

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – January 8, 2026

**Agenda- David Walker Interpretation/ Use Variance 1200 Swann Road SBL 88.00-1-44 tabled in December (A),
David Piwtorak 2078 Ridge Road SBL 89.00-2-16 (B)**

Present: Conti, Fontana, Heuck, Machelor, Warnick

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of December 11, 2025, was made by Heuck, seconded by Warnick 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'd like to open the public meeting the first item on the agenda is the Estate of David Walker Interpretation. Is anyone here representing him?

I am Michael Dowd attorney representing the Estate of David Walker.

Conti: Please come to the microphone Please.

Dowd: Oh sure. I am Micheal Dowd representing the Estate of David Walker I presented last month and the Board asked for additional information from Mr. Masters which I think is going to share some which I didn't learn about until I just walked into the door. So, I will say once they hear about this information, I will probably ask that the Board consider giving me time to review it ask...next month's meeting. I will keep quiet for tonight.

Conti: Ok.

Machelor: Ok thank you! Alright. Second item.

Conti: No. Tim, can you come up or do you want to do it from there? Just go over the finding that you found between last meeting and now.

Masters: At your last meeting I had given you all a notice of decision with the allowed uses and my reason for denial for both the interpretation of saying that it's a legal prior non-conforming or not and then also a denial for using the property for commercial purposes. Since that meeting you asked me to see if we could find anything else about it and so I went to the court office asked them if they had anything we pulled out the 2 prior permits so on the accessors records which you all have also there's 2 permits on that property. One from 1998 and one from 2001 both for the barn. We found those 2 permits and when Bob Coulter was the building inspector at the time both of those permits say for farm use only not business both permits explicitly say that. So that's just another reason why. I did also find a couple violations against Mr. Walker for building without a permit from 1998 and then also I had another zoning one but the court office didn't have the details of it just said violation but didn't have the details of what it was so I can't tell you what that one was about. So that being said Candella was the original property owner A walker bought it from the Candella's and then in 1998 A Walker transferred it to D Walker. And that when the building...prior to 1998 it didn't have a building on it. So that's kind of the facts that I have and you all have copies of those Mike does not have copies.

ZB- 01- 2026 (A)

Conti: So, the first building that went on that property was in 1998?

Masters: Correct.

Conti: The addition on to that barn was in 2000 and...

Masters: One. Those were both done by David walker.

Machelor: Without a permit.

Masters: He started without a permit then got a permit.

Machelor: Ok.

Conti: But the permit was for farm use only.

Masters: Farm use only both of them.

Machelor: Well, I wasn't here last time so I am trying to catch up where we are. So, Joe what do we do next?

Conti: Well, any other questions or anything else you want to add to this at all Tim.

Masters: That's just the facts of the case so.

Bax: Mr. Masters if you wouldn't mind just a brief outline of your notice of decision what that decision was for the record.

Masters: So, my decision given to the Zoning Board last month was: the request for a decision from the Zoning Officer stating that 1200 Swann Rd. in the Town of Lewiston is a legal non-conforming use is denied. The Town has no records to say prior to 1966 when the code came into existence when that was R2 that there were any use variances, special permit or there was a commercial business on that property prior to then we have no record of it the only records I have is what Bob Coulter put on this was farm use. So, then the other thing I put on your notice of decision said is denied based on the Town Code section and the Town of Lewiston not having any past permit or approvals on record at the Town of Lewiston and I gave you the allowed uses in the RR district but at the time it would have been R2 but actually right now RR section there's probably twice as many allowed uses as it was when it originally built.

Conti: When did it go RR? What year?

Masters: 2013.

Machelor: Ok so where are we?

Conti: Well Mr. Dowd asked...

Dowd: I didn't review this information so I am wondering if perhaps share that and then come back with the comments that I have.

Conti: We will just keep this... We will close the open meeting or you want to leave it open.

Bax: Leave it open.

ZBA- 01- 2026 (A)

Conti: So, we will leave the meeting open. Does anyone else want to say anything?

Machelor: It's an open public meeting.

Conti: Come on up state your name and address and...

My name is Jeff from 1224 Swann Road this is my grandparent's property and then passed along to my uncle who passed away in December and since then me and my sister became the executors of the estate and just wanted to bring up over the years, I think it happened in 1998 my grandfather did have the option to buy the property and he didn't. Mr. Walker bought the property and it just sat there; it was all woods. Bulldozers started chopping wood up and I've got some aerial pictures of the place its loaded full of equipment and cranes and all kinds of things. I know there was a lot of work going on in that shop, definitely not farming and things like that so. That's my only concern. If it was built used not legally and since I don't see why it would turn people down. Just because of the... I do have these if you'd like them.

Conti: Yes. Do you want me to make copies and give you back the original.

Jeff: There're 2 copies here.

Talking.

Conti: Thank you! Any questions for...

Machelor: Anyone else want to address this issue? So, we will close the public hearing. Leave it open until maybe February.

Talking

Conti: Table it until February.

Bax: You're going to leave the meeting open until your next meeting.

Conti: Until our next meeting.

Talking

Conti: The next meeting is just for your own benefit it will be the 12th of February.

Dowd: Ok Thank you!

Conti: Just let you know. Once they sent out the original notification, I am not sure if another notification was sent to you. Our Board meets the 2nd Thursday of every month so it will be February 12th at 6:00.

Talking

ZBA- 01- 2026 (B)

Machelor: Alright so I'd like to...we will start with David Piwtorak CIR electrical Area variance 2078 Ridge Road SBL 89.00-2-16, someone here to speak to that?

I am with Solar by CIR.

Machelor: Ok.

Conti: Do you want to explain what you are doing.

CIR: So, we are doing a solar installation it's a ground mounted system back yard, his acreage is half acre.

Conti: .56 acres.

CIR: And the minimum I believe with the code is 2 acres.

Conti: Yes.

CIR: So, we are looking for a variance from the Town for an exemption of that. It does supply all the setbacks are met right in the middle of the lot behind the house behind his lot is all meadow and woods beyond that so it doesn't face any other property or any other house or road. Doing it to offset his electricity bills and try to offset some of the rising cost of electricity company. And his lot is uniquely small so that's why we are looking for the variance.

Machelor: This thing you got here is like 17 by 20 feet.

CIR: Yeah.

Machelor: When you planned this did you realize that you were very far out of compliance for variance?

CIR: Yeah, according to the code we knew it was under...his acreage was under the amount needed.

Machelor: Well, its...

Conti: By a lot.

Machelor: By about 4 times. Because you have to have 2 acres not...

CIR: Meet the setbacks so I imagine the idea of the 2-acre rule is so that there's enough space between other properties and in this case, it does meet all those.

Machelor: That's a certain part of it.

Conti: It meets the setbacks as far as what?

CIR: It has to be 25 feet from the side property line and then I think 25 feet from the back of the property line which it is or it meets all those. I am not sure of the exact.

Masters: The setbacks are set in the solar law.

Conti: Ok.

ZBA- 01- 2026 (B)

Machelor: The setbacks aren't the issue. They really aren't up for discussion right now, because you didn't ask for anything that would require us to give you a variance on the setbacks.

CIR: On the setbacks yeah. I just ment it meets the setbacks.

Machelor: Well, you know first of all its very difficult for you to overcome the substantiality of you need 2 acres rather than a half an acre and you can probably understand that, not from your stand point but from other people's stand point, because this size of an array could be put on 100's of properties in Lewiston. Right. I mean if you got permission with a half an acre to do that all we have to do is stand in line.

CIR: Well, it seems like most properties are bigger than 2 acres from what I've...

Conti: There are some just not the majority at all. Is there a reason why you couldn't go roof mounted?

CIR: So the roof mounted don't give as much in this case it is a decent roof for it but it doesn't...he won't be able to get as much electricity out of the a roof mounted system it doesn't have the space your limited with the space and setback on the roof as well, the ground mount you can have perfect pitch, perfect orientation so you can maximize the space of each panel will maximize the amount of solar produced. So, he's basically wouldn't be able to get that size system on the roof.

Machelor: Why do you need such a large ray? What are you going to do? Your using extra power for some reason?

CIR: This array is actually on average a small array for a system size. System sizes are average are 10 or 11 residentially this is an 8kw so it is a smaller size system in general.

Machelor: Smaller than most homes?

CIR: Yeah, our average is 10 to 11kw this is 8kw, so it is smaller. I know the foot print of the ground mount it's 20 feet 17 yeah.

Conti: So, what can you get off of his roof? If you had to do his roof?

CIR: I don't have those number. I know that there's setbacks it's a smaller house if you just look at the house on satellite view there's a good orientation its south facing it's pretty wide open but it's you need to have 3 feet from the side of each of the roof and 18 inches from the ridge. So, you are kind of in a compressed area and offhand I know less kw's are like 5 or 6 compared to 8KW and then the idea is to offset the entire bill if you are doing smaller system sizes so you are still going to have to pay for some electricity.

Machelor: So, I don't want to characterize this but it's sort of a money problem. Right. It's the money that you're trying to avoid paying the electric provider. Right. You're trying to recapture some of that for yourself and you know if you put it on your roof you wouldn't need to be here. So, you could have gotten whatever it is 75% of this for nothing. You wouldn't have to do anything different. And they tell me it's cheaper on the roof so.

CIR: Its slightly cheaper yes you don't have to build the mount slot with the ground mount you get more production out of those panels. You can use high watted panels and higher efficacy cheaper inverters energy you're basically optimizing the space.

Machelor: Right.

ZBA- 01- 2026 (B)

CIR: There is a bit of an offset with that you basically it's slightly more to build a ground mount in general. In this case again...

Conti: Do you guys do roof mounted systems?

CIR: Yes.

Conti: And you didn't look at his option to say let's give me...

CIR: We did I don't know if we really mapped out what would have been there, I wasn't involved in the original design.

Machelor: Well just like from your stand point with the customer you're proposing a project to him that kind of incumbent on you to say you know this is really out of line here there not going to say yes here.

CIR: So yeah, he wanted to...he did have some hesitation for roof just like mounting something to his roof.

Machelor: Well, if you have an either or that would be fine.

CIR: And it was the fact of the matter would have been a smaller system and he was kind of hesitant mounting something to his roof worried about leaks or something like that. We definitely discussed those options before but he did want to try to get the variance if he could.

Machelor: Yeah.

CIR: Make the case.

Machelor: We approve variances often and most of the time the amount that people ask for is not substantial and that's why they get a variance because they say well, I just need a couple feet, I just needed 2 yards and we can do that but not when... you don't have the property.

Conti: Half acre to 2 acres is close.

Machelor: Your like 1/8 of what you need.

CIR: It seemed close.

Conti: It seems close.

CIR: I think the part of the code right of 2 acres at minimal is a bit arbitrary. Right. Because the reasoning behind it I am assuming right is that you want to have space between other lots. Right. You want to have substantial space around it and that's why I bought up that the setbacks are met so theoretically if he had 2 acres this still could be 25 feet in the corner of the lot.

Machelor: Absolutely.

CIR: It's still just as close to another lot.

Machelor: If you had 2 acres all you would have to do a side set side.

ZBA- 01- 2026 (B)

Conti: It's not an old code our solar was redone in 2020 and there was reasons beyond me which reasons why they chose the numbers that they chose. And again, if it was an acre and 3 quarters and acre and a half, you're asking for smaller variance small amount you're asking for quite a substantial variance on it.

Machelor: Ok anybody else have any questions?

Warnick: I do actually. So, these are almost 11 feet tall as well, right? I am looking at your cross section east elevation on... That pretty high.

CIR: Yeah, I mean it is behind the house facing the woods empty lot to the east and to the south. The house to the west is surrounded by trees so no one would be able to see it.

Machelor: Well, you know the property doesn't stay in the same owners as you know so anything can happen in the future. They could have maybe said you can't use that unless you have 3 acres, we have 5-acre limitation on somethings 3 acres on other things.

CIR: I see 1 in half acres.

Warnick: Yeah, if you're talking about 100 acres.

Talking

Machelor: Well yeah it as I say if it went through like you asked, we would have people standing out in line here and saying gees I want to put one of those arrays up. They'd call you and say yeah get that guy that did that other one right. Ok. Does anyone else, this is a public meeting, does anyone else have anything else to say about this? Yes sir. Please go to the mic so we capture.

(David Piwtorak) I am the property owner alright and the reason wanted it off my roof is because I would have to change my whole roof and then I'd have to put a new roof on and add to that if I out solar panels on there my roof work is not warranted for having paneling on there. So, the reason why I wanted to put it off of the roof so I would have to go through that putting a new roof on there and then have the roof warranty thrown out the window because I am putting solar panels on.

Machelor: Yes, sir I understand from your stand point why you are doing it. We're not questioning you on why you want to do such a thing but you don't have a big enough piece of property to all that.

Piwtorak: Because letters were sent out to the neighbors around me did anybody protest it?

Machelor: Not that I know of because they would be here.

Piwtorak: Ok Just wanted to know.

Machelor: Well, you know I tell you we're not managed by the crowd that shows up we're managed by regulations.

Piwtorak: Ok.

Machelor: So, when the crowd shows up, we explain the regulations to them and then we make a decision and everybody goes away knowing what happened and why. So, the reason we have here is because the substantial nature of the size you want to put on a small piece of property. Anything further?

ZBA- 01- 2026 (B)

Piwtorak: No.

Machelor: Thank you! Ok I will close the public hearing.

Conti: Hold on one second. Tim, can you talk to the nature of that zoning law of having 2 acres vs.

Masters: The Town Board wanted based on when they made the law the public outcry when we...the solar say 10 years in the making right the public outcry and I can't explain why the public outcry because you are talking to somebody who has 20 acres of panels behind their house. People have an adverse reaction to looking at solar panels. So that's why the utility scale has a 700-foot setback and its totally screened for that same reason the Town put that 2 acres minimum in there just to make sure that properties aren't too close proximity we have that same public outcry hey my neighbor put in a ground mounted solar system now I got to look at this thing and that was the whole reason for the language. Yeah, is it arbitrary I thought it was a little arbitrary but it was based public input.

Conti: Ok. Thank you!

Machelor: Board any comments further comments? I'll entertain a motion. Is that 11 foot that you are using is that standard?

Conti: 11-foot height.

CIR: Yeah, I mean it depends on the size of the system but for this size yes.

Machelor: Ok. Just for public information and I don't know how much of this you know but, for area variances we have a set of criteria that we use to decide whether there substantial and all these kinds of things. We concentrated on a couple things but you know I want to tell you for example one of these things says that the benefit can be achieved by other means in other words roof mounted would be the other means. Whether the request is substantial which it is. Whether it was self-created the fact that electricity cost more is not a self-created issue for the owner of the property, the person that pays the bills. You know you want this to be done and you're creating it to be done we're supposed to agree. That would be the plan but you know so, you know your answer to the self-creation is the fact that utility rates are high. So that would apply to everybody.

CIR: It's not self-created.

Machelor: So, you can't do that.

Conti: What he's saying wanting the solar system is self-created. You want it. You don't have to have it. What he's explaining is that the rates are the same for everybody. So, everybody's rates are going up.

Machelor: So, everybody would have that excuse if they wanted to do this.

Conti: You want the solar so that's what he is explaining right now.

Machelor: Yeah. Yeah. So, you know when you come here, sometimes we allow people to do things that are self-created because there are certain stances beyond our control and we say yeah, we didn't do that that something happened and then we say yes. You have a garage roof also.

Piwtorak: Attached garage.

Talking

ZBA- 01-2026 (B)

CIR: I don't know if you have the plan set. So, if you look at the back roof it would just be the top that's the only part of it you can utilize there's a lot of obstructions on that like fence.

Conti: On the roof itself.

CIR: On the roof. So that's another factor not only do you have the setback that would be 3 feet from each side you'd also have 18 for ridge and then there's 4 vents and skylights there.

Conti: Can you mount it to the back of the house?

CIR: Like on the side of the house?

Heuck: Yeah. Yeah, you can.

CIR: On the siding permanently.

Heuck: I've inspected them before.

CIR: So, the ideal pitch is 26 degrees is the maximum for the sun that's ideal pitch so it's a vertical pitch...Even if you could we don't do that.

Heuck: It's cheap.

Talking

Conti: What's behind you?

Piwtorak: It's all vacant land behind me from my house to the ridge it's all vacant its actually owned by Joe Anderson's nephew now there's a lot on the side of me its vacant lot and then 10 acres of land behind me that's all landlocked. What they originally tried to put a road though there up to reservation so his people could go up instead of going up Blacknose Spring and the Town denied them that, so he never did anything with the property. He couldn't do what he originally wanted to do. So that's all that's behind us is all locked in.

Machelor: Buy a couple acres.

Conti: No, no he said buy a couple.

Piwtorak: I wanted to buy a whole 10 acres of that, don't even go there.

Machelor: He didn't want to listen to that.

Piwtorak: He didn't want anything's...even though I know him really well I don't know why he just don't sell the property. I mean he had money there he just didn't want to sell the property after I had been there 20 years after 10 or 15 years, he decided to give it to his nephew, for what I have no idea. I tried to buy the property from him he wouldn't give it up. I'd buy it if he'd sell it to me. I tried. I tried. Even if I could extend my property behind, I don't really care if you want 2 acres of land and I could buy it from my house all the way back to the ridge I would do it.

Machelor: You can't make them do what they don't want to do.

Piwtorak: You got that right. You can lead the horse the water but you can't make them drink. So that's what it is its all-vacant land back there all the way to back everybody behind us doesn't own it because this property.

ZBA- 01- 2026 (B)

Talking

Conti: You said the lot next to you is empty also.

Piwtorak: Correct on the East side.

Conti: That's owned by Joe Anderson also his nephew.

Piwtorak: His nephew that's what he told me. That's how you get into the property, then the 10 acres.

Conti: Oh ok. The sheds not big enough either?

Piwtorak: The shed doesn't face...

Conti: The right way.

Piwtorak: Yeah. If it did, I would have put it on the shed it just doesn't face the south to get the maximum sun.

Machelor: So, I think I asked this question earlier so I'll ask it again to make sure I got it right. If it was permitted at that size is that enough for a home, the size of the home I am looking at? I mean it appears to be enough.

CIR: Yeah, it off sets the annual consumption by 110 percent which is the system to offset their last 12 months of the electric bill. So, it's...his consumption is about 7500 KW hours a year and it will produce 1500

Machelor: What's the payback time.

CIR: His typical payback is 8-10 years I am not sure where his plan year is.

Machelor: 8-10 years for this size array.

CIR: That's typical yeah. It's just a matter of adding up your typical utility costs.

Talking

Machelor: So even eliminating the entire bill it will take you 8-10 years.

CIR: Offset.

Machelor: Back to normal.

Talking

Machelor: Why they don't because it takes that long for them to say yeah well, I am paying less out a month now. So, for 8-year 10 month it's still paying the same bill every month but it's to somebody else besides the electrical company.

Talking

Conti: Any safety issues Mr. Masters with having that large of array on that small of a lot?

ZBA- 01-2026 (B)

Masters: It's actually not a large system.

Conti: Ok.

Masters: it's not a large system.

Conti: The biggest thing you looking to do is not put it on your roof and void your warranty.

Piwtorak: Yeah, because the roof is 20 some years old and I would have to replace the roof and then once the roofs on there and the warranty is void and I didn't want to do that. And it would be better for me for some particular reason if hypothetically somebody came in and bought that house it would be better to think if they wanted it out of there, they wouldn't have to take something off the roof. See what I mean. More of a job to take something off that roof because you would have to replace that. If you had this piece in the back that, all that frame work go out in the front yard and... that's the difference.

Conti: Ok we put fencing around it as far as like to hide the actual unit?

Warnick: It's 11 foot tall.

Piwtorak: Nobody would see it from the front because the house would hide it.

Conti: I am not referring to front as much as any neighbor that might be back that way.

Piwtorak: I don't have any neighbors in the back.

Conti: The side.

Piwtorak: Just one side.

Talking

Conti: Have we had a lot of requests for solar mounted, ground mounted solar panels on less than 2 acres in the Town?

Masters: I think we only have off the top of my head 2 ground mounted solars in the whole Town of Lewiston period. About 98% of them are roof mounted. It does cost more to put in the ground mounted system which I think is the reason why those people will go on the roof. But we only have two and have had no issues with them. And those 2 both had the acreage.

Conti: I think that's what kind of holding the Board up right now. The fact that you have a half-acre and it would be a variance of you only have a quarter of what the variance requests so it's a very large substantial variance and that's what's kind of holding the Board up right now. We totally understand what you're saying and you're in a little bit of a unique situation as far as the property around you. Where most of the time in the Town people have people in side and people in the back.

Machelor: The nephew could decide he's going to put a housing development.

Warnick: Exactly.

Talking

ZBA- 01- 2026 (B)

Piwtorak: It's not a buildable lot back there.

Warnick: As of today.

Machelor: His acreage. What every Joe's nephew's acreage is.

Conti: Could you put a PUD back there?

Masters: If it's over 1 acre you could put a PUD in most any zoned district.

Conti: Ok.

Masters: But usually if it's not in the sewer district it's probably not going to happen.

Conti: And it's not in the sewer district.

Talking

Masters: If it's any consolation just from my perspective I don't really see let's say if you were to move on this variance even though it is substantial I would agree with you, I think the majority of people still would not want even if the rule was a half an acre, I think the majority of the people would not want a ground mounted system. Not only because they don't want to look at it and mow around it and maintain it and their neighbors. Personally, I don't think the danger would be like setting a presence where everybody would come screaming in, I don't think the majority of people would want it even based on the conditional plan just my opinion.

Conti: I appreciate that. I'd like to make a motion then based on the 5 test requirements whether an undesirable change would be produced in the character of the neighborhood or detriment to nearby properties. No, it would not because you won't be able to see it from the road and there's no other properties back there. Whether benefit sought by the applicant can be achieved by a feasible alternative, yes because he could still make it a roof mount, I know it may not be desirable to do but you could still do that. Whether the request variance is substantial it is because it's going from half acre to 2 acres which is quite a bit. Would the variance request have an adverse impact on the physical or environmental of the conditions of the neighborhood no it would not. And whether the alleged difficulty was self-created, the difficulty is not self-created well it is self-created it's how you look at this thing. The cost of electricity we are all effected by that so it's not that doesn't directly go to the alleged difficulty. But with all that said based on the Board discussion and these following decisions I just read the Zoning Board of Appeals determines that the benefit of the variance of the applicant outweighs and detriment to health, safety and welfare of the community, the variance request is the minimum necessary and the variance be granted.

Heuck: Second the motion.

Machelor: Ok motions been made and seconded. Any discussion from the Board? Alright I'll call the question. All those in favor say AYE.

Conti, Heuck, Fontana: AYE

Machelor: NAY all those say NAY

Machelor, Warnick: NAY

Machelor: Poll the Board Brigggett

ZBA- 01- 2026 (B)

Cogland: Joe Conti: AYE, Lou Fontana: AYE, Gary Heuck: AYE, Norm Machelor: NAY, David Warnick: NAY.
Motion carries

Machelor: Motion carries. Thank you!

Fontana: Motion to adjourn.

Warnick: Second

Machelor: Motion to adjourn has been made and seconded. All in favor say AYE

Members: AYE.

Respectfully submitted by



Lisa Wisnieski
Building Dept Clerk



Norman Machelor
Chairman

