

ZONING BOARD OF APPEALS

Town Hall 1375 Ridge Road Lewiston New York
Thursday – May 12, 2022

Present: Conti, Heuck, Maggard, Machelor, Roemer

Presiding: Norm Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of April 2022, 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 a project as presented.

Public hearing opened

Edward Lilly 1345 Swann Road, SBL# 88.02-1-21, requests a variance from Section 360-53, Area and dimensional standards, from the required 15' side yard setback to 5' to allow construction of an attached garage. The property is presently zoned RR, rural residential.

Machelor: Is there someone here to speak to this? Please state your name and address for the record.

Ed Lilly, 4497 Lower River Road. Good evening, Board members. I'm here with an application for an area variance for 1345 Swann Road. It was a property that had a detached garage that was destroyed by fire. The original garage was 5' from the property line. I want to rebuild and have the new garage attached to the house. Since it's too close to the line to allow for the Town specification I'm asking for a variance to stay consistent with what was original which was 5' from the property line to allow a one car with garage. If you would look at the survey page, you will have a better idea of what is going on. If you look closely, you will see a little set of

steps there and what my intention is when David Giusiana, the Architect visited this is what we came up with. That pair of steps presently is on the exterior of the house.

Conti: Are you talking about the front of the house?

Lilly: No, it's on the side. It's on the west side. You will see a couple little lines. Presently it's on the exterior. What we came up with working with the Architect is that can become an interior entrance. What we have in mind is for it to be handicap accessible and we could put a wheel chair elevator on the interior of the garage, so if somebody had difficulty with steps they could drive in and get in to their wheel chair elevator and be in their single-story house. One of the experiences our family had over the winter was a family member was wheel chair bound and it was very difficult getting him up a ramp. None of us are getting any younger. This is something that's a desirable feature. That is the primary benefit of this design. Since the original garage was 5' from the property line.

Conti: It was beyond 100' from the front of the house of the property line in the front. That's why it was approved. That's why you were able to do that before.

Lilly: I just came in to possession of the property a couple of months ago. I'm not so sure Mr. Conti if you look, it's probably around 100'.

Conti: It's 104'. Look at the front of the house here, 66', it's almost 98' to the back of the house. It wasn't attached to the back of the house so it was beyond 100'. Look at the numbers of the survey you provided.

Lilly: I understand. When David Giusiana and I visited we didn't....

Conti: The survey should be correct. From the front line to the front of the house it's 67.65', the house is 31.2', that comes out to about 99' to the back of the house.

Lilly: I understand your math. It never became something...

Conti: That's why it was allowed to be 5' from the lot line because it was beyond 100' from the front. That's why it was allowed then because you were 100' back.

Lilly: I understand your point. That is why I'm here is because I'm asking for a variance to allow it.

Machelor: In other words, you could put a garage where the old one was without a variance

Lilly: I suppose I could do anything but it wouldn't allow for the handicap access which is what our primary concern is.

Machelor: That is really not before us. What is before us is your distance from the lot line to the edge of your proposed garage. That is what's before us not the handicap.

Lilly: I understand and that's the primary reason for this design.

Conti: It's a very substantial variance that you're looking at obviously because you're going from 15' to 5'. It would be way better to keep it on the existing foundation that the garage was on and even if you put a breezeway that you could put on the back of the house to make that handicap accessible to get in to the back of the house if you needed to.

Lilly: When we looked at the property and we measured some things off, this was the most expedient effective way to accomplish what we were trying to accomplish.

Machelor: David Giusiana the Architect is working for you to do something you wanted to do. Unfortunately, it still requires a substantial variance. It's like 2/3rds, 60% of more than it's supposed to be.

Lilly: I understand. If you look at the totality of the site and the surroundings, the closest house is 40' to the west and they're very supportive of what my proposal is. They are looking forward to the house being rebuilt.

Conti: We've had these kinds of proposals in front of us before. The issue is that the house on that side is 40' away and now wants to put an addition on it and wants to get 5' from the lot line. Well, you just gave Mr. Lilly 5' or 10' variance to be 5' from the lot line, why can't we have it? Now you're handing out sugar from the one window to the next because you're that close. It's like being in the city environment at that point. Everything is very close which we don't want in the Town. You can't really say they're 35'-40' away but who says if that guy moves and next year the new guy comes and wants to built a nice expansion on his house and he wants to be 5' just like you are.

Lilly: I suppose anything can happen in the future.

Conti: That's what we have to look at. The whole thing of zoning is we have to look at not just right now but what could possibly happen.

Lilly: What the likelihood is of that, who can tell.

Conti: It could happen tomorrow or it could never happen.

Machelor: You just bought the house. This problem didn't even exist 6 months ago. You could sell it the day after tomorrow and you'd be stuck.

Conti: Are you moving in to the house?

Lilly: I'm not sure yet.

Conti: You own the house. Are you looking to flip the house?

Lilly: Myself and David own the house. I'm looking to use it to the best possible benefit to our family. We have a family member that lives in a two-story and there is no handicap accessibility and it's a difficult situation. I'm hoping that I don't need any of those types of things for several decades but you can never tell.

Machelor: Let's say you brought a proposal to add a porch to the side and did what you wanted a handicap access to the side of the house right and it didn't require 10', it only required 5' and so you came to the Board and said well I'm 15' from the lot line but I would like to be only 10' in order to do a handicap platform, that would have a better chance of success than coming forward and saying I want to take 10' and only be 5' from my lot line which is substantial and one of the things we consider. We are talking about the future so even if you answered the question informatively yes, I'm going to live there and all of that, there is no guarantee that you will. We're going to make a decision that's going to be permanent. You're not permanent and the guy next door isn't permanent either. The point is its real property and that's why these rules are in here so that when people build things, they try to keep them within the rules in order for the properties can retain their value over time.

Lilly: I appreciate your point. We're just trying to keep the western New York weather out of the accessibility and improving the property beyond what it is today which is no garage and partially

Machelor: There is a garage solution, the solution that was there before.

Conti: You can do a breeze way.

Lilly: There probably is dozens of ideas like anything sometimes they work, sometimes they don't. Sometimes they should and they still don't. Sometimes you don't expect that they will and you get a surprise and they do work. This keeps the steps out of the weather, the wheel chair elevator out of the weather. The garage, I understand Mr. Conti's point if it's further than 100' back and 5' is okay.

Conti: That's where it was originally before the fire.

Lilly: I would say you are probably right and we're looking to bring it forward about another 20' so....the big advantage here is having an attached garage as opposed to an unattached garage. That's really the big advantage having an attached garage as opposed to an unattached garage. That's really the big advantage is the fact you can access your automobile without going out in the miserable weather.

Machelor: We all live here, we know that.

Lilly: That's what I'm trying to accomplish. This seemed to be the best solution. I'm hoping that since the other house is 40' away and I appreciate your point that they may come in tomorrow although they've expressed to me, they have no interest in adding on. They could move tomorrow and another party could come before you. For somebody to put on an expansion it would take up that entire east side of their property....

Conti: We've seen it. They've come in front of us with stuff like that.

Lilly: I've seen it too. It's highly unlikely.

Machelor: When they do however and they're permitted by the Code, even if we say wow that's not what I would do, but if they're within the Code they can build what they think they need. They don't want to be impeded by a neighbor had a variance from the Code before they got there. Why can't I do that? Because we varied the Code for so and so. As Joe said, vary the Code for me too. Is there anyone else that would like to speak to this?

Maggard: Is there any other way that you can possibly put this together without going to that substantial 5'? Could you go with a garage in the back of the house or in the front of the house? Is there any other way?

Lilly: The front doesn't seem to lend itself. The back, like Mr. Conti says it would be 10' behind of the house....

Conti: No, you have to be 100' from the front lot line.

Lilly: Right, which would put the

Conti: Where the foundation is now from the garage that burnt.

Lilly: That would put the south elevation of the detached garage about 10' from the house. That would be far away from the house.

Conti: Other than putting in a breezeway or something like that. Just like Dave came up with an idea of putting a side garage, he can come up with an idea of a breezeway to come from the garage to eliminate you having to go through the elements. You could probably put a bigger garage back that way versus the small skinny one car garage that goes back quite a distance. It would probably be one car on top of the other right.

Lilly: The breezeway idea doesn't follow because that corner is where the kitchen is with the cabinetry is right where you would want to enter. To connect the breezeway to the corner of the kitchen is what the obstacle would be doing. No offense if there was a way for me to do what I wanted to do without coming to the Zoning Board I would do it.

Machelor: Thank you. Any other questions from the Board? This is a public hearing, anybody else wish to speak to this?

Lilly: This is my son and this is my wife.

Public hearing closed.

Machelor: Are there any further questions.

Lilly: If I may add in the questionnaire, it says is there any adverse.....I understand everybody's point. I appreciate that somebody could betomorrow but it really doesn't have an adverse effect on the neighborhood. All the neighbors like the idea. Thank you.

Machelor: If the Board has no questions, I would entertain a motion.

A motion based on the Board's discussion the Zoning Board of Appeals determines that the detriment to health, safety and welfare of the community outweighs the benefit of the variance to the applicant and the variance is denied was made by Conti, seconded by Heuck and carried.

Conti Aye, Heuck Aye, Machelor Aye, Maggard Aye, Roemer No.

Lilly: I just want to understand what the motion was not made in the affirmative?

Conti: It was denied. It's just too close to the lot line. The 5' is way to substantial.

Lilly: Do you have any ideas?

Conti: Put it back to where it was. I'm not an architect. You have an architect to look at it and explain the situation. They know the rules in the Town.

Mrs. Lilly: I think we have a plan that will look the best. I guess we could do something that fits the Code but I don't know. The whole plan is the way it will look when.....

Conti: We have turned down numerous ones that are the same way. 5' is just too close.

Maggard: We could reduce that down to 7' or 8' for you.

Conti: You can do that for a garage, you need the width for that size of a garage.

Lilly: Let me ask you something, you are right I think we needed that to make the one car garage. Mrs. Maggard is giving a number. I'll adjust to 7' and see if we can squeeze it in. If that doesn't work, we've not lost anything.

Machelor: I would say this Mr. Lilly, that was a hypothetical. I wouldn't rely on that.

Lilly: I'm here, you're here and she's saying 7' is palatable. I'll change to 7' and see if it fits, if it doesn't fit then we go with the Conti idea which is behind and not.....David Giusiana can get set with that idea then...

Machelor: You'll have to resubmit.

Lilly: We just went through the whole discussion, what's going on?

Machelor: It's a different proposal for a different reason with a different result. All those things are different than what you proposed. You're not going to put a car in a 7' garage that's for sure.

Lilly: That's not what she's saying.

Maggard: I'm trying to tell you if you could go to a 75%, 15' from the lot line, then we probably could consider it. But we can't go under 50%. Do you see what I mean?

Lilly: I do.

Conti: Your variance was for a garage, right? The minimum one car garage is 10' wide. There is no getting around that. That's what we voted on today was to say we cannot go 5' from the lot line.

Lilly: I understand. Maybe I'm not understanding....

Conti: What she's trying to say is we've worked with people. Sometimes we can get them to 10', maybe 8', 9' from the lot line. Not 5'. 9' from the lot line gives you a 6' wide garage.

Lilly: Not necessarily because there's room than that.

Conti: A 6' wide garage gives you what? What are you going to put in that?

Lilly: I'm asking for a size to put.....I understand that and she's saying if you went to 7' we might be able to do that. That doesn't mean the garage is only going to be 6' because I have more room.

Conti: I'm confused on how you would have more room.

Lilly: The question before the Board is as I understand it is how close to the lot line can I go and make it palatable for the Board?

Conti: We could probably work with something 10', we've approved stuff at 10', I can tell you that.

Lilly: That's not our problem tonight. Our problem tonight is how close to the property line can I get.

Seaman: With all due respect sir your problem tonight has already been decided by this Board. They've already acted. What you should do if you're going to make a new submission that doesn't include the garage or extra room then you should make a submission. The Board already voted. They already did their vote.

Lilly: One Board member has an idea. She said 7', somebody else said 8'.

Seaman: Are you interested in re-opening?

Conti: No. Are you looking at not putting a garage there then?

Lilly: I'm looking at instead of it being within 5' of the property line we're going to....

Conti: At 10' from the property line would give you a 5' garage.

Lilly: I don't think that's correct.

David Lilly: He wants to know what he needs to know before he goes back to the Architect and comes up with a new solution.

Seaman: I think they told him already which is they would feel a lot more comfortable with a variance that they're asking for was reduced from a 15' requirement to a 10'.

Lilly: How about 8'? Can I build this project 8' from the property line?

Machelor: I'm going to close this hearing and tell you that if you'd like to do that you can resubmit next month because I'm closing this hearing right now.

Conti: It's already been voted on.

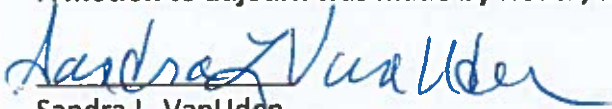
Lilly: I understand. One of the Board members came up with an idea to expand that area to 7' and I'm asking that you reconsider and then I won't have to come back.

Machelor: The answer is no. If you would like to submit another proposal for a different project then you can come back next month with a different proposal with new numbers.

Lilly: I'm losing out on a month's worth of construction time for a change in numbers. It seems awfully harsh. We're all here, there was an idea from the Board that....

The next meeting will be June 9, 2022, at 6:30 P.M.

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



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 May 12, 2022, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following application:

Edward Lilly, 1345 Swann Road, SBL# 88.02-1-21, requests a variance from Section 380-53, Area and dimensional standards, from the required 15' side yard setback to 5' to allow construction of an attached garage. The property is presently zoned RR, rural residential.

Information concerning this request is 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
NW299494

5/5/2022