

PRESENT Mike Swanson, Ken Bedore, Bart Klettke, Abigail Stein, James Spanbauer, Shannon Fundis, Donna Vazquez

PUBLIC HEARING Mike Swanson opened the following public hearings at 6:28pm:

330 S. First Street – On the advisability of granting appeal to Sec. 8 – Zoning Schedule; to Robert and Kathleen Agnello who are requesting a 7 foot rear yard setback variance from the required 10 foot setback for placement of a shed to allow a 3 foot rear yard setback at 330 S. First Street Lewiston, NY, SBL # 101.14-1-51. This property is zoned R-1A, Residential, Single Family Medium Density.

345 Kerr Street – On the advisability of granting appeal to Sec. 8 – Zoning Schedule; to Robert Dutter who is requesting a 8 foot rear yard setback variance from the required 10 foot setback and a 3 foot side yard setback variance from the required 5 feet for replacement of a shed to allow a 2 foot rear yard and a 2 foot side yard setback at 345 Kerr Street Lewiston, NY SBL # 101.06-5-40. This property is zoned R-1A, Residential, Single Family Medium Density.

130 S. Fifth Street - On the advisability of granting appeal to Sec. 13 – Sign Regulations; to Skip DiCamillo who is requesting a 10 foot variance from the 10 foot requirement, for placement of a freestanding sign on the lot line at 130 S. Fifth, Lewiston, NY 14092, SBL #101.10-3-68. This property is zoned R-2, Residential, Two Family, Townhouse.

444 Center Street – On the advisability of granting appeal to Sec. 13 – Sign Regulations; to Al Bax and Neil Garfinkel who are requesting a variance for a second A-frame/vertical sign and a variance to place a vinyl hanging sign on the railing of the front patio on the east side of the building at 444 Center Street, Lewiston, NY 14092, SBL #101.10-2-38. This property is zoned R-B-2, Retail Business.

475 Ridge Street – On the advisability of granting appeal to Sec. 13 – Sign Regulations; to Chuck Barber who is requesting a variance to allow a vertical sign to be placed off premises, on Village of Lewiston property, located at 476 Center Street for 475 Ridge Street, Lewiston NY 14092, SBL# 101.15-1-4.2 This property is zoned R-B-2, Retail Business.

No public was present to speak. The public hearings were called to close at 6:29pm.

CALL TO ORDER Mike Swanson called the meeting to order at 6:29pm

MINUTES A motion was made by Ken Bedore seconded by Abigail Stein and passed unanimously to approve the September 26, 2023 minutes.

NEW BUSINESS **330 S. First Street**
A motion was made by Bart Klettke and seconded by James Spanbauer to adopt the following resolution:

WHEREAS, the Village of Lewiston Zoning Board of Appeals has held a public hearing on October 24, 2023 at 6:30pm on the advisability of granting appeal to Sec. 8 – Zoning Schedule; to Robert and Kathleen Agnello who are requesting a 7 foot rear yard setback variance from the required 10 foot setback for placement of a shed to allow a 3 foot rear yard setback at 330 S. First Street Lewiston, NY, SBL # 101.14-1-51. This property is zoned R-1A, Residential, Single Family Medium Density.

WHEREAS, the Zoning Board of Appeals has found upon careful consideration that the following circumstances or conditions exist:

That no undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the requested permit.

NOW THEREFORE BE IT RESOLVED, the Village of Lewiston Zoning Board of Appeals grants the appeal to Robert and Kathleen Agnello for a 7 foot rear yard setback variance from the required 10 foot setback for placement of a shed to allow a 3 foot rear yard setback at 330 S. First Street Lewiston, NY SBL # 101.14-1-51.

The motion passed with the following results:

Stein – Yes Bedore – Yes Klettke – Yes Spanbauer – Yes Swanson - Yes

345 Kerr Street

A motion was made by Ken Bedore and seconded by Abigail Stein and Bart Klettke in unison to adopt the following resolution:

WHEREAS, the Village of Lewiston Zoning Board of Appeals has held a public hearing on September 26, 2023 at 6:30 PM on the advisability of granting appeal to Sec. 8 – Zoning Schedule; to Robert Dutter who is requesting a 8 foot rear yard setback variance from the required 10 foot setback and a 3 foot side yard setback variance from the required 5 feet for replacement of a shed to allow a 2 foot rear yard and a 2 foot side yard setback at 345 Kerr Street Lewiston, NY SBL # 101.06-5-40. This property is zoned R-1A, Residential, Single Family Medium Density.

WHEREAS, the Zoning Board of Appeals has found upon careful consideration that the following circumstances or conditions exist:

That no undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the requested permit.

NOW THEREFORE BE IT RESOLVED, that the Village of Lewiston Zoning Board of Appeals grants the appeal to Robert Dutter for a 8 foot rear yard setback variance from the required 10 foot setback and a 3 foot side yard setback variance from the required 5 feet for replacement of a shed to allow a 2 foot rear yard and a 2 foot side yard setback at 345 Kerr Street Lewiston, NY SBL # 101.06-5-40.

The motion passed with the following results:

Stein – Yes Bedore – Yes Klettke – Yes Spanbauer – Yes Swanson - Yes

130 S. Fifth Street

A motion was made by James Spanbauer and seconded Bart Klettke by to adopt the following resolution:

WHEREAS, the Village of Lewiston Zoning Board of Appeals has held a public hearing on September 26, 2023 at 6:30 PM on the advisability of granting appeal to Sec. 13 – Sign Regulations; to Skip DiCamillo who is requesting a 10 foot variance from the 10 foot requirement, for placement of a freestanding sign on the lot line at 130 S. Fifth, Lewiston, NY 14092, SBL #101.10-3-68. This property is zoned R-2, Residential, Two Family, Townhouse.

WHEREAS, the Zoning Board of Appeals has found upon careful consideration that the following circumstances or conditions exist:

That no undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the requested permit.

NOW THEREFORE BE IT RESOLVED, that the Village of Lewiston Zoning Board of Appeals grants the appeal to Skip DiCamillo for a 10 foot variance from the 10 foot requirement, for placement of a freestanding sign on the lot line at 130 S. Fifth, Lewiston, NY 14092, SBL #101.10-3-68.

The motion passed with the following results:

Stein – Yes Bedore – Yes Klettke – Yes Spanbauer – Yes Swanson - Yes

444 Center Street

A motion was made by Ken Bedore seconded and by James Spanbauer to adopt the following resolution:

WHEREAS, the Village of Lewiston Zoning Board of Appeals has held a public hearing on September 26, 2023 at 6:30 PM on the advisability of granting appeal to Sec. 13 – Sign Regulations; to Al Bax and Neil Garfinkel who are requesting a variance to place a vinyl hanging sign on the railing of the front patio on the east side of the building at 444 Center Street, Lewiston, NY 14092, SBL #101.10-2-38. This property is zoned R-B-2, Retail Business.

WHEREAS, the Zoning Board of Appeals has found upon careful consideration that the following circumstances or conditions exist:

That no undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the requested permit.

NOW THEREFORE BE IT RESOLVED that the Village of Lewiston Zoning Board of Appeals grants the appeal to Al Bax and Neil Garfinkel for a variance to place a vinyl hanging sign on the railing of the front patio on the east side of the building at 444 Center Street, Lewiston, NY 14092, SBL #101.10-2-38.

The motion passed with the following results:

Stein – Yes Bedore – Yes Klettke – Yes Spanbauer – Yes Swanson - Yes

475 Ridge Street

Mike Swanson asked the applicant; the location for your request is not on your property, correct?

Property owner Chuck Barber said that the building as its prior use was not used for retail. During Covid, the sign laws were loosened. We realize what we are asking for is not on our property; we are asking for a sandwich board or a ground sign to be placed on Center Street. Our reason for thinking is that this is the only business that has a direct walkway to it. The Peace Garden goes directly from Center Street right to this building, and we are one of the few businesses you can see from Center Street. Yes, we have a sign on Ridge Street, but it truly is effecting the retail business by not having it on Center. The Mayor did put up a sign on Center for us at one point that says restrooms and shops (with a directional arrow). We are the only shop that is back there. We had advocated putting some sort of plaque underneath that sign but that didn't seem to be a solution. We are looking for the easiest way and least disruptive to advertise.

Mike Swanson said we do not want a bunch of signs there; it is in front of the Peace Garden, and we want to keep it aesthetically pleasing.

Barber clarified that the location they would like to place the sign is in front of the Little Yellow House.

Shannon Fundis expressed a concern that a business owner came to the Clerk's office last week that has a second business in Barber's building to ask questions about signs. Does that mean that if this business is granted a sign on Center Street, that the new business will ask for a sign on Center as well, which creates a trickle effect for additional signs along Center.

Barber said no, that is all one rental business with a few small rental operations inside; I think we can coordinate that there would be only one sign to represent that building. We would list only one business for the property.

A discussion ensued on sandwich board signs placed on Center Street, and where the property lines end, and the DOT right of way begins.

Swanson said being that it is not your property, I don't think we can grant you a variance. That is more of a special use permit.

Fundis said the Village Board issues special use permits, not the ZBA. Swanson agreed, and stated that we can recommend them, but not issue them.

Barber inquired about the sandwich board signs on Center for other businesses, and how those are permitted being that they are in the right of way. Barber asked if it is not their property, how can they place a sign there.

Fundis said those signs are still on their property, the same as the first few feet of grass at your own home; it is the right of way but it is your responsibility to maintain it. You can put up decorations there, do what you want with it, it is still your property. An application is submitted for an A-frame/Vertical sign for a location designated in front of their property, not a completely different property.

James Spanbauer inquired about restaurants that place chairs on center; is that on the right of way or the property. Fundis said that would depend on the survey and where the property line ends

Spanbauer said I would like to table this request and send it back to the Village Board. With A-Frame signs, it is not required to be approved by any boards or commissions; it is only approved by the Zoning Officer. This specific application was denied because they applied for a sign to be placed not on their property; the law states it has to be placed on your property.

Barber gave an example of a business using green space on the walkway across from their business; that walkway is the same type of walkway that is in front of other businesses that is like the Peace Garden. I appreciate the length of it, but it is a direct path to the building.

Donna Vazquez said those signs go with their address. Your sign goes with your address; you can put a sign on the front of your property in the right of way on Ridge Street. The businesses on Center with these signs have an address on Center Street.

Swanson said I like your idea of adding a sign to the Village sign that is there already. Fundis commented; the issue is that it would be a permanent business sign on a village sign. Swanson said it does not have to be permanent; it can be clipped on and removed. Spanbauer added that we could stipulate conditions that it would only be permitted to be posted during business hours.

Fundis said the other issue is that if this is something you choose to approve, it is important to express their specific hardship. If the Village has a generic sign that they paid for to help this business, and we are going to now add their personal business sign to it, is that creating a precedence where every business not on Center Street would want a pole placed on Center by the Village for their personal sign to be added to it? If you were to motion to approve this, you really have to express their unique hardship, why they are different from any other business not on Center.

Barber said I was hoping the caveat, our hardship, would be that we have a direct path from Center Street for our property. Fundis asked, is that a hardship or a benefit to you? Other businesses on Ridge, Portage or anywhere else not on Center do not have Center Street frontage, and they have to find ways to promote their business. There are businesses that do not have a direct walkway, but you do have that. That is more of a bonus for property.

Swanson said I see two problems; first, because this is not your property and you are asking for a sign on Center Street, I do not know if we can grant a variance for that reason alone. Second, Center Street is a state street; you would almost have to apply for a variance with the state.

Barber said what about in front of the Little Yellow House; that is Village property.

Swanson said the owners of the Little Yellow House would have to apply for that variance, which would be the Village. When the funeral home put that sign in front of Tops, Tops applied for that variance. They worked out a deal between them. For Tops Express at the CVS Plaza, the owners of that property applied for the variance. The ZBA did not say you could put a sign on somebody else's property. This is similar to that; I do not think there is a variance we can grant.

Barber mentioned his secondary suggestion to put a plaque underneath the permanent Village sign.

Swanson and Spanbauer said no, after discussion, that opens up a lot of other things. Spanbauer said I think putting some type of sign in front of the Little Yellow House on the Village property would be the way to go. I understand your predicament with wanting to draw people back there.

A discussion ensued on where the property lines and the NYS DOT right of way starts, and the location of some businesses signs, tables, clothing, etc.

Swanson said the question is on whether or not we can legally grant a variance. If we cannot, which I think is the case; the next step would be to speak with our lawyer.

Spanbauer said at this point in time, we need to refer to the Village Board to decide if they would permit a sign there or not; if they throw it back to us, then we make a decision. From our interpretation, we do not feel we have the authority to do so.

A motion was made by Bart Klettke seconded by James Spanbauer and passed unanimously to table the variance request as presented for 475 Ridge Street; for legal review from the Village Law Counsel and the Village Board of Trustees to determine if the Zoning Board of Appeals can take action on this.

ADJOURN A motion was made by Bart Klettke seconded by Abigail Stein and passed unanimously to adjourn the meeting at 7:01pm.

Shannon Fundis, Clerk