

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – March 12, 2026

**Agenda- Susanne Merrell Area Variance 928 N. Hewitt Drive (A), Estate of David Walker 1200 Swann Road
Decision (B), Ingham Dutton Drive official decision (C)**

Present: Conti, Fontana, Machelor, Warnick

Abstain: Heuck

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of February 12, 2026, was made by Conti, seconded by Fontana and carried.

Machelor: 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. With that I would like to open the public hearing for Susanne Merrell 928 N. Hewitt Drive SBL 131.06-1-62 area variance. Are you Mrs. Merrell?

Merrell: Yes.

Machelor: Would you come to the microphone so we can get everything, all the stuff goes into the record there.

Merrell: I am not a very good public speaker.

Conti: Its ok. There's not a lot of people here so you are all right.

Machelor: Just stand close.

Merrell: I am just a little front porch put on my house. That's what I am here its not meeting the code.

Machelor: Yep. Well, you know we looked at this already of course, and I think I had difficulty figuring out where on the property you were going to build the porch.

Merrell: My I show you.

Machelor: Yeah, would you come up.

Merrell: So, this is the front of the house and there's a little gable there and it would just be extended.

Talking

Machelor: There's something in here too I think you may have asked for more than you needed or you didn't understand.

Conti: You had typed in...

ZBA- 03-2026 (A)

Warnick: 50-foot setback instead of 35.

Contactora: So, it's only 35 not 50?

Conti: Yes, its 35.

Contractor: I gotcha so we might be really close to that.

Conti: So, you are looking for 31 so you are looking for a 4-foot variance basically. So, you are going from 35 front to a 31.

Machelor: Does that change your thinking?

Contactora: No.

Machelor: You wouldn't want to be deeper? Or anything like that?

Contactora: No

Machelor: Ok. Everything else that I saw here I didn't see any problems with this. Does anybody have any questions?

Members: No.

Machelor: I'll entertain a motion.

Conti: I'd like to make a motion based on the Boards discussion under the factors whether an undesirable change would be produced in the character of the neighborhood or detriment to near by properties? No, it would not. Whether the benefit sought by the applicant could be achieved by a feasible alternative to the variance? No because she has a porch in front of the house its gotta go in front. Whether the request is substantial? No, it's only 4 feet. Would the variance have an adverse effect on the physical or environmental characteristic of the neighborhood? No because there a similar porch like that on other houses there. Whether the alleged difficulty was self-created? Yes, it was because they want the porch. The Zoning Board determines that the benefit of the variance to applicant outweighs any detriment to health, safety of welfare of the community. That the variance request is the minimum necessary and the variance be Granted.

Machelor: Ok. Can we have a second?

Warnick: Second.

Machelor: Any further questions from anyone? Alright I'll call the question. All those in favor say AYE.

Members: AYE.

Machelor: Opposed? Would you poll the Board Lisa.

Wisnieski: Joseph Conti: AYE, Lou Fontana: AYE, Norman Machelor: AYE, David Warnick: AYE.

Machelor: Ok it's approved.

Merrell: Thank you!

ZBA- 03-2026 (A)

Machelor: Ok go to the Building Department for whatever else you need.

Merrell: Ok

Machelor: Thanks for coming in.

Contractor: Have a great night, take care, thank you for your time.

ZBA- 03-2026 (B)

Machelor: Next Estate of David Walker 1200 Swann Road so on and so forth decision. Counsel, should we read this in it or just to hand this to Lisa?

Bax: Given that there's no public here I don't see that there's any harm in adopting it as drafted. I did draft this for you and I believe that I have circulated it, so I would just suggest that you indicate that everyone has reviewed it and that there are no additional changes nobody has made any remarks to you.

Machelor: Ok so Lisa I am going to ask the Board if you have reviewed these decisions.

Conti: Yes.

Machelor: Have you reviewed?

Warnick: Yes.

Machelor: Have you reviewed?

Fontana: Yes.

Machelor: The Boards reviewed the decisions and we would like the decision to wrote into the record.

Conti: Maybe read the determination.

Bax: Sure.

Conti: Just so that it's on record. Besides Lisa will take this to put on the record with it. You have a copy of this?

Wisnieski: Yes.

Conti: Want me to read it?

Machelor: Yeah, go ahead.

Conti: The Determination Based on the above, which we will present/ give to Lisa which will be in the records. The Board hereby concludes that the applicant has not provided sufficient evidence of an "unnecessary hardship" upon the owner and, accordingly, the corresponding application for a special use permit is hereby denied.

Machelor: Ok. Now we also?

Conti: Do we have to vote on this?

Bax: I would.

Machelor: Ok so motion to accept the decision as printed. All in favor say AYE

Members: AYE.

Machelor: Opposed? OK. Now how about David Walker.

Conti: Poll the Board.

ZBA- 03-2026 (B)

Talking

Conti: That was David Walker

Machelor: I thought we were doing Jamie Ingham.

Warnick: you were just given that.

Conti: No, you had David Walker first.

Machelor: Oh.

Conti: Just Poll the Board.

Machelor: Ok poll the Board Lisa.

Wisnieski: Joseph Conti: AYE, Lou Fontana: AYE, Norman Machelor: AYE, David Warnick: AYE.

(Estate of David Walker Interpretation/ Use Variance 1200 Swann Road SBL 88.00-1-44

Whereas, the applicant, Estate of David Walker, brought an application before the Town of Lewiston Zoning Board of Appeals (the "Board") on or about the 11th day of December, 2025, seeking an interpretation of the Town of Lewiston Zoning Code relative to a historic use of the subject property, and

Whereas, the Board having done its due diligence relative to said use and, based upon said investigation, concluded that same was not a legal prior non-conforming use, and

Whereas, the applicant subsequently requested that the Board consider a use variance for the subject property and the proposed non-conforming use; and

Whereas, the Board having reviewed the statutory parameters required to be considered prior to issuing a use variance for the subject property and concluding as follows;

Reasonable Return: The Board acknowledges that the applicant would potentially be able to garner a higher selling price for the subject property in its current state and contemplated commercial use. However, the Board has concluded that the contemplated use is not allowed in the current Rural Residential district. No evidence has been provided by the applicant that it is unable to sell the subject property for what would otherwise be a fair market price, without the contemplated commercial use. Thus, any difference between the values is a moot issue and the sale price of the subject property based on the non-commercial use is the more appropriate value of the subject property and is hereby concluded to be a reasonable return for purposes of this application.

Unique Hardship: The Board concludes that this non-conforming use is not unique to the subject property, as all properties in the Rural Residential district are subject to the same use restrictions.

Character of Neighborhood: The Board, after considering the testimony provided during the public hearing in this matter, concludes that to allow the non-conforming use, under the petitioner's original application, would have a negative impact on the character of the neighborhood which surrounds the subject property.

Not Self-Created: The Board has considered the applicant's argument that the hardship was created by the Mr. David Walker and not by his estate or Mr. Walker's beneficiaries. Although this statement is true, for purposes of this inquiry, the Board concludes that the applicant "Estate of David Walker" is, in fact, the same as the deceased. Therefore, the Board concludes that the hardship considered herein has been self-created.

Determination: Based on the above, the Board hereby concludes that the applicant has not provided sufficient evidence of an "unnecessary hardship" upon the owner and, accordingly, the corresponding application for a special use permit is hereby denied.)

ZBA- 03-2026 (C)

Machelor: Ok.

Conti: I would just read this into the minutes. This Jamie Ingham.

Machelor: Ok I am going to read the James Ingham appeal. Jamie and Mark Ingham appeal.

Conti: Matt, Matt. Jamie and Mathew Ingham.

Machelor: Matthew ok. **Jamie and Matthew Ingham Appeal for Dutton Drive SBL 87.00-1-23.2**

Whereas, the applicant/appellant, Jamie and Matthew Ingham, brought an appeal from a prior decision of the Town of Lewiston Zoning Board of Appeals (the "Board") on or about the 7th day of January, 2026, seeking an review of the Board's decision to grant an area variance for the prospective owner of the subjective property, and **Whereas**, the Board having held a public hearing relative to the appellant's application on the 12th day of February, 2026, and

Whereas, the applicant/appellant was provided an opportunity to present new and/or additional evidence to be considered by the Board relative to its prior decision on the subject; and

Whereas, the applicant/appellant, by her own admission, did not have and was unable to present any new and/or additional evidence not previously considered by the Board.

Determination: Based on the above, the Board hereby concludes that the applicant/appellant has not provided any new and/or additional evidence in support of its application for appeal/reconsideration and, accordingly, said application/appeal is hereby denied.

Conti: Take a vote to approve that.

Bax: Mr. Machelor I think at your last meeting you actually in fact did deny the request.

Conti: Yes, and this is the official writing.

Bax: So, this is something you can adopt and make an extension to the actual record last meeting.

Machelor: Ok. Alright so, having heard that I will accept a motion to approve it.

Conti: Well, we already approved it. Just need to be put onto the record from last month.

Machelor: A motion to put on the record from last month.

Warnick: I will second.

Machelor: OK. Ok do it again Lisa. All those in favor say AYE.

Members: AYE.

Wisnieski: Joseph Conti: AYE, Lou Fontana: AYE, Norman Machelor: AYE, David Warnick: AYE.

Machelor: Any further business from the Board? Hearing none I'll ask for an adjournment.

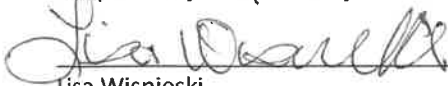
Conti: I'll make a motion to adjourn.

Fontana: Second.

Machelor: All those in favor say AYE.

Members: AYE.

Respectfully submitted by

A handwritten signature in cursive script, appearing to read "Lisa Wisniewski", written over a horizontal line.

Lisa Wisniewski

Building Dept Clerk

A handwritten signature in cursive script, appearing to read "Norman Machelor", written over a horizontal line.

Norman Machelor

Chairman

