

## ZONING BOARD OF APPEALS

Town Hall 1375 Ridge Road Lewiston New York  
Thursday – June 11, 2020  
ZB 2020-7

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

Presiding: Norm Machelor, Chairman

Pledge of Allegiance

**A motion to approve the minutes of March 2020 was made by Maggard, seconded by Conti and carried.**

Machelor: I would like to read a small statement here. 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.

The first item on the agenda was a request from Bryan O'Donoghue, 449 Tryon Drive, SBL# 101.06-2-11, for a variance from Section 360-38C, yards required to be 6' from the rear property line and a variance from Section 360-27(2) side yard exceptions to be 8'9" to allow for construction of a 25'x26' garage. The property is presently zoned R-1, one family residential.

Machelor: Is someone here to speak to this issue?

David Giusiana from Giusiana Architects. Sandy has the letter from the owner.

Machelor: David please explain your project.

Giusiana: It's to construct a two-car detached garage. The hardship exists with this lot in that these are oddly configured lots throughout the whole neighborhood. I'm sure it's not the first time you've seen a variance request for people wanting to expand in this neighborhood. The house itself is set back far from the Tryon south side. The fact that it is a corner lot, there is the east side of Tryon and the south side. There is already a one-car garage and to go through the idea expanding on that side but that garage has been rendered unusable for a garage in that he expanded a bathroom in to that area. So, the next logical location....I've had discussions just now with the neighbors and I know one of the charges the Board has is to limit the extent of the variance to as minimal as possible. I think the idea of 6' may be extreme. I think the neighbors are comfortable with the idea of going 10' on that side. The idea of just living with

the 20' east side setback as required. What we are really looking to do is vary from the 18.83 down to .....

Conti: You're saying the rear setback of going from 18.37 to 10'?

Giusiana: We would like to amend that to go to 10' instead of 6'.

Conti: What did you say about the side setback?

Giusiana: I think it makes sense that keeping it at the required 20', we can live with that. It will overlap the existing house but it actually may make things easier by attaching it to the house than keeping it detached. We will eliminate that request.

Machelor: David, do you have something in your hand that would look different than what we have in our packet?

Giusiana: No, just bigger. This change in setback comes from the last 15 minutes of talking with the neighbors.

Maggard: So originally it was 6' and now you're going to 10'?

Conti: That is what he's asking and you're eliminating the side setback request.

Giusiana: Yes.

Conti: The only thing that he's asking for if I'm understanding, the only thing we're looking at is a rear yard setback from 18.37 to 10'. The side yard setback is not being asked for.

Maggard: Ok.

Giusiana: If the neighbors are comfortable with that, I can make that work with my client.

Machelor: So, you would be back to a single car garage?

Giusiana: No. We're taking the whole building, sliding it west and then sliding it south to make it fit the east side setback but still get a variance for the north side.

Conti: It was going to be detached but now it will be attached.

Giusiana: Correct.

Conti: The only thing they're asking for is the rear yard setback to go to 10'. No side yard setback at all.

Machelor: Could you show me please.

Looking at survey

Machelor: Please come up and state your name.

Stuart Davis, 448 Harper Drive which is the property behind this particular proposal. I do support the moving from what was proposed originally to 10' setback off the property line adjacent to our home. There is a current fence between our property. I've also asked and it seems very promising that they are replacing the fence and will make that about 6' or higher in order to hide the garage a bit. The other thing too is our property doesn't meet the 20' setback off the road and so I think by this adjustment that was proposed today it will help the esthetic value of having both our garage which is currently side facing but we are also working on making it front facing and they will have equal setback and look very appealing to the neighborhood. They are also doing some upgrades to the home which I think all of this will work together to increase the value of our properties. I'm in support of the revised proposal.

Machelor: Thank you. Anyone else wish to speak?

Sydney Walton, 458 Tryon Drive: I concur with everything he just said. We talked a little bit and everything seems good. Our front door will be looking out at the garage that's going up. It would be nice for the setback. Thank you.

Machelor: Does the Board have any further questions?

Maggard: You all agree to the change he just made. Is it going to be any issue any other neighbors as far as undesirable view or landscape or any of that? Do you see any of that?

Davis: I don't see it being a problem with other neighbors.

Walton: I don't have enough knowledge of what the other neighbor's mindset.

Maggard: It would have no bearing on any physical or environmental condition at all that you see?

Davis: They require removal of a large tree which I also support the removal of that tree.

Heuck: Being that it's a very sharp turn in to Tryon and then a very sharp turn again in to that driveway, I just wonder the ease of being able to make that turn without having someone rear end you.

Giusiana: The driveway isn't offset that far from the entrance area. It's going to be a smoother curve than....the driveway is so far to the property line, it's a little bit of a jog but not too bad. Tryon is a full width street and full width right-of-way.

Walton: There is a stop sign there now. I've only been there about 3 years. It looks pretty new. If people abide by the stop sign, I think it would be safe.

Machelor: I just have one question. Do you have anything to do with the fence David?

Giusiana: I haven't discussed it with my client but if you want to make it a conditional to the approval.

Machelor: Fences have rules too about the height.

Giusiana: We are limiting it to the 6' to the front face of the garage and then we'll have to step down to 4' I believe.

Machelor: You know the rules.

Giusiana: The law says that you can have a 6' side and rear but it can't be 6' in front of the building itself. It would have to step down to 4' tall.

Machelor: It can be 6' in the back but not higher than 6' without a variance.

**A motion based on the Board's discussion and with the conditions of amending the rear yard setback from 18.37 to 10' and to eliminate the variance for the side yard setback, the ZBA determines that the benefit of the variance to applicant outweighs any detriment to the health, safety and welfare of the community that the variance requested is the minimum necessary and the variance be granted was made by Conti, seconded by DeCastro and carried. Machelor Aye, DeCastro Aye, Heuck Aye, Maggard Aye, Conti Aye**

The next item on the agenda was a request from Al Bax, 895 Elliott Drive, SBL# 102.13-2-52, for a variance from Section 360-38C, yards required to be 4'6 from the side yard to allow construction of a garage addition. The property is presently zoned R-1, one family residential.

Al Bax was not present.

Machelor: What do we do about this, do we table?

Seaman: You can consider it without someone being here if you want to. They don't have to be here.

Machelor: Let's consider it. Since he's not here, everyone I hope has had an opportunity to read this. It's a substantial change. That's the problem. It's 60% change or whatever you look at 5-15.

Conti: It's actually more than that.

Machelor: If I understand this, it happened before.

Conti: It was approved to go to 4.6 from the lot line.

Machelor: He didn't build it so it died and now he's coming back to ask for it again.

Seaman: You guys can choose to table it and contact him. You don't have to make a determination. Someone can make a motion to table it and you can contact him and ask him to come in and make his presentation.

Conti: He knew he had to be here?

VanUden: Yes.

DeCastro: When is the last time any contact was had with him? I think there are a lot of variables here for why we should table it. There is a precedence set that they did approve it.

Conti: When did you talk to him last?

VanUden: When they applied.

Machelor: What would he be able to tell us that he doesn't tell us by the drawings and submission?

Conti: The only thing that I could see happening is if he was here, if he wants to reduce the size of the garage, that's a possibility. He has a one-car garage on that house right now. He could add 10', if he drops that down.....

**A motion to table the variance request since the applicant is not present was made by Heuck, seconded by DeCastro,**

Machelor: Now we have a motion on the table to table it. Under discussion, I'm not in favor of tabling it. I'm in favor of deciding it. If he doesn't like the decision, he will have another opportunity to come back here and revise it. That is what I would like to see.

Conti: He would have to wait a year.

VanUden: If he makes it smaller, he could come back.

Machelor: He could come back with an alternate proposal.

Seaman: That seems like a lot of process.

Machelor: Under discussion, you think it's too much process?

Seaman: I think that rather than rejecting it and making him re-apply, reconsider whether or not his new application that it comes in to the year prohibition or not, if you're considering it or even if you would even possibly consider something that would require less of a variance I think the proper move for the Board would be to table this scenario and give him a chance to speak and possibly consider that next month.

Maggard: I believe we should give him a chance to speak. I think it should be tabled. I don't think we should approve or disapprove something that could be worked out in everybody's satisfaction.

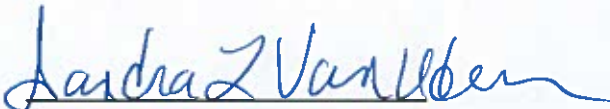
**Motion carried. (1 opposed)**

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

The next meeting will be July 11, 2020, at 6:30 P.M.

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

Respectfully submitted,



Sandra L. VanUden  
Zoning Secretary



Norman Machelor  
Zoning Chairman

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Lewiston on June 11, 2020, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following application:

Bryan O'Donoghue, 449 Tryon Drive, SBL# 101.06-2-11, requests a variance from Section 360-38, C. yards required to be 6' from the rear property line and a variance from Section 360-27 (2) side yard exceptions to be 80'.9 to allow for construction of a 25'x26' garage. The property is presently zoned R-1, one family residential.

Al Bax, 895 Elliott Drive, SBL# 102.13-2-52, requests a variance from Section 360-38, C. yards required to be 4'.6 from side yard to allow construction of a garage addition. The property is presently zoned R-1, one family 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  
#N268893

6/4/2020