

ZONING BOARD OF APPEALS

Town of Lewiston 1375 Ridge Road Lewiston
Thursday – August 9, 2018
ZB 2018-8

Present: Baker, Balassone, Heuck, Machelor, Muzzi,

Absent: Conti

Presiding: Anita Muzzi, Chairwoman

Pledge of Allegiance

Muzzi: Good evening. Welcome to the Zoning Board of Appeals meeting for August.

A motion to approve the minutes from July 2018 was made by Heuck, seconded by Machelor and carried. 1 abstention

The first item on the agenda was a request from Victor & Kristina Muto, 705 Raymond Drive, SBL# 87.20-2-55 for a variance from the required 15' side yard setback to be 4' from the property line to allow for a 16'x13' shed. The property is presently zoned R-1, one family residential.

Muzzi: Our first request this evening is for Muto, Raymond Drive. How are you?

Muto: Good.

Muzzi: Big question of the night, do you have your neighbor's survey? Did that ever pop up other than what you sent over?

Muto: We have plans that I emailed over but not an actual survey.

Muzzi: We had that looked at here within the Town and it doesn't give us enough information on that side property line with the measurements. Unfortunately until we get that resolved the application is being considered incomplete until the surveys match up with the numbers that have been brought forth to us. Rather than open the public hearing on it, we'll just go ahead and table this and....

Muto: So you want me to go and get a new survey?

Muzzi: It doesn't have to be a complete one. It's the property line that's in question between you and your neighbor.

Muto: Just a quick question on that, 2013 we had a fence put in and that was approved and so I'm just questioning how that was approved?

Muzzi: Unfortunately that's not in front of us. I don't have the information on that. If you still have the survey from then. I think the problem is the survey that was turned in; you're using the same survey that was from 1990. If it's the same one, unfortunately the numbers aren't adding up. We had our Building Inspector look at it and the Town Engineer as well.

Muto: They came out and measured from the exact spots?

Muzzi: I came out to measure the one day. Just for my own knowledge I took some brief measurements, not that they are accurate. Again I don't know where the lot line is. When you look at your survey the numbers aren't adding up. You sure could have somebody come in and just mark off that one side for us. Then they can give it to us and we can go forward. For us to have any type of a meeting on this now not knowing exactly where that is, it's certainly not beneficial to you.

Neighbor: I have the survey of my lot line.

Muto: That's not the actual survey.

Muzzi: Unless you have something else at home but what she sent to us, it looks like the plans when you had your house built possibly. It wasn't an actual survey. You can have somebody come out and do that one line. That seems to be where everyone is getting hung up.

Balassone: It wouldn't have to be a full blown survey. Just have them do that one lot line that's in question. Just to decipher where that lot line is exactly. That would help us to make our decision.

Muzzi: It will show where the fence is in relationship to that and where your current shed is.

Muto: But if the fence is on our lot which our permit was approved in 2013, that was all taken care of. If that's on our lot line, if that's over our lot line why wouldn't this variance be approved for a 4' if our shed is 4'8" from the fence?

Muzzi: We will base it only on a legal document and that is going to be your survey. The fence, whenever your fence was done, we don't have that information. It's not before us. Whatever you can provide for us obviously would help. I'm saying though if you use the same survey that you had done in 1990 it's not accurate. If your fence was based on that.

A motion to table the request was made by Heuck, seconded by Balassone and carried.

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Muzzi: I have to ask for forgiveness before I say your last name sir.

Olaf Roennspiess, 887 Hillside Drive, SBL# 102.09-1-16, requests a variance from the 15' side yard setback to 7'7" to allow construction of a garage addition. The property is presently zoned R-1, One Family Residential.

Muzzi: Tell us about your project.

Roennspiess: Well I would like to extend the existing garage by 8' so it turns in to a two car garage from a one car garage. I would like to keep the one car out of the snow. In order to do that I need to apply for a variance so that I can move into the 15.7" clearance that I have from the property line. I provided a survey.

Muzzi: I have to tell you we see many applications and yours is so wonderful because you used graph paper and everything. Hats off to you.

Roennspiess: I'm actually a professional engineer and I work for a large international engineering company. When we begin a project we do a planning study and this is one of the documents that we start with.

Muzzi: Does anybody have any questions? You gave us two options. I'm assuming option two is not even a consideration because of the storm water catch?

Roennspiess: We normally do that as a matter of procedure as part of the planning study.

Machelor: You could remove the sewer right?

Roennspiess: I don't know. I asked somebody in the permitting department and they said they aren't going to do that. I don't really know if that....where the sewer drain is I can tell. Where the sewer line is I can guess. Guessing is not good enough when you're trying to build something.

Muzzi: Does anyone else have any questions?

Machelor: I don't have a question it's just a lot of reading. The size of your garage is your problem. You want to come within 7' of the lot line instead of 15'.

Muzzi: Does that include the overhang?

Roennspiess: It includes an extension, I measured from the wall. The overhang is probably a foot. Actually there is no overhang because that is the side where the roof doesn't drain out. There is no overhang per say.

A motion to approve the variance request was made by Machelor,

Muzzi: We'll have some discussion on this real quick. Does anyone feel there would be an undesirable change to the character of the neighborhood?

Heuck: No.

Muzzi: Whether the benefit sought by the applicant can be achieved by another method?

Heuck: It's dubious to think that it might.

Muzzi: I think the cost involved in option 2 in my opinion would be substantial.

Roennspiess: The cost and also the environmental.

Heuck: Where that storm drain is located at, I walked it, the pitch and everything and the slope of the adjoining property would really cause a problem if he put it back there as for how it would drain your property properly.

Roennspiess: The slope of the property is such that the existing garage to which the concrete would have to attach and we would have to probably floor drill in to it and get the re-bar either in to the epoxy or with cement but that is going to be the trickiest part of it. If the foundation doesn't hold the building above it, it's not going to hold obviously. I'm going to have a civil engineer design it. I'm electrical.

Muzzi: Whether or not the requested area variance is substantial.

Heuck: It is over 50%.

Machelor: I think it's substantial but not enough to justify a rejection.

Muzzi: The benefit of the applicant outweighs the substantiality.

Machelor: Yes.

Muzzi: Whether or not the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

Balassone: No difference from a one car garage.

Baker: I agree.

Muzzi: Whether or not the alleged difficulty was self-created.

Baker: Is that drainage structure and the pipe that's connected to it, do you own that or is it the Town's?

Roennspiess: That's the Town's.

Baker: Do they have an easement or something through your property?

Roennspiess: I don't know because I inherited the property from my parents. My step-father was rather upset at the time that this was built and I don't know any more than that. I suspect he wanted to build something to a garage perhaps and that would preclude the possibility. I don't know.

Baker: But the Town installed that?

Roennspiess: They installed that when they put the sewer in. I don't really know the exact routing of the sewer. I can guess though.

Muzzi: I would have an opinion that the difficulty was self-created because obviously you want to put your addition on. However, again the benefit to the applicant outweighs the alleged difficulty.

Machelor: I feel a single car garage at that time was common and now two car garages are more common and therefore you're restricted where the house was built originally.

Roennspiess: People couldn't envision 70 years ago what society and how many cars there would be and everything else.

Muzzi: Is there anyone else here that would like to speak on this matter? I will close the public hearing. We do have a motion on the table for approval.

Motion seconded by Heuck and carried.

Heuck Aye, Baker Aye, Muzzi Aye, Machelor Aye, Balassone Aye

The next item on the agenda was a request from Eran Colbus, 4018 Dickersonville Road, SBL# 75.00-2-7.2 for a variance from the required 40' front yard setback to 37' to allow construction of a new front porch. The property is presently zoned RR, rural residential.

I am Sonora Miller, I am his wife and I have a letter from him to represent him.

Muzzi: The applicant has submitted a letter stating Power of Attorney to represent me, Eran Colbus, in our variance application with the Town requiring additional space setback for a front porch construction. I nominate my wife, Sonora Rose Miller to act on my behalf of this matter.

Miller: When we got married last summer we received some money so we could make improvements to the house which was built in 1840. One of the improvements we would like to do is to add a front porch which would be in keeping with the character of the house. We are seeking to build a 6' wide porch across the front of the house.

Muzzi: You need a 3' variance from us.

Miller: We do.

Machelor: You say somewhere in the application that you considered a larger porch?

Miller: Yes we did. We were considering 12' and then when we started to do the research about the setback we realized that was an awful lot to ask. So we trimmed it down to 6' which I think is pretty much the minimum we could do without it becoming a Romeo and Juliet balcony style thing right? That's why we are asking for 6'.

Machelor: Is it a covered porch?

Miller: It will be covered yes.

Muzzi: You talk about the imminent domain in your application that happened before you bought the house I'm assuming?

Miller: Yes.

Muzzi: So you knew that going in to the purchase?

Miller: Yes.

Muzzi: It looks as though you are the last house in Lewiston?

Miller: We are. We are on the border with Porter.

Muzzi: Your next closest neighbor on that side would be who?

Miller: On the opposite side I believe the new owners are Spagnolo.

Muzzi: From house to house how many feet away from where you are?

Miller: Across the street at least 400', quite far.

Muzzi: You have no neighbors on either side of you?

Miller: We have Robert Burns is on our southern side and of course on the northern side is Town of Porter land.

Muzzi: Their house is how many feet from yours?

Miller: It is further back than ours. He originally owned our house and then built that house. It is about; it starts about half way through where our house is. It must be 55' back from the road?

Muzzi: You don't have anybody right on top of you?

Miller: No.

Muzzi: Does anybody have any questions? We can have discussion now. Does anyone believe there will be an undesirable change produced or character of the neighborhood or detriment to nearby properties?

Balassone: I would say no.

Muzzi: Whether or not the benefit sought by the applicant can be achieved by some other method that's feasible? I would say because you've already considered cutting it back, I would also say that it's not substantial what you're asking for. Whether or not the proposed variance will have an adverse effect or impact on the physical environmental conditions of the neighborhood or district? Does anyone feel they will or will not?

Balassone: You won't even notice 3'.

Heuck: If anything it will enhance it.

Muzzi: Whether the alleged difficulty is self-created? It is because you wanted it. Again the benefit to the applicant outweighs the alleged difficulty.

Machelor: I agree.

A motion to approve the variance request was made by Heuck, seconded by Muzzi and carried.

Heuck Aye, Baker Aye, Muzzi Aye, Machelor Aye, Balassone Aye

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Muzzi: Does anyone have anything they want to discuss?

The next meeting will be September 13, 2018, at 6:30 P.M.

**A motion to adjourn was made by Heuck, seconded by Muzzi and carried.
Heuck Aye, Baker Aye, Muzzi Aye, Machelor Aye, Balassone Aye**

Respectfully submitted

Sandra L. VanUden
Zoning Secretary

Anita Muzzi
Zoning Chairwoman