

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – November 13, 2025

Agenda- Ryan/ Mary Bimont Area Variance SBL 87.00-1-23.2 Dutton Drive (A)

Present: Conti, Fontana, Heuck, Machelor, Warnick

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of September 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 we will open the public hearing for Ryan/Mary Bimont 860 Oneida Street, Lewiston they are asking for a variance for road frontage from 75 feet to 66 feet regarding vacant lot SBL 87.00-1-23.2 on Dutton Drive to build a single-family home. Who is here to speak about this? State your name and address.

Ryan Bimont 860 Oneida Street Lewiston, NY 14092.

Machelor: OK. Describe what you want to do.

Bimont: We are seeking a variance of 9 feet road frontage to build a single-family home on a vacant lot on Dutton. It was not self-created it's the only access point to the lot, without a variance would create a significant financial hardship on my family. We are simply asking for the variance to build a single-family home back there that fits the characteristics of the neighborhood. We are going to try and keep as many trees as we can as long as they are healthy and don't pose a risk to the house that we intend to build. I do have a letter here from the...technically representing the seller for the property we haven't closed yet.

Machelor: Ok. I won't go through this right now but the...I have a question why do you feel that you need that 9 feet?

Bimont: Can you repeat your question?

Machelor: Why do you feel you need a 9-foot variance? Why do you want to build it so close to the road?

Conti: It's not. Its frontage. In other words, he needs 75-foot frontage and it only has 66 foot.

Machelor: Oh, you only have 66 foot.

Conti: He's not building it that close to the road his house is going to go back a little bit. Its only 9-foot frontage.

Machelor: Yeah, I was looking at this.

Bimont: The shape of the property is pretty unique.

Warnick: An odd lot.

ZBA- 11-2025 (A)

Conti: Yeah, its unique.

Machelor: Where is it here.

Conti: Right here Norm. Dutton Drive. His property is right here.

Machelor: Right.

Conti: And that's only 66 foot wide here.

Machelor: Oh, I see.

Conti: And he's going to building back here.

Warnick: Right.

Conti: Right now, he can't do 75 feet because its only 66 foot wide. So, this road still stays Town and the Town property line and he will pick up here and go back.

Machelor: Ok. Ok. Alright so this is a public hearing and the purpose of the public hearing is to ask if anyone else has anything to say about this. Does anybody have any questions of the owner?

Conti: Potential owner.

Machelor: Ok well thank you! If you would like to speak state your name and address.

Hi good evening my name is Jamie Ingham I live at 435 Dutton Drive adjacent to the property.

Conti: If you are going down the street down that road which side, are you on?

Warnick: Left

Ingham: If you're driving down Dutton towards river and the stub road that the property is on, I'm towards River Road.

Conti: Ok.

Ingham: I butt right up against this. I am submitting to you my formal statement in opposition to area variance request for this property for review and consideration to please deny the variance as none of the 7 statutory factors have been meet or the balancing tests as I outlined each of them and for the reason they are not met in my formal statement. I've never been to one of these meetings I don't know if you want me to just submit my formal statement, if you want me to read it verbatim or if you just want me to just read my comments but I will submit for the record.

Machelor: Yeah, that what we would like.

Ingham: My formal statement and all of the 7 parts of the statute that need to be overcome to grant this variance and how none of those 7 have been met or are being met.

Machelor: You mean in your opinion. Right.

ZBA- 11-2025 (A)

Ingham: In my opinion. Which I believe to be factual I also...

Conti: I need you to go back to the mic because that get recorded for her.

Ingham: Yeah. Some of my neighbors could not be here.

Conti: Do you have another statement. Another copy for her.

Ingham: Some of my neighbors could not be here today there's 9 of them that signed that petition after they had read my document and attested that they in agreement they wish they could have been here but could not. So, in addition to my formal statement, I have attached signatures from my neighbors. I am asking the Board to deny this variance request to reduce the frontage from 75 feet to 66 feet. The applicant does not even own the property; their purchase is contingent on this variance being granted. That means there is no hardship at all right now only a special request to make a non-conforming lot buildable. The 75-foot frontage rule exists for a reason it's to maintain consistent spacing, safe access and the character of our neighborhood. Granting this variance would create a noticeably narrow of a lot set a precedence for other undersized parcels and weaken the Towns Zoning standards that protect all of our property values. In addition, the plan would place a new house behind existing ones that layout is completely out of character for our neighborhood where every home fronts the street with consistent spacing. A house behind another would create major privacy and visual issues for the residences in front, headlights shining into windows, increased traffic in backyards and potential drainage and access problems. This kind of flag lot development would permanently change the look and feel of the area, and it's exactly why the 75-foot frontage rule was designed to prevent. There's no demand issue in our area the applicant can easily purchase a property that is already approved and zoned to build their house on. I don't know if the fire department has been asked to review or weigh in on this plan, because I believe they have to have certain access whether it's a roundabout or certain area. I don't know if it has been evaluated for utilities, the water and sewer lines.

Conti: But the only thing that's in front of us the 9 foot so that's stuff that's not in front of us so it would not matter to the Zoning Board.

Ingham: Ok. But if it was approved...

Conti: Again, right but what's in front of the Zoning Board today- tonight is the 9-foot variance for that frontage.

Ingham: The sub street like in that picture, that sub street does not reach the property there is an estimated 100 feet so the street would have to be built. I don't know who builds that or who pays for that but that street does not connect to that property. Our area currently has an active and ongoing storm and drain water study being done because of the significant issues that we are all aware of. So respectfully ask that a variance not be considered during this on-going study. I would also like to share in regards to the financial hardship component of those 7 that I was also approached by the seller to purchase that property. I chose not to buy it because the asking price was much higher than what she had recently paid for it at auction and since it did not meet the Town's zoning standards, I knew it was not buildable as is. So, in other words it was overpriced given the frontage restriction and I wasn't concerned that anyone could develop it under the existing code. Granted this variance now would unfairly reward a speculative buyer while underlining the zoning rules that all of us have followed. For these reasons I respectfully ask the board to deny the variance and uphold the 75-footage requirement. Thank you for taking the time for this and protecting the integrity of our homes and neighborhood that we value and cherish. And if there's any questions on my 7 points and why I do not believe that they have been meet for the Board to approve.

Machelor: Yes, Ma'am thank you!

ZBA- 11-2025 (A)

Ingham: Thank you!

Conti: Thank you!

Machelor: It's an open hearing is anyone else like to speak to this issue? Come on up.

John Jacoby, I live at 4621 Lower River Road and my property is immediately adjacent to this. I can't see where I would suffer at all from another house being built there. On my right-hand side of my house there is a lot with 2 houses and the left-hand side there's lot with 2 houses its very common along River Road. And I just don't see where a 9-foot variance is going to affect me or the neighborhood at all. As far as the house being built in the back yard if you lived on a regular street with and adjacent street you would look at the back of that house. I don't see where the difference is looking at the side of a house, the front of the house as long as it's made with the appropriate setbacks. I am completely in favor of it. Thank you!

Machelor: Thank you! Gentleman in the back.

Good evening I James McCutcheon I live a 443 Dutton Drive so right across the Ingham's on the other side of that.

Conti: Ok yep.

McCutcheon: I also have never been to one of these meetings. So, I have written comments.

Conti: Ok.

McCutcheon: So, I also respectfully oppose of the variance request to reduce the current frontage from 75 to 66 feet. I went about the... you guys know the zoning code of course but maybe some of the people here haven't heard it so is it ok if I just read it.

Conti: Go ahead.

McCutcheon: So, the Town of Lewiston Zoning code refers to the strict application I want to stress strict application of the provisions of the chapter to which it would consider a variance if the applicant established 4 factors. They cannot realize a reasonable return on their investment. The alleged hardship is unique does not apply to a substantial portion of the district or neighborhood. The requested variance would not alter the essential character of the neighborhood and the alleged hardship has not been self-created. The applicant currently as far as I understand currently has no investment in the property, they have not purchased it. So, they did not establish the first factor the strict application of the provision in other words there is no hardship, but even if there were one as far as I know the rest of the neighborhood is held to the street 75-foot minimum frontage requirement. In the absences of a president a set of variances haven't granted by the Zoning Board of a reduction of the 75-foot standard related hardship is not unique and does not unify substantial portion of the district of the neighborhood, so the second factor is not established. The third factor is somewhat subjective but I am sure that most of my Dutton Drive neighbors as evidence signatures Mrs. Ingham has inquired would agree whole heartedly that granted a variance to allow for a home to build behind existing homes would absolutely change the character of the neighborhood. Currently all homes on Dutton Drive and as far I know Vrooman meet the standard to face the street. If this variance were granted the house built by the applicant would an oddly and would indeed alter the essential character of the neighborhood. At the very least the applicant cannot establish that it would not. The important factor is clearly not established either as the alleged hardship would by definition be self-created, the applicant does not currently own the property so they were purchasing knowing that they cannot come close to the 75-foot frontage road standard they would be creating a hardship that is nonexistent. The applicant therefore cannot establish any of the 4 factors for a variance to be considered let alone be granted. Thank you for your time.

ZBA- 11-2025 (A)

Machelor: Thank you!

Conti: Thank you!

Machelor: Is there anyone else that would like to speak on this? Please.

Hi my name is Michael Barnwell I live at 429 Dutton Drive which is on the side of the Ingham's and don't have much to add to their substance. I think that the substance is impressive I would just support I am not sure if I got here in time to sign the petition, I think I was a little late but please add my name to the petition in support of the Ingham's and I agree with all the considerations especially with changing the nature of the neighborhood ...property lines.

Machelor: Thank you! Anyone else?

Hi my name is Joyce Barnwell I live at 429 Dutton Drive and I also was too late to sign the petition but would like my name added as well and I do not agree. Thank you!

Machelor: Ok. Anyone else? Anyone else like to speak to this? Hearing none I'd like to close the public hearing and ask the Board consider any questions from the petitioner. Without seeing how the minutes actually are going to be presented we have on the Zoning Board two issues we have an area variance conditions and we have a use variance conditions. This will be under area variance conditions that's how we decide and we have what you might call a cheat sheet where it says to us some of the things that you've already said and a lot of those things I heard one word her that I liked was subjective. Many of these are subjective many of the things the Zoning Board are subjective we do, because the reason that we have a Zoning Board of appeals is because once all of the strict rules are written and you can read them people who have a slightly different plan for doing what they like to do have to come to the Zoning Board and say is this slightly different plan within reasonable thing to do. And obviously every time we meet every time somebody comes here, we either say yes or no to a variance. We say yes probably 75% of the time because the Town does a good job of qualifying people that are coming before us and we have the people in the Zoning Department I mean the Building Department tell us what's possible and what's not possible. So, when we go down here what we're doing is saying where the benefit can be achieved by some other means this is a person buying a piece of property, he wants to build a house on it in order to do that he had to come to the Zoning Board and ask for a variance on that property. That's why you are here. The undesirable change to the neighborhood character or detriment to nearby properties is the second issue that comes up under area variances and you know that's going to be very subjective. I happen to live in the Village I got neighbors on all 6/8 sides of me every time I look out the window there's somebodies house there. So, Dutton Drive it happens to be built on a road with nice wooded backyards which basically you don't own, they are just there for your pleasure. And if someone wants to build something in those yards you know and they bought it they can do that. So, we will see about the undesirable change business. Whether the request is substantial well we have numbers here somebody has done this and said its 12% variance. We get variances all the time whether its 10,12 or even 20% substantiality is again subjective when it gets to be 50% then we perk up our ears and say that more than substantial. So, whether the request has physical or environmental effects the only thing we are here today to discuss is whether or not giving this man a 9-foot variance on depth of his front yard is going to have physical or environmental effects. I haven't heard any. Whether the alleged difficulty is self-created well self-created this happens very often when you come to a piece of property and you want to buy it and you see that it is not zoned properly then you ask for a zoning change that doesn't mean you're creating that change your just asking for that change. That sentence is there for people who have a situation they didn't create that impedes upon their quality of life then you come here and say we didn't do this but we want you to give us some relief and as long as we feel that the relief for them is less than the detriment to the neighbors then they get their variance. So, I'd like to ask the rest of the Board if anybody would like to tell me their opinion whether these or I said these things properly.

ZBA- 11-2025 (A)

Conti: You stated what the Zoning does and what our responsibilities are and the difference between an area variance and a use variance. A use variance is asking that the piece of property be used for something different he wants to build a business and a high rise back there and it's a residential neighborhood that's the difference a use variance you have to satisfy every criteria. An area variance you do not have to satisfy every criteria. So that's a big difference between the 2, a use variance is like 99% denied almost every time. So that's the big difference so on an area variance we look at all the factors, every factor does not have to be in favor or against the area variance as being asked for. But he explained the way it is supposed to be.

Machelor: Obviously we asked the neighbors what they think every time we do one of these things all the neighbors are invited to attend. 9 times out of 10 most of the neighbors don't show up at all because most of the things are pretty reasonable, I am kind of surprised at this one because again the only thing this board has to decide is whether or not he can have that property 9 feet less than 75 feet. That's the only issue that's here no other issues. We're not equipped to decide on people's value of people's property and all the rest of that stuff we don't do that. Any more questions?

Conti: And the 66 feet wide that's what the road is right now. 66 foot wide going back into that piece of property.

Ingham: The road doesn't reach the property at the end.

Conti: It ends there and then that Towns property.

Ingham: Correct.

Conti: And then if I read correctly from something else that Tim Masters sent us it is...it will be his responsibility to build the road that goes from the end of the street back to your property am I correct.

Bimont: Correct.

Conti: It will be a driveway but it will be a road.

Talking

Seaman: Not necessarily.

Conti: Because its not going to be maintained by the Town. The road that... how's that road plowed now?

Ingham: Its Town property there's a road a stub road its Stops.

Conti: How's does it get snow plowed?

Ingham: I maintain the grass but that is Town property so I don't know his answers I am asking a question since there's 100 feet of Town property would it have to then be a road?

Conti: No.

Ingham: With the driveway connected to it?

Conti: No. No because on the end of everybody's driveway including yours and mine so many feet of your driveway is Town property.

Ingham: Is there an ordinance of how many feet's allowed?

Conti: No. She means is there a maximum.

ZBA- 11-2025 (A)

Seaman: Theres usually a set right of way along either side of the shoulder of that road. This is a slightly different scenario and that it's the ending of the road but in terms of the ownership of the property usage of that if they put a driveway in there either going to fit into the right of way or they would ultimately if Board approves this sort that property ownership issue with the Town. Maybe there would be an easement for their driveway maybe they would purchase the last few feet of that lot that the Town is not utilizing at all right now. There would be some mechanism in which that they would have the ability to access the end of that road.

Conti: I know you brought up a point about fire anybody with a long driveway it's the same situation I mean a fire truck would go back and back up out they wouldn't need a turn around.

Ingham: I spoke to the fire department they did indicate that they would either like around about or what word did they use...

Conti: Well, that's something that they will have to deal with if it goes beyond us like I said all we are here to approve is the 9 foot nothing to do with building or anything else that's something they would have to deal with the Town and Fire Marshall or whoever takes care of that.

Machelor: Alright well I'd like a motion to approve or deny.

Conti: Close the public hearing?

Machelor: We closed that.

Warnick: It's been closed.

Machelor: Who wants to make a motion? The Board Chairman doesn't want to make motions.

Warnick: No.

Conti: I do have question for the proposed owner. That property line right now I think we are looking at this proper, you'll own the property behind one, two, three, four, five, six, seven, eight, nine houses is that correct. When it goes back, you're going to build on the right if you're going back, you own all that.

Bimont: I think because there is a sewer main on the back there it turns right back towards Fifth Street.

Conti: OK.

Bimont: I think 15 feet off of that sewer line is where we are going to be.

Conti: Ok but you own both sides of that when that road goes back you would own land if you purchase it behind all the houses there.

Bimont: Yep.

Conti: Ok. Because I am just looking at this here. So, you would be building behind 435,429 that way or...

Bimont: I am not sure of the numbers.

Conti: Between 443 and 447.

Bimont: Toward the river right.

Ingham: Towards the river is 435 you are correct.

Bimont: To avoid the...

ZBA- 11-2025 (A)

Conti: Towards the river is 435.

Warnick: Yeah.

Ingham: Yes, it is.

Talking

Machelor: Alright how about a motion.

Talking

Seaman: Typically, you guys do render your decisions on the night of your hearing it's not a requirement. I sense that you are mowing it over in your minds and if you as a Board made a determination that you wanted to continue to complanate this you could simply take no action this evening, table it until next month and render a decision at the next months meeting. If you did choose that then someone would need to make a motion to table it.

Talking

Machelor: What about recess?

Seaman: For what purpose?

Warnick: That would be the same as tabling it.

Machelor: Same as tabling it.

Seaman: Are you saying recess to adjourn the meeting for tonight and reconvene in a months' time or are you saying you need to talk to your attorney about some legal questions and you're asking for an executive session or...

Machelor: Yeah, I see what you mean.

Conti: I just have a question. I know that we are only here for the 75 to 66 but on the house that you are looking to build back there how close to the lot lines or the houses on Dutton are you looking to build your house?

Bimont: We looking at plans

Conti: Not size of your house how far...

Bimont: 15 feet off the property lines we want our privacy just as they do, further back in the property as we can go safely would be plan. We would like to keep as many trees; we like privacy we don't want to be looking in their window just much as they don't want too. The further back while being reasonable.

Conti: How deep is that lot?

Bimont: I think 160 from the property lines another 100 feet after that.

Conti: But it would be 100 feet the back of their property line is what you are saying 160 feet.

Ingham: But that's not 100% known because its going to I would imagine depend on all sorts of things including the utilities and where they are and what...connecting to a waterline so while that I would understand that would be their intention for their privacy as well it might not be how that ends up.

Warnick: All we are doing is voting on the variance.

Conti: Right.

ZBA- 11-2025 (A)

Seaman: Size setback front yard set backs rear yard set backs it would be applicable to the property...

Conti: What would the front yard set back be for back there.

Seamans: I don't have it on the top of my mind...

Conti: It's buried because its behind houses there's no what's your front.

Talking

Fontana: 60 feet back

Conti: But what is the front? On this lot.

Talking

Seaman: If it ended up being and issue it would come back before the Board. If the Code enforcement officer determined that was a different area variance request it would be back. Right, they don't have an application they don't have a house that they submitted for building permit yet.

Conti: Ok.

Seaman: So, Tim's going to probably not been able to make that determination yet, because there's a front yard setback rear, side and side yard setbacks.

Machelor: Right.

Seaman: It looks like the front yard setback would require that its same as the average in the neighborhood what ever the average front yard setback within that neighborhood is would be appropriate to that lot.

Conti: Would it be a Dutton Drive address?

Bimont: Yeah.

Conti: Well, that's up to Tim to decide that would almost be if it's a Dutton Drive address from the lot line behind the house would be 60 feet back. Right. Which is that much more distance away from the other houses.

Seaman: I think its based on whatever everyone else has that setback in that neighborhood.

Conti: Well approximately I am just saying.

Seaman: Yeah, it looks like that is about correct. Based on the GIS website here if you want some measurements that are not perfectly accurate but roughly the other houses in the neighborhood have about roughly 60-foot setback from their front and that lot itself has the applicant previously mentioned is 160 feet plenty of room...

Conti: To build toward the back part...

Seaman: Plenty of room there to not have any other issues regarding setbacks as far as what I can tell.

Mary Bimont: What's the setback with my property?

Fontana: I think its 20 feet.

Talking

Conti: 15 the sides but you got plenty of sides. The rear is...

ZBA- 11-2025 (A)

Seaman: I believe it is 15% of the depth of the lot. So about 20 feet.

Talking

Ingham: Is it following the rules of Dutton Drive or Apple Drive?

Seaman: It's the neighborhood in which it is in.

Machelor: I am going to make one.

Conti: Go ahead.

Machelor: I am going to make a motion to approve the variance as requested. We have considered the area variance criteria whether the benefit can be achieved by some other means. It Can't. Whether there is an undesirable change in the neighborhood character, I can't see it. Whether the request is substantial its 12% but its only 9 feet so it's not substantial. Whether the request would have adverse physical or environmental effects, none that we can see. Whether the alleged difficulty is self-created which is relevant but not determinative. So, I would like a second.

Warnick: Second.

Machelor: Motion made and seconded to approve the variance as requested. Further discussion. 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, Gary Heuck: AYE, Norman Machelor: AYE, David Warnick: AYE, Lou Fontana: AYE.

Machelor: Ok motion is approved. Go to the Building Department for anything further.

Bimont: Thank you!

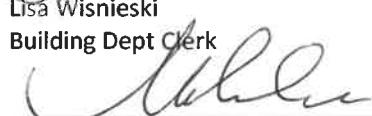
Warnick: Motion to adjourn.

Machelor: Motion to adjourn.

Conti: Second.

Respectfully submitted by


Lisa Wisnieski
Building Dept Clerk


Norman Machelor
Chairman