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LIVONIA JOINT ZONING BOARD OF APPEALS

MEETING MINUTES - OCTOBER 21, 2013

PRESENT: Chair P. Nilsson, M. Sharman, B. Weber, G. Cole, C. Rider, Code Enforcement Officer- Adam Backus, Recording Secretary - Kevin Masterson.

AGENDA: Call Meeting to order.

Accept and approve meeting minutes of October 7, 2013

Chair opened the meeting at 7:00 p.m.

Chair asked board members to review the October 7, 2013 meeting minutes.

M/2/C (M. Sharman/C. Rider) to approve the October meeting minutes as submitted.

Motion carried - 6-0.

Recording secretary read aloud the first legal notice:

**RE: Application of Sheri West for an area variance to create two(2) undersized lots which will violate the minimum lot size requirements according to 150-31E and side set back requirement of 150-31G(2) of the Town Of Livonia Zoning Code. The property is located at 4142 East Lake Rd. and is zoned Neighborhood Residential (NR).**

Chair Nilsson explained that this was a tabled matter from the previous two meetings and that a motion was still currently on the floor to be acted on. He announced that a super majority of the board was needed to pass any motion because the County Planning board had sent a recommendation to disapprove the application.

Chair asked applicant if there was any further information they would like to give the board? Applicant stated that a revised survey map had been submitted at an earlier meeting were it showed the actual buildable footprint being around 850 sq. ft., meeting all the current code set backs.

B. Weber asked what was the actual size of the two parcels in question? Adam Backus explained to the board how the surveyor came up with the lot size areas being 12,047 and 7345 sq. ft.

B. Weber asked if deed restrictions should be considered prohibiting any future owner from seeking area variances. Secretary Masterson had previously asked Town Attorney Jim Campbell to inquire with the Livonia Town Board if this is something they might consider. Attorney Campbell indicated this is not something they, the Town Board, would look favorably upon.

Chair asked for a vote on the motion currently on the floor.

Previous motion dated September 16, 2013 - M/2/C (G Cole/P. Nilsson) to approve the two lot subdivision area variance and set back area variance as submitted.

Motion fails with 3 in favor and 2 against because a super majority is needed to over ride the Livingston County Planning Boards recommendation to disapprove application.

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Recording secretary read aloud the second legal notice:

RE: Application of Larry Myers for an area variance for the subdivision of an existing parcel, creating a separate lot which does not meet the minimum lot size of three (3) acres according to Town Code section 150-32E. The property is located on Federal Rd. North of Cleary Rd. 200'. And is zoned ARC-3.

Chair Nilsson polled the board members for the site visit:

Chair Nilsson - yes  
B. Weber - yes  
G. Cole - yes  
M. Sharman - yes  
C. Rider - yes

Chair stated such board members have been to the site and for the record could the applicant explain their request.

Larry Myers explained that he had appeared before the Planning Board and it was decided an application before the Zoning Board was required prior to them taking any further action on the subdivision plan. It was identified that the proposed lot would be less than the required minimum lot size required. Larry stated the Planning Board had submitted a letter to the Zoning Board supporting his request.

Larry stated he wishes to preserve the remaining 10 -11 wet land acres for his family. He has spent much time and financed considerable improvements in the wetland. The parcel in question is 1.6 acres and fronts unto Federal Rd. He will maintain at least three (3) access points into the wetlands. The Town highway uses this wetland to receive their road ditch storm waters. In addition the Livonia Fire Department has installed a dry hydrant to use which takes water out of the pond in an emergency. The proposed 1.6 acre lot is larger than many of the surrounding lots. The property was rezoned from 1 acre to 3 acre minimum lot size. He needs to maintain the gates that establish the flows into and out of the wetlands. He wants to sell this new lot to minimize his current debt.

B. Weber asked if his intent was to maintain and preserve the wetlands. Answer was yes of course.

Chair Nilsson asked if this was a federal or state wetland. Answered Larry - No.

M. Sharman stated that Larry has a reputation of being a good steward of the lands he owns and

has had enormous experience with the State DEC.

Chair asked for public comment, hearing none, closed that portion of the meeting.

Chair asked board to review the criteria for the area variance legal criteria form:

(1) Will an undesirable change be produced in the character of the neighborhood or will a deterrent to nearby properties be created by granting the variance.

NO.

(2) Can the benefit sought by the applicant be achieved by some feasible method other than a variance?

NO.

(3) Is the variance substantial?

YES, Somewhat.

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

NO.

(5) Is the alleged difficulty self created?

NO, the zoning classification changed on the subject parcel.

Chair asked for a motion on this application.

M/2/C (M. Sharman/C. Rider) to approve the application as submitted on the proposed survey map.

Motion carried 5-0.

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Recording secretary read aloud the third legal notice:

Re: The application of Mark Muller for an area variance to construct an attached garage and addition to an existing residence located at 4734 East Lake Rd. That will violate the front and side set backs according to section 150-31G (1) & (2) and code section 150-31F maximum lot coverage. The property is zoned Neighborhood Residential (NR).

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Chair Nilsson polled the board members on the site visit:

- Chair Nilsson - Yes.
- M. Sharman - Yes.
- B. Weber - Yes.
- C. Rider - Yes.
- G. Cole - Yes.

Chair asked the applicant to explain his request.

Mark introduced the owners of the property Mr. & Mrs. Livermore who bought the property 2 years ago. They will be using the home as a full time residence. They want to have a one car garage attached to the house which will allow direct entry into the home. There will be an 8' x 24' one story addition placed on the north side of the existing home. Their original plan was for a two story addition but because of neighbors concerns with blocking view of lake, they have decided to plan the one story only.

Mark stated they are asking for an area variance to the front, side and lot coverage requirements of the code. The side encroachment is to the north side property line. They will have a basement under the garage and a portion of this basement roof will be a green lawn area. portions of two current decks will be removed which currently encroach the property line.

B. Weber asked Adam Backus if this basement area was still considered a lot coverage issue? Adam said no because of the earth lawn area. The lot coverage issue decreases with the removal of the existing deck were the basement green roof area will be.

Mark stated they have tried to lessen the impacts with this design and placement of the additions.

B. Weber asked Mark to explain the proposed set backs. Mark stated the closest point of the front set back for the garage portion will be 5', that's at the north east corner. As the garage runs south it decreases the set back along the street. The front property line and the garage are not parallel to the street. The deck along the north side property line will be removed, thereby lessening the encroachment.

Board members were concerned on how much actual area would be in front of the garage to park a car safely. Mark explained that you can currently park perpendicular to the street that will not change. Whether you back out of the garage or park currently perpendicular that doesn't change any impacts to traffic.

B. Weber asked if the garage could be placed further away from street he also has concerns for being able to park a car in front of the garage and backing up safely.

Mark replied yes but then we encroach into the north property line setback the further we go west.

B. Weber asked Adam if the grass garden area above the basement would be considered in lot coverage calculations. Adam stated no.

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G. Cole asked Mark if the lot coverage concerns have decreased with this proposal. Mark answered yes. There is less deck and more green space.

Chair Nilsson opened the meeting to public comment.

Jean Taylor of 4744 East Lake Rd. stated that this revised proposal was not shared with them and she would like to see it. Mark Muller showed her the recent changes of it now being a one story addition. She said the existing neighboring garages have been there for years and are really only used for storage. The traffic is very dangerous especially with that road curve. The existing house is already too big for the lot. How many people will be living in the house, how many cars do they drive? There will be an increase to the fire hazards because of neighboring structures. They the applicants have created these conditions that impact the neighborhood.

M. Sharman stated to Jean that there is no change to the applicants variance request.

Rich Miseretta of 4735 East Lake Rd. stated the current structure is only 8' from the north east corner of the house next door.

Chair Nilsson acknowledged a letter in the file from Sharon Miseretta that is part of this record.

Chair closed the public hearing portion of the meeting.

Chair asked board members to review the criteria of the area variance legal criteria form.

(1) Will an undesirable change be produced in the character of the neighborhood or will a deterrent to nearby properties be created by granting the variance?

- NO, lowering the building elevation to one story lessen those impacts and the existing building already is in the view. G. Cole stated that lakeside owners do not have a responsibility to provide a view to properties across the street.

(2) Can the benefit sought by the applicant be achieved by some feasible method other than a variance?

- NO.

(3) Is the variance substantial?

-Yes.

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

-No.

(5) Is the alleged difficulty self created?

- Yes.

Chair asked for any further comments from the board.

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B. Weber has concerns for the closeness of the garage to the road. Can it be moved?

Mark Muller and Mrs. Livermore felt that there is no real change to the parking or backing up issue. Your concern for backing out of the garage is ok but nothing is really changing. Mark stated if they move the garage back toward the lake side, then they do impact the neighbor to the north by possibly blocking their view to the lake.

Mr. Livermore stated he parks in front of the curb now and had no problem walking to the trunk of the car safely. He feels if the building is moved away from the road then it will definitely impact the neighbors views to the north which they are trying to protect.

B. Weber stated he is in favor of encouraging full time residency on the lake however he still has concerns for lot coverage.

G. Cole agreed that by moving the building to the west it would block the neighbors on the north view of lake. She can appreciate the Livermores concerns for that and thanked them. She also appreciated the lowering to a one story structure. She asked Mark if a 12' x 24' garage would work thereby moving it away from the north property line? B. Weber agreed.

Mark Muller stated they would make the 12' width work for the garage.

Chair asked for a motion on the application:

M/2/C (B. Weber/C. Rider) to approve the request providing the garage be no wider than 12' and longer than 24' and providing the garage not be closer than 5' at any point to the north property line.

Motion carried 5-0.

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Chair asked for a motion to adjourn the meeting at 8:30 p.m.

M/2/C (G. Cole/M. Sharman) to adjourn the meeting at 8:30 p.m.

Motion carried 5-0.

Respectfully submitted,

Kevin Masterson  
Recording Secretary