

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

**Agenda- Estate of David Walker Interpretation/ Use Variance 1200 Swann Road SBL 88.00-1-44 (Tabled in December and January) (A), Citrine Power Variance extension for 4746 Model City Road SBL 88.00-1-20 Solar project (B), Jamie and Matthew Ingham Appeal for Dutton Drive SBL 87.00-1-23.2 (C)**

Present: Conti, Fontana, Heuck, Machelor, Miller

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

**A motion to approve the minutes of January 8, 2026, was made by Heuck, seconded by Conti 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. So, I am going to open the public meeting in this case I am going to open it on Citrine Power Variance.

Conti: I thought you were moving David Walker first?

Machelor: Yeah, he's not here.

Conti: Oh ok.

Bax: Mr. Dowd just walked in.

Dowd: Here I am.

Machelor: Oh ok. Well, I was reading, alright well listen we are going to take you first then.

Dowd: Well, I appreciate that I have to get to another meeting.

Machelor: Yes sir.

Dowd: We've had 3 meeting.

Machelor: Ok.

Dowd: You understand my position at the last meeting there was additional documentation that Mr. Masters came up with. Permits that were issued and violations I didn't have that information before I have it now. And I guess I would more or less say this really isn't... it's kind of more a request for a variance there was a question about an interpretation as whether it was a prior non-conforming use.

Conti: Right.

ZBA- 02- 2026 (A)

Dowd: I do see that there were permits issued for these buildings for agriculture purposes. I guess we really are focusing on the variance aspect of that. And for a use variance I am very aware of this stuff I have been doing zoning law for many, many years and I guess the biggest thing I am focusing on right now the self-imposed hardship aspect of this. Because I don't think that it's completely out of the nature of what's going on in the neighborhood there's light industrial across the street there's equipment storage going on across the street you have neighbors coming in and say jess you know as long as it's under control, we're not really having a problem with it. It is very difficult the estate to...if Mr. Walker standing here, I'd understand. Say wait a minute you created this problem for yourself, he's dead now and so there's the estate, beneficiaries and they are stuck in this quandary where no one wants to buy the property for residential purposes and the only way they can get a reasonable return is to sell it for essentially purposes of equipment storage not the operation of a business. Just to store equipment there it's not going to be a shop but the potential buyer would be willing to get a permit limiting his activity limiting the scope in the area so that the neighbors are satisfied. But again, zeroing in on the self-imposed hardship Mr. Walker essentially created this hardship for his family and I think it's a very unique circumstance I don't believe that this Town would be creating some sort of a precedence setting matter. I doubt this would come up again in our life time. So, I would ask the Board to consider that in fact we met all the criteria necessary for getting a use variance and to allow the potential buyer to get a special use permit limiting the allowed storage and activity that goes on there and this way the family of Mr. Walker can sell the property and get a reasonable return for what they receive. Thank you for your time.

Bax: Mr. Dowd you're looking for the Board to provide you with an interpretation along the lines of your request?

Conti: No.

Dowd: If the Board wants time to consider this and issue their decision afterwards, I'm willing to wait. I understand this is a difficult thing and if you need to discuss with Mr. Bax about whether or not you should grant the variance or not.

Machelor: Yeah Mr. Dowd I'm not clear on what you're asking for.

Conti: I think what he's...

Dowd: I'm asking for a variance.

Conti: You're asking for a use variance.

Dowd: Use variance.

Conti: You have property as a light industrial vs a residential that it's supposed to be.

Dowd: The documents provided by...

Conti: Tim

Dowd: Mr. Masters indicating that permits were issued for agriculture use they were limited. I can't in good conscience say to you folks well really, it's a prior non-conforming use, it's not. So that gone, it's the requesting variance which we also requested. Again, really trying to hammer down self-created hardship.

Conti: Ok.

Machelor: I'm missing something here. What do you want done with the property? What would you like to have it zoned?

**ZBA- 02- 2026 (A)**

Conti: Light industrial.

Dowd: Well, I don't know if I want the whole thing zoned light industrial.

Conti: But you're looking for a use variance for that piece of property to use as light industrial.

Dowd: Yes, it would stay and continue to be rural residential.

Conti: But with a...

Dowd: But we would delineate a specific area where you could say you're allowed storage equipment not operating a business not have a vehicle's coming in and out not you caring it just an area behind the buildings to store it and it would be part of the special use permit.

Machelor: We can't do that.

Conti: Well...But that's what...but he can ask for it. That's what he's asking for.

Machelor: Yeah.

Miller: Just to be clear I want to make sure the equipment that's being stored is it farm equipment? Or are we talking commercial/ industrial equipment?

Dowd: Yeah so, my client...

Miller: So, the use purposes are light industrial.

Dowd: The use purposes is to store equipment.

Miller: Ok.

Dowd: And again, that require a special...we need the use variance then we would request a special use permit and then that permit and put the controls in place and then we would make sure to limit the amount of equipment the area that it can be stored the buyers already committed to the balance of the land 100% leave it rural residential I just want to carve out the area behind the buildings so it can be concealed from public view and you know if he violates the permit you pull is permit and stuff goes.

Machelor: Oh, if life was so simple.

Dowd: Life is very simple.

Machelor: We don't have that kind of a police force where they go out and find out what people have behind their house.

Dowd: Mr. Masters is very effective I've found over the years.

Conti: So, we just close the meeting and we will render a verdict.

**Machelor: Well Yeah. You offered this up. You offered this option so we will take it. We will close the meeting and go over this with our attorney and see what we can come up with.**

ZBA- 02-2026 (A)

**Dowd: I appreciate that.**

**Machelor: That's probably the best thing.**

**Dowd: That's all I can ask for.**

**Machelor: Because it's not clear what's exactly before us so I don't want to proceed.**

**Dowd: Thank you!**

**Machelor: Close the meeting. Alright thank you! Ok.**

**ZBA- 02-2026 (B)**

Machelor: Ok number 2 is Citrine Power variance extension for Model City Road. Anyone here for that?

Conti: Step up.

Machelor: Please come up. Speak into the mic.

Citrine: I am not here to speak. I think the letter's...

Conti: You're looking for an extension on the solar project that was approved.

Citrine: A 1-year extension.

Machelor: Everybody understand what he's asking for?

Members: Yeah.

**Machelor: I'll take a motion.**

**Conti: I'll make a motion to give him a year extension from today's date.**

**Fontana: Second it.**

**Machelor: Motion made in seconded for today's date a year from now. All those in favor say AYE.**

**Members: AYE.**

**Machelor: Opposed. Thank you! Ok.**

Pavone: Excuse me.

Conti: Yes.

Pavone: Can I speak about the land variance on Swann Road.

Conti: The land variance on Swann Road.

Pavone: Use variance.

Conti: On Walker. Did you want to speak come on up. We should have asked.

Machelor: Yeah, we should have asked you. Go ahead.

Pavone: No problem.

Bax: You want to just...

Conti: Open it.

Machelor: We will reopen that right now and let you speak.

ZBA- 02-2026 (B)

Pavone: I have provided pictures the last meeting. We've been to 3 meetings. Recently inquired property though my uncle passing. So, its myself my sister. So, I have been coming back and forth from Nashville Tennessee for these meetings, quite often.

Bax: Sir what is your name?

Jeff Pavone.

Bax: Can you spell your last name.

Pavone: P A V O N E

Bax: Thank you!

Pavone: You know the properties been used for what they are asking for the last 30 years. I've provided pictures of all the storage that's going on there. The berm that was put up years ago and it's an active shop. So, I am really concerned if I am not able to come to say the next meeting that I just don't know what the steps are.

Machelor: That's probably why I am putting it off because we are not even sure what you want.

Conti: Well, were not...Well not what he wants. He's the neighbor the adjacent neighbor right next to it.

Pavone: Right next to it.

Conti: Basically, what we did now we closed the official meeting and then we're going to render a verdict. We have 62 days to render the verdict. So, we will meet with the lawyer, he will write it up. They can provide...will we provide him a copy also considering he's the next-door neighbor?

Bax: Yep.

Conti: So, before we leave tonight, we will get your name and address and stuff.

Pavone: Ok.

Conti: To make sure we send the actual verdict to you also.

Pavone: Ok. If it was is there an appeal process if it was to be tasked.

Conti: Yes, yeah.

Pavone: Ok that's all I needed to know. I appreciate it. Thank you!

Machelor: Alright we will close that alright.

ZBA- 02-2026 (C)

Machelor: Third one is Jamie and Matthew Ingham appeal for Dutton Drive. So, I am going to read a statement before I open up the public meeting. On November 13<sup>th</sup>, 2025, the Zoning Board of Appeals unanimously ruled that the then petitioners, Ryan and Mary Bimont, be granted the variance, which allowed the restricted front lot frontage they requested, reduced by the approved variance from a 75-foot width to a 66-foot width. No other variances were requested or required to allow the development of the property in a R-1 residential zone. The Board addressed 5 relevant considerations for approval or denial of the petition for relief. We considered other means by the petitioner to develop his property without the requirement of a variance. The Zoning Board found that there are no other means to achieve the petitioners' goals other than to abandon the property and build elsewhere and that no residential development could take place on that property without the requested variance by this petitioner or any others. The property is essentially landlocked except for the exit of 66 feet on the adjacent town property stub road. The Board accepted testimony from several residents and discussed the variance request as having any deleterious effect on the neighborhood's character and detriment to nearby properties. The property in question meets all requirements to build; all of the perimeters of R-1 Zoning have been met. The Board ruled that no reversion effect on the character or deleterious effects on the neighborhood will exist as a result of the grant of this variance. That's important. It's all about what the variance will result in. That 9 feet. The Zoning Board addresses the substantiality of the petition. We determined that the variance will allow the petitioner to meet a full 88% of the Town of Lewiston's Zoning requirements for R-1 zoning resulting in a variance from code of only 12%. The Board ruled that a 12% reduction from the code is not substantial in this case. The physical and/or environmental effects of a zoning variance were considered by the Board. The Board found that this variance, resulting in the eventual development of the property, will have physical effects and will affect the environment. The Board reasoned that all approved development in R-1 zones will have the relatively same effects, such as noise, dirt and temporary congestion. These effects would be the same for any property developed in that neighborhood. Since the only issue before the Board was the grant of a 9' decrease in road frontage, we ruled that this variance would have no different significant physical or environmental effects than any other residential development. Finally, the Board addresses the "test" of self-creation, in that the petitioner may have created a situation requiring variance. The Board found that the petitioner has in fact created the need for a variance by his decision to purchase the property knowing a variance would be needed and pursued the proper course of action to request the needed variance. Petitioners to the Zoning Board are often confronted by physical facts on the ground that require a variance from the Town code. The Board ruled that the "physical conditions", the placement of the property by the owner of record at the time of the decision set the dimensions of the property. Petitioner requested a variance decision with the understanding that the variance would have to be granted in order to make his plan to purchase and build viable. While 'self-creation' is a relevant issue, the Board felt that it was not a bar to approval. The Zoning Board has now been asked to consider new and relevant information, information not presented to the board in November information not considered that may have the effect on the Board decision in November which would cause the Board to reconsider its decision. The decision at that time was to approve the Ryan and Mary Bimont's request to grant a variance from a 75' frontage requirement to a 66' requirement. This is the same and only issue before us today. So, I would like to open the public meeting and ask the current petitioners, Jamie and/or Matthew Ingham to come before the Board and state your name and address for the record.

Jamie Ingham 435 Dutton Drive.

Machelor: Yes ma'am, you got the floor.

Ingham: Ok. I did file the appeal and the reason being I am not going to say anything that I hadn't said before. I disagree with the decision. I do not feel that it follows the criteria for granting a variance. The applicant does not own the property. So, you can picture all of our properties on Dutton Drive they built that stub road short of the requirement, it wasn't designed to have a house back there, a flagship house. So, you have all these people on Dutton including me, our property values and things that are going to decline for this. They don't own the property.

ZBA- 02- 2026 (C)

Conti: Do you have any proof that it would decline? Or you're just guessing?

Ingham: I could call somebody.

Conti: They turn around and put a \$500,000 house how's that going to decline?

Ingham: Generally having a wood lot behind you with no neighbors is more valuable. People seek that out; I sought that out.

Conti: Well sure, but you don't own the property behind you. Right.

Ingham: I'm sorry?

Conti: But you don't own the property behind you, I am going through the same thing right now where I live.

Ingham: But a flagship lot in our neighborhood, why would you want to buy a house when there's a house a flagship if you can picture that its not just like a normal square neighborhood it's a flagship. And it's very unusual.

Machelor: Where did you get that word flagship? I've never heard that, what's a flagship house? How's that different from the other houses?

Ingham: Well, if you picture like a square like our neighborhoods are square and that's how...

Machelor: Rectangles but ok.

Ingham: A flagship is so all of you are a home right just pretend all of you are homes and you put a driveway in between the 2 of you and then build a house like around it. It's now how it was designed and they wanted it to be that way it would have been the amount of footage it was suppose to be. It wasn't the design.

Conti: But when that property was up for sale, why didn't other people purchase it? Like yourself or other neighbors?

Ingham: So, they amount was enormous. The land back there went to auction because whoever owned it didn't pay the taxes on it. I went to the auction and so did the ex-husband of the current owner. He out bid me he was a doctor and after, at that meeting we talked and he was buying it for the same reason I don't want anybody to build back there, and I was like oh phew you know. And I think he got it off the top of my head 14 or 15 maybe 17,000 dollars, because its completely landlocked. So, then when they got divorced, I think it go t transferred to a trust for a dollar so now there like a dollar is the value right or whatever. So, when she approached me to possibly purchase it, it was I can't remember the exact amount like 60,000 I don't want to spend 60,000 dollars on something that is not even buildable. I knew it wasn't variance, I knew you couldn't build back there. So why would I spend 60,000 when my motive was to not have a flagship lot behind us.

Conti: Well the information you that you are giving us right now is the same information you gave us in November, so there's nothing new and the variance that we gave was not a substantial amount, it was 12% it's only 9 feet and in the Town of Lewiston we have many lots that are 66 foot wide and mine is 75 and many are more so it's not unusual in the Town of Lewiston to have a 66 foot lot. So, what new are you coming to us with to say...

Ingham: Like I said at the beginning it's nothing new. I am appealing because I disagree with the decision.

Conti: Ok.

ZBA- 02-2026 (C)

Machelor: Alright thank you!

Ingham: And the vote and the minutes stamped approval for this would be when?

Bax: It depends when the Board actually makes the determination.

Ingham: Will it be like last time like the 30 days so the next meeting I will be able to come here and get stamped is that when it is.

Bax: Again, it's when the Board wants to render the decision. You want to do that tonight? Then I would imagine that would be available soon.

Ingham: Available with the stamp.

Bax: In the 30 days yes.

Ingham: Ok thank you!

Machelor: Ok thank you! It's still an open public meeting anyone else want to address this issue?

Good evening quickly.

Conti: State your name.

Ryan Bimont: I am the land owner with my wife. At the last meeting that was during our diligence period once the variance was granted, we moved forward and closed on the property we are the owners.

Conti: Ok.

Bimont: That's the only new information I have.

Machelor: Ok thank you! Anybody else want to speak to this? I'll close the public meeting and ask the Board; you have any questions?

Conti: There's nothing new that we have to ask.

Machelor: Alright. I'll entertain a motion.

Talking

Bax: Mr. Machelor if you are planning on making a motion tonight on that.

Conti: Yes.

Bax: what I would suggest is that you make a finding as to whether there was any new or relevant information for you guys to consider and whether you felt based on the information received whether the Board had followed protocol in the past meeting.

Machelor: Alright Lisa please note for the record that we interviewed Mrs. Ingham and she was not able to provide any new or relevant information but simply stated her opinion that she already told us last November and ask for consideration on that.

**ZBA- 02-2026 (C)**

Conti: If we render a verdict right now do we need to go through the normal 5 step?

Bax: I don't believe so no. I think there's a factual basis upon which an appeal can be decided and if your decision is that there were no new facts decided on that would be one aspect of it or a procedural defect in that your process last time was not followed and those 5 elements were not put on the record.

Conti: Gotcha.

Bax: So that's why a court determination.

Conti: Ok.

Bax: I would request that regardless of how you decide that you state your opinions on both and that the Board is finding on both of those issues.

**Conti: OK. I'd like to make a motion. Based on this Boards discussion and that we feel that we followed the proper procedure back in November and we followed all 5 steps and that there was no new information brought forward to the Board. I would recommend that we deny the appeal request.**

**Heuck: Second.**

**Machelor: Alright motion made and seconded. Any further discussion before we vote? Alright I'll call the question all those in favor say AYE.**

**Members: AYE.**

**Machelor: Opposed? Hearing none. Lisa, would you poll the Board.**

**Wisnieski: Joseph Conti: AYE, Lou Fontana: AYE, Gary Heuck: AYE, Norman Machelor: AYE, Derek Miller: AYE.**

Machelor: Alright thank you! No miscellaneous issues. **And I'll look for a motion to adjourn.**

**Conti: I'll make a motion to adjourn.**

**Fontana: Second.**

**Machelor: All those in favor say AYE.**

**Members: AYE**

Respectfully submitted by



Lisa Wisnieski  
Building Dept Clerk



Norman Machelor  
Chairman