for storage?

**Mislin:** No

**Serianni:** Is you house on this lot?

**Mislin:** No. We have 2 lots there is just an existing garage on that lot

**Serianni:** Just the garage is on that lot

**Mislin:** Yes

**Members talking**

**Warnick:** But you own the lot next to it right

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Mislin: Yes sir

Warnick: That's where your house is

Mislin: Yes

Warnick: So you are basically putting this pole barn behind the existing garage

Mislin: Yes sir

Conti: Is it combines piece of property?

Mislin: No

Conti: It's not

Mislin: No, I own both pieces of property but it's not a combined

Serianni: Basically, the house is separated from the remaining L shaped lot.

Mislin: Yes sir

Serianni: But you own all of this

Mislin: Yes sir

Maggard: Originally this was supposed to be going from 18 foot to 22 ½ foot for a pole barn but now it's 24

Mislin: That's what he told me

Conti: He being

Mislin: TNT builders

Machelor: Umm So how do you do you know how 22 ½ got into the record?

Lori Mislin: All I see in the email that the builder forwarded us. It says: The town of Lewiston height requirement is 18 feet. I think based on the scale of the drawing this pole barn comes in at about 21- 23 feet. That was written by Edward Zimmerman. So because it was range that was given he called TNT builders to find out what the exact height would be.



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Conti: Edward Zimmerman is....

Maggard: Building inspector

Conti: Oh, ok that's Ed.

Lori Mislin: The builder responded to Bill and said it was 24 ½ feet.

Machelor: Well, there's a discrepancy when these things when you come for to get a decision you have to put in some papers and some how or other it says 22 ½ feet on this document

Conti: But on this here the application 24

Serianni: The application is just for 24 ½ the notice of public hearing does state 22 ½ feet but the application before the board is 24

Mislin: The 22 ½ feet is the first time I was it was on that letter.

Serianni: Can you read that email from your builder?

Mislin: It was just a forwarded email it says: Tom per our conversation this morning regarding the pole barn at 5153 Bridgeman Road the height will exceed the 18-foot height limitation in the Town of Lewiston town code. The application will need to be returned no later than 4:30 on February 28 and the Zoning Board will meeting will be scheduled for March 9. The Town of Lewiston height requirement is 18 feet I see based on the scale of the drawing this pole barn comes in at around 21-23 feet. And then he umm listed the maximum height limit. The maximum height of the structure should be as follows. A. All principal structures 35 feet to the peak not to exceed 2 stories B. All accessory buildings 18 feet to the peak not exceed 1 story. The above section that represents the height restrictions which you will be seeking relief from. Any additional questions let me know and we will get them answered for you. Thank you! Edd Zimmerman

Serianni: Do you have drawings?

Lori Mislin: Just what he did on the master it was included

Conti: It's in the packet

Lori Mislin: he kind of did it in marker

Conti: Yeah

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**Warnick:** these are all the drawings

**Machelor:** It's too bad your builder isn't here. Because we would like to ask him that question that Gary asked about the pitch of the roof. These are not little matters even though it only seems like feet. Because we set precedent here by allowing things that are just a little more than what we approve for other people.

**William Mislin:** Would you like me to try and call him?

**Machelor:** You should try to call him yeah ask him the range that he gave you is a lot easier to approve than the range that its at.

**Mislin:** Ok

**Machelor:** So, the 21 to 23 is better than 24 ½

**Lori Mislin:** That 21-23 came from Ed

**Serianni:** That 21-23 came from Ed?

**Lori Mislin:** Yes, that email I just read came from Ed

**Conti:** Yeah, not from the builder

**Serianni:** Can I see the email

**Maggard:** That's what she said

**Machelor:** Well Ed looks at the same things we do as far as the pitch is concerned so when he found out what you were doing I think he made a suggestion to you. To help you come to the Zoning Board. That's basically he's not here to say but that's what I think he probably said. If you go and ask for 24 ½ feet you're taking your chances if you go in and ask for 21 you have a better chance. Any other questions?

**Serianni:** How deep is the property with the garage is it within 100 feet any other neighbors?

**Mislin:** It's within probably 30 feet

**Maggard:** Is it going to be sort of shielded from the road

**Mislin:** You probably won't see even see it from the road

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Maggard: Ok

Mislin: It will be back into the wooded area

Lori Mislin: Can I point to it on here

Maggard: Sure

Members talking with Mislin's at counter

Serianni: Can we open this up for the record

Lori Mislin: I know you are looking at an arial this is just the survey. This here is the garage 30 feet back from it is going to be the building it's going to be overlapping this enough so that the door you can see them so you can drive straight in.

Conti: Right, you want to drive straight in. Go back to the mic please so it's on the record.

Machelor: So, the question were still on the same question and that is can your project be built and be a little shorter than your presented. And the answer is going to be rather your builder says he can do it that way. And we don't have that answer. So we got kind of two options 1 option is that we table you and have you come back in a month with the answers or we can make a motion to accept a smaller/ lower roof and make a motion for that. Not knowing whether your builder will be able to do it.

Conti: It all has to do with the pitch of the roof

Mislin: Right

Heuck: It's the riser with width of the building is 50 feet

Lori Mislin: There is a building right now that he built that has a 14-foot door

Maggard: Yes, right down the street from you

William Mislin: Yep, right down the street

Maggard: We approved it

Machelor: We did

Conti: For what height?

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Maggard: 24 feet

Warnick: Which is what he's asking for

Maggard: Right down the street on Bridgeman

Lori Mislin: They are right on the corner right at 31

Warnick: oh ok

Conti: Are you sure it was 24 I think it was 22

Hueck: I thought there was 22 feet

Machelor: We can probably find out

William Mislin: I did ask Tony I stopped and he gave me the same builder that did his and he said his roof was 24. And he had to get a variance also

Machelor: He probably did have to get a variance from 18

Hueck: It depends on what board

Machelor: I was also going to say that thing happen in the translation from yeah, your approved  $22 \frac{1}{2}$  and when the thing gets build some year from now, I don't know if anyone goes out and measures and say oh yeah there you  $22 \frac{1}{2}$ . Three inches to tall two feet too high.

Mislin: Just put more dirt up to measure

Machelor: So, we not sure what we ought to do. We don't want to say NO we don't want to approve  $24 \frac{1}{2}$  feet and we want you to see if you can do it with a less pitch on your roof and lower that by a couple feet.

Mislin: I mean it's up to you your kind of the boss here so you tell me what you want me to do.

Machelor: We would like more information from your builder for one and then I think as far as what we heard today that there is one similar to what your doing that is  $24 \frac{1}{2}$  feet that is kind of relevant too. I would like to know if that is actually true or what is approved and I don't have that in front of me.

Conti: Is it going to be concrete pad or stone

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**Mislin:** It's going to be stone for a while. I mean eventually I want to pour concrete.

**Heuck:** But it would be stone when you build it

**Mislin:** Yes. So, where we would measure from the concrete pad or the dirt around it

**Machelor:** I think from your stand point it has to high enough for your equipment to go in. So, what you're interested in is how high its going to be with the concrete.

**Mislin:** I have to have 14 feet with the door that was my stipulation to have this builder just so I can back it in

**Machelor:** 14 feet from the concrete not from the dirt

**Serianni:** Do you have any other evidence to show us

**Mislin:** No

**Members talking**

**Mislin:** I can run out to my call and get my phone and call him or is that

**Maggard:** I would like to make a motion

**Conti:** You can't make a motion it's not closed

**Machelor:** We are still on the public hearing part. Ok Marge we are in public hearing what do you have to say without a motion.

**Maggard:** Without a motion let vote on it

**Machelor:** and what's your rational

**Maggard:** Because we have given others 24 feet and I believe if we gave him 24 foot instead of 24 ½ he might be able to do it.

**Machelor:** Well

**Maggard:** That's my rational

**Machelor:** Ok. Anybody else have anything else to say before I close the hearing. Ok I will close the public hearing. And now we get to motions

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**Maggard: I would like to make a motion that he has a roof line up to 18 allowable to 24 feet to allow him to park his RV in**

**Conti: So, you're making the motion with conditions**

**Serianni: You're making a motion with conditions that condition being that the application be amended from 24 ½ to 24 feet**

**Maggard: Yes**

**Machelor: Ok Motions on the floor is there any seconds to that**

**Conti: I will second it**

**Machelor: Ok a motion been made in the seconded.**

**Conti: Just repeat the motion again**

**Machelor: To change the motion from 24 ½ feet to 24 feet at peak  
Any further discussion. Ok I will call the question. All those in favor say AYE  
Nay one ok**

**Lisa, would you call the board**

**Lisa: Joseph Conti AYE, Gary Heuck Nay, Norman Machelor AYE, Marjorie Maggard AYE, David Warnick AYE**

**Machelor: Ok 24**

**Mislin: Thank you!**

**Serianni: This is my first split board decision in my 2 years of municipal law practice.**

**Machelor: I was going to throw in a NYE myself**

**Heuck: Stay around you will get a lot more from me**

**Conti: Not really**

**Machelor: There's one of your distinguished councilmen.**

**Conti: Where**

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**Machelor:** We have been trying to get this increased you know John

**Conti:** For a long time, John

**John Jacoby:** It was interesting that they said there's one down the street that's 24

**Serianni:** That would have been killer for article 78.

**Conti:** Right.

**Serianni:** Are still open

**Conti:** The meeting is still open because were also addressing John Jacoby our councilman to say that we have been looking to get this changed between the lawyers and the town board from 18 to 22

**Maggard:** Yes

**Machelor:** That's what I thought

**Heuck:** It was going to be up to 22

**Conti:** Because we get these constantly and were way out of date on this height variance

**Maggard:** And he did tell me that

**Jacoby:** Would this apply to all residential property in town?

**Conti:** Yeah, Rural residential a pole barn

**Serianni:** Pole barns garages any accessory structure.

**Conti:** Accessory structure not a house

**Jacoby:** Why aren't you're getting it passed?

**Conti:** Hey why aren't we getting it passed

**Serianni:** Hey I am not the attorney for the Town Board I don't know

**Conti:** The Town Attorney has got to push this and I guess they can't get him to do it

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Conti: That's one thing from what I am hearing

Heuck: My Chairman

Conti: The town Attorney is Al Bax

Maggard: Yes

Heuck: Are you going to recognize me

Machelor: Yes please

Heuck: Adjournment motion

Conti: Hey settle down you

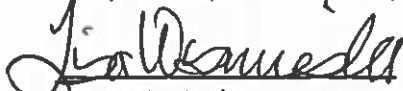
Machelor: Motion to adjourn is on the table

Conti: So its basically asking the Board to push it with the Town attorney to say we need to get this variance changed

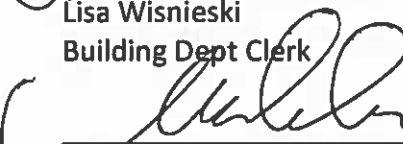
Maggard: Second

Machelor: Adjourn

Respectfully Submitted by



Lisa Wisnieski  
Building Dept Clerk



Norman Machelor  
Chairman