

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – November 9, 2023

Agenda- Evangil Christians in Spirit of Apostles Buffalo Street Tabled September and October table for November- A, CP Modern NY LLC- Withdrew- B, Elyse Miller Buffalo Street- C

Present: Conti, Heuck, Maggard, Warnick

Absent: Machelor

Presiding: Joseph Conti, Chairman

Pledge of Allegiance

Conti: I would like to thank everybody for coming tonight. Real quick if you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to deny or grant 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 denial to prohibit a project as presented. Let's get a motion to approve the minutes.

A motion to approve the minutes of October 12, 2023, was made by Heuck, seconded by Maggard and carried.

Conti: Ok all in favor.

Members: Aye

Conti: There's a variance request for the Evangil Christians in Sprit of Apostles on Buffalo Street in Sanborn and asked to be table to December's meeting. I get a motion to table.

Heuck: Do we need a motion?

Serianni: Yes, you do.

Conti: Can I get a motion to table it to December's meeting.

Warnick: Motion to table it until December.

Heuck: Second.

Conti: All in favor.

Members: AYE.

Conti: Opposed? Alright let's table it until December.

ZBA- 11-2023 (B)

Conti: Decision on the variance request for CP Modern NY LLC 4746 Model City Road. Modern has withdrew their request to put in the solar farm.

Audience member: I can't hear that.

Conti: Modern has withdrew the request to put the solar farm in.

Audience member: Does that mean that they are going to scale it down?

Conti: No.

Warnick: They withdrew.

Conti: At this point they withdrew any variance for this board. If they are doing anything different, I have no idea. But I know they asked us for a variance they withdrew the request. And before we go on to the net one our attorney Anthony Serianni would like to say one thing.

Serianni: Thanks Mr. Chairman. I just want to correct something for the record. For an action that was taken in the last meeting that would be the October meeting. There was a board resolution that denied a variance by LMK Realty Associations was the application for 2023-27158 I just want to set the record straight because the application was withdrawn prior to any board action being taken it will not be constituted as a denial rather a withdrawal for the request. Therefore, substantially before the parties can submit a modified request for that project. That's our limitation before the board if a denial is issued then the applicant can't submit a new request for 1 year.

Conti: Ok so that's actually a correction to our minutes then.

Serianni: Yes.

Conti: Ok thank you very much.

ZBA-11-2023 (C)

Conti: Alright a variance request for Elyse Miller 5798 Buffalo Street SBL 118.20-1-15 is there anybody here to speak for Elyse Miller? No. Ok.

Serianni: You could open up the public hearing and take comments.

Conti: Yeah.

Heuck: Take comments.

Conti: Yeah, open up the public hearing on this request by Mrs. Miller. Anybody to speak. See you're here to see something and you're not hearing anything. Alright we can open the public...

Harold Hopkins: Are you going to take comments?

Conti: Yes, that's what we will do right now. Yes. If anyone would like to comment on that project.

Hopkins: Not on that project.

Conti: Ok we will open up.

Hopkins: Ok.

Conti: Ok.

Hopkins: That would be after.

Conti: Yes. So, should we move it to December? I mean... Right... Yeah.

Serianni: You could choose to leave the public hearing open if you would so choose. You could close the public hearing and then you would be forced to make a decision on 60 days thereafter. Or you could make a decision today if you so choose.

Conti: I am thinking we will hear from the rest of the board, to leave the request open and we will see if she comes back to the December meeting to determine.

Warnick: Second.

Conti: All in favor.

Members: AYE.

Conti: Opposed?

Wisnieski: So basically, you tabled it?

Conti: We left open meeting open.

Wisnieski: Ok.

Conti: And were moving it to December.

ZBA- 11-2023 (C)

Warnick: And see if she shows up.

Conti: Does anybody here want to speak on anything else? Just come up to the microphone and state your name and address and... The microphone is right behind you.

Heuck: Right behind you.

Conti: It's for a recording so it's on.

My name is Harold Hopkins and I am basically here to learn. I have a document letter of an intent I might apply for... I think what I want is a special use variance and it has to do with a property that's been in the family for generations at the end of Vrooman Drive North 5th Street there. I know it's in R1 so I want to learn what that means. But could I in 2 minutes read this.

Conti: Sure.

Hopkins: I was solicited. Interest in developing a stand-alone energy storage system on my family's green space property. I was solicited at the end of May 2023 by a solar development company. They are seeking to lease approximately 1 acre of my family's 72 acre of abandoned farmland for development of a stand-alone electricity storage system. The company qualified our property based upon its size, characteristics, proximity to the National Grid substation located at Oneida and 5th Street. They seek to construct an enclosed 10,000 square foot structure. Less than a quarter of an acre. It would be sited well off the beaten path over 1,000 feet from the nearest residence. It would be completely out of site from the public. The storage system would be one story high like 10-12 feet I don't have a specific proposal. And it would be along an existing right way that national grid and the Town has for water and storm sewer. We realize that this parcel is located inside the Town's R1 residential zone. Therefore, I shall be requesting a special use variance from the Town board in order to proceed. For more than 4 generations the Hopkins family has maintain several parcels of farmland, running east from the Lower Niagara River approximately one mile to the Niagara Scenic Parkway. The former Hotchkiss farm was purchased by our great grandfather Willard Hopkins prior to NYS taking it by way of eminent domain. His farm was located what now is known as Joseph David State Park. Willard was a successful fruit farmer growing a variety of apples, cherries, peaches even quince. His son Silas Seward Hopkins continued farming the land until it was bequeathed to our father Harold Seward Hopkins he actively farm until his death in 69. That land is currently used as a cattle and horse farm maintained by my older sister and nephew. In order to keep the historic and rural character or should I say open green space of the family farm for at least another generation. I would be planning to request a special use variance to construct the stand-alone energy system it would be built on very small portion or footprint of said parcel. Power would be downloaded from off the grid. Temporary stored on site until peak demand time and/or power could be provided during a black out. Interestingly the debate with Poloncarz and the challenger he was defending the 48 died in Buffalo, he said it was due to they froze to death cause of no electricity some for over a week because substations in the blizzard froze and there was no energy to draw from. I envision a gravel lane hidden behinds tree and brush that would conceal the fences in cement pad upon which a series of energy storage unit batteries would be sited. If correctly sited the structure would not be visible or an annoyance to any Town residence. Benefit with minimal cost equated to a win/win outcome. Thank you in advance you your time. Could I leave this with...

Conti: Yeah, you could do that.

Hopkins: It's not an application.

Conti: We don't take applications here.

Hopkins: I am trying to be fully disclosed.

ZBA- 11-2023 (C)

Conti: You have to go and talk to Tim Masters out building inspector.

Hopkins: And he is...

Conti: He is in this building in the building department he is the building inspector for the Town.

Hopkins: Ok.

Conti: He is the man that you would really have to talk to.

Hopkins: And that's who you would do an application with?

Conti: Probably with Lisa right and with Tim. You will want to talk to Tim first and explain the situation and he can guide you one way or another.

Hopkins: Thank you!

Conti: Thank you! Are you Elyse Miller?

Miller: I am.

Conti: Why don't you come up to the mic. Cause we already tabled you until December.

Miller: Oh jepers no.

Conti: But since you're here.

Miller: I am so sorry I am late.

Conti: I want to make a motion to reopen Elyse Miller's variance request. All in favor.

Members: AYE.

Conti: Ok come up to the microphone state your name address and what you're looking for.

Elyse Miller, I live at 5798 Buffalo Street Sanborn. And really what I want to do is put a generic in at the side of my house because that's where all my connections are. I know you prefer them in back but if I do that it's going to cost me a mit to run everything back there. I don't have quite enough land I am short about 3 feet. My neighbor doesn't care he says do whatever you need to. So, I just need a variance to put that generic in there my air conditioning unit is and all my hook ups are. That's pretty much all I am doing.

Conti: Is there any other spot that this generator can go at. Because you are looking at being 2-3 feet from the lot line. Do you know the exact distance.

Miller: 3 feet from the lot line I think he said.

Conti: Well ok. Your application shows that you want to go from 5.6 feet to 2-3 feet.

Miller: Ok I must have misunderstood him.

Conti: I am assuming that this is your writing.

ZBA- 11-2023 (C)

Miller: But I was doing it with the guy with my survey.

Conti: So then.

Miller: So there really isn't any other place I could put it unless I put it in the front of the house but I don't want to do that.

Conti: What about right behind the edge of the house I know you have a fence there.

Miller: Yeah.

Conti: right on the other side of the fence there.

Miller: But then I got to run all those connections all the way back there.

Conti: Just to the side of the house. Right there. Not far back right back behind that fence area. I mean it's just a suggestion but what is the amount of feet that you're looking at how far will this be from the lot line? Cause I guess we are not sure now.

Miller: Well, I guess you have an idea together but I must have misunderstood so I guess it will be 3 feet from the lot line.

Conti: Ok.

Maggard: 3 feet?

Conti: Yes.

Maggard: That's what we thought.

Miller: There's plenty of room. My neighbor doesn't mind. And it's still within you know my line.

Conti: But that's... The variance... The rules are 10 feet? Is it 10 feet there? 10 feet from the lot line. You house is already 5.6 feet.

Warnick: It depends where you're at. 9.23 from the front and 7.6 from the side.

Conti: Where did we get this 5-6 feet.

Warnick: 5.75 is actually right here.

Members talking

Warnick: 7.63 is what she would be from the edge here.

Conti: Ok.

Warnick: So, the width of it would be 7.63 from that

Members talking

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Conti: So can you come up here for a second.

Miller: Sure

Conti: On your house here your 9.23 feet from the lot line.

Miller: Ok.

Conti: Right. Is this where your generators going to go in this area here?

Miller: Is that the chimney?

Conti: That's the chimney.

Miller: Yes, right there.

Conti: In front of the chimney?

Miller: Well, I'd like to do it in front of the chimney if I have to do it next to it I will.

Conti: And do you know how big the generator is? Width wise?

Miller: I didn't know I was going to run into all this stuff.

Conti: Well because I know that you're saying the house from the other persons house is 30 some feet but that's not your property. That's their property.

Miller: The what?

Conti: You're saying the other house is way over here. This isn't your property.

Miller: I know and I thought it was.

Conti: So that's why.

Miller: That's his. That's where I got confused. I don't know that this actually gives dimensions.

Everyone talking

Miller: I've already paid National Fuel to update everything right there.

Conti: Ok.

Miller: So, they're not big there are only like this wide.

Maggard: There like 2 2 ½ feet.

Miller: If that.

Warnick: If we only had the technology to look something like that up.

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Maggard: Generic

Miller: Yes

Maggard: You can't put it in the front of the house. I know that there is a window in the front of your house.

Miller: Yeah

Maggard: But can you bring it 5foot from the window? And just protect it by a bunch of bushes or something.

Miller: You mean like where the house is here put it between the edge of the house and the window?

Maggard: Ok

Warnick: She saying the front.

Everyone talking

Serianni: Let's try and bring a little order here. We have minutes here.

Conti: Right, we are just trying to look at this here trying to see the size. The width of it Dave found about 2 feet.

Warnick: 25 inches.

Miller: Ok.

Warnick: Did they tell you how far away from the house it has to be?

Miller: He said you people want it to be 18 inches.

Conti: Ok. Foot and a half what you were saying

Miller: That's where we lose. What's that.

Warnick: You need to go to the mic so that we can...

Conti: We just need you to go back to the mic

Warnick: So, you're looking at a 4-foot variance.

Mille: Yes, I guess.

Conti: 4 foot going in that front part of 9.23.

Warnick: That's provided that's what the width is.

Members talking

Warnick: 18 inches off her building 2-foot-wide generator and you got 9.23 so it's about 6 feet.

Conti: So, you're asking for 4.

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Conti: Right

Warnick: You're asking for 4 not 2

Miller: Well, that's better than 3.

Conti: So, what we are talking about here what we are looking at so it's on the record is in the front from the chimney to the front of your house ok that from the lot line the side yard setback is 9. 23 feet according to the print. So, it's 18 inches from the house and Dave found its 25 inches so 2 feet so that's 3 ½ feet so that would bring you down to... So, you're asking 3 ½ from 9 foot

Members talking

Warnick: 5.27 feet off the property line.

Conti: So, 5 and quarter.

Warnick: The south edge of the generac.

Conti: So, it will be 5 and quarter feet from the lot line. That's what we are looking at. Is that...

Miller: Ok. That sounds about right.

Conti: Alright questions?

Maggard: No, I would like to make a motion

Conti: Well, you have to hold on slow down there Margie. Slow down. Any other questions from the Board? You can have a seat. Unless you have something else to say. Is there anything else you want to add to it?

Miller: I just... eventually I am going to need this because my sister will move in with me and she's got MS and seizures many medical issues. So, I recently came up with the idea because my father moved in with me but he's died.

Conti: Oh, I am sorry to hear that.

Miller: I am too. But she's going to be coming to me real soon. Because she's getting to where she can't be on her own anymore.

Conti: Ok.

Miller: So that's the main reason I want this because I have to run her machines whether I have power or not somehow.

Conti: Ok.

Miller: Let's face it I'm too old to be crawling around with a portable generator.

Conti: Is there anybody else here that would like to speak for or against this motion? Mics open. I would like to make a motion to close the open meeting.

ZBA- 11-2023 (C)

Warnick: Second

Conti: Any discussion from the board? Do we have a motion?

Heuck: No, I don't have a motion I have question. Do we have to consult with our Goo Roo Tim Masters in regards to modifying ok the proposal?

Serianni: Modifying the request.

Heuck: Variance. Yes.

Serianni: No, you do not need to consult with Tim Masters. You could approve a variance with conditions or modifications.

Heuck: Well yeah with conditions.

Conti: The conditions are going to be these.

Heuck: Ok

Conti: The location. Any other questions from the board? Do I hear a motion on the floor?

Maggard: Yes, I would like to make a motion.

Conti: Ok.

Maggard: The request you have is 2 2 ½ feet from your side yard setback and the request for that is on the south side for a generator is not substantiated as far as the 10-foot clearance is supposed to be from the side yard. So therefor I suggest that the variance should be approved and because it would be ok with the neighborhood.

Conti: With conditions.

Warnick: With conditions.

Maggard: Only if the condition is 9.73

Conti: No

Maggard: Foot

Conti: No

Maggard: No

Conti: Let's relook at that. Ok. The motion on the table is going to be that with the conditions of the front part of the house relocating the generator to the front part of the house on the side where it's 9.23 feet from the side line.

Maggard: Yes

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Conti: From the side set back. With the 18 inches from the house and 25 inches of a generator with it would then be at 5.2

Warnick: 5.27

Serianni: 5.27 from the lot line

Conti: 5.27 from the lot line at the front side of the house.

Miller: But that's right where the fuel meter is.

Warnick: Were just doing the math right now.

Miller: Oh, I am sorry

Conti: Wait now where's the meter? You didn't tell us this.

Miller: It's in the front corner of the house

Conti: back up to the mic please

Miller: Oh, I am sorry. It's in between the front corner of the house and the chimney. So, you got I know. It's got this area here I can put it there if you want me too.

Conti: Well, you can't block the meter.

Miller: But I can't block that meter.

Conti: Can't block the meter. Unless they move the meter to the front of the house.

Heuck: She already did that.

Conti: The meter.

Heuck: She already moved it she updated it.

Miller: I already paid for the meter to be updated and...

Heuck: They already moved it.

Miller: I am getting nicked and dined to death here. This is getting ridiculous.

Members talking

Conti: Where was your meter prior to this?

Warnick: The electrical?

Conti: What's between. What is on the stay at the micro phone between the front of the chimney and the front of the house. What meter is there? What meter? What meters is it the electric or the gas or both?

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Miller: Both.

Conti: Both electric and gas are right there.

Maggard: Yep

Miller: And like I said I already paid to have the gas one updated because it has to have a certain meter to run with these generics.

Serianni: Where are you proposing to place the generac? Behind?

Miller: Right in front of the chimney itself.

Serianni: Ok

Miller: Because all the hookups are right there and I already got an AC unit over there.

Serianni: My suggestion to the board is to do the math based on the proposed placement of the generac in front of the chimney and evaluate the application based on that.

Warnick: Are we talking south of the chimney?

Serianni: Yes, that's what it sounds like.

Warnick: It's south of the chimney.

Miller: Yes.

Serianni: South of the chimney.

Warnick: Ok so then the math does change by 1 point 6

Conti: Right

Heuck: Ok

Conti: So, 7.63 then you have to subtract what did we say 3 ½ feet

Miller: The chimney doesn't stick out that far.

Maggard: But you also have the air conditioner.

Conti: No in front of the chimney. Where's your air conditioner? Where is it?

Miller: On the other side of the chimney.

Warnick: On the front side.

Conti: On the backside?

Heuck: Backside?

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Miller: No, it's on the side the south side of the house.

Serianni: Are you placing the generac next to the air conditioning unit.

Miller: Yes. So, I can keep all my hookups in one spot.

Warnick: I got it. But the notch out for the chimney ok house chimney notch out on the south side is your air conditioning next to the chimney or in front or behind the chimney?

Miller: South side of the house would be west of the chimney.

Warnick: Ok

Conti: So, your chimneys sitting here right here's the front of your house is your air conditioner here.

Miller: Toward the back.

Conti: Toward the back beyond the chimney.

Miller: Yeah, but like its right there.

Warnick: That's what I mean it can be next to it.

Conti: Ok

Warnick: Were not putting a generac next to the chimney then your property line right there.

Conti: We were all set until you left out the whole important thing about the meter.

Maggard: That makes the backside 7.06

Conti: That's 4 feet.

Maggard: Ok I see.

Conti: Ok so by putting it in front of the chimney we are looking at 4 feet. She wants to be 4 feet with the generator to the lot line.

Warnick: Ok

Conti: That's what we are looking at.

Miller: Ok

Conti: The location that you want it at.

Heuck: Better than 2

Conti: Is at 4 feet. So that's where we are at then. So, it's going to be you're looking at it to be in front of the chimney be 18 inches front the chimney and then the 2 foot which gives you 4 feet. From the end of the generac to the lot line. Does that sound about right?

ZBA- 11-2023 (C)

Miller: Yes.

Conti: Ok you can have a seat.

Maggard: Ok

Conti: Any other questions from the board at this point?

Miller: Please no.

Heuck: We've covered ever basis that we could.

Conti: Does anybody want to make a motion at this point Gary?

Heuck: She was tempting to make one

Maggard: No that's ok I will let you do it. You want too many critters in there.

Conti: Does anyone want to make a motion?

Heuck: What are you looking at me for?

Conti: You're killing me here. So, the motion on the table for the board is going to be to be 4-foot variance so well it's not 4-foot 4 foot from the lot line to put the generac generator in front of the chimney. It does not make an undesirable change to the neighborhood. Benefit can be sought but it would be expensive in another spot yes, the variance is substantial it would not have an inverse impact on the physical or environmental conditions of the neighborhood and it is self-created because it is something she wants. So based on all that benefit to the application does outweigh the detriment to the neighborhood or community therefor the variance is approved at 4 foot from the lot line. Do I have a second on that motion?

Maggard: I will second it.

Conti: All in favor

Members: AYE

Conti: Opposed? Lisa can you...

Wisnieski: David Warnick: AYE, Marjorie Maggard: AYE, Gary Heuck: AYE, Joseph Conti: AYE

Miller: Thank you so much.

Conti: You're welcome.

Miller: I am a happy girl. You guys have a great night.

Members: You too

ZBA- 11-2023 (C)

Conti: All right anything else? Please remember and put this in the minutes that our meetings starting in December, December 14th at 6:00. Starting in December our meeting will be at 6:00 from now on. Motion to close the meeting

Maggard: I will make a motion to close the meeting.

Conti: All in favor

Members: AYE

Conti: Opposed. Were closed.

Respectfully submitted by



Lisa Wisnieski
Building Dept Clerk



Joseph Conti
Chairman

