

LIVONIA JOINT ZONING BOARD OF APPEALS

MEETING MINUTES - OCTOBER 7, 2013

PRESENT: Chair P. Nilsson, M. Sharman, C. Rider, Adam Backus - Code Enforcement Officer, Jim Campbell - Town Atty., Kevin Masterson - Recording Secretary.

EXCUSED: B. Weber, G. Cole

AGENDA: Call meeting to order.

Accept and approve meeting minutes of September 16, 2013

- Art Minery

5054 East Lake Rd.

Area Variance - shed

- Edward Robinson

3895 East Lake Rd.

Area Variance - barn

- Sheri West

4142 East Lake Rd.

Area Variance - Lot size

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

Chair asked board members to review the September 16, 2013 meeting minutes.

M/2/C (M. Sharman/C. Rider) to accept the September 16, 2013 meeting minutes as submitted.

Motion carried 3-0.

Recording secretary read aloud the first legal notice:

Re: Application of Art Minery for a public hearing for an area variance for the construction of an addition to a storage shed which will violate the minimum side set back requirement according to Section 150-31G of the Livonia Zoning Code. The property is located at 5054 East Lake Rd., Livonia, New York and is zoned Neighborhood Residential (NR).

Chair Nilsson polled the board members for the site visit:

Chair Nilsson - 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 application request.

Art explained that the existing storage shed located near the north property line is full and he'd like to put an addition onto it extending the structure closer to the north property line. The addition would place the shed about one (1') from the property line. He stated the neighbors to the north, Frank & Kathy located at 5050 East Lake Rd. do not have any issues with application nor the proximity of the shed 1' from the lot line.

M. Sharman asked Adam Backus what is the fire code relative to being 1' from the lot line.

Adam stated the NYS Fire Code requires any combustible construction to be a minimum 5' from a lot line. If less than 5', then the wall must be fire rated.

Chair Nilsson asked Art if he had considered just adding on to the east side of the shed and avoid the variance issue?

Art stated he has a landscape garden there and really doesn't want to remove it and his kids use this area as a playground, there's play equipment there now. He also parks his camper there too.

But he agreed it was an option to go east with the addition. He further stated the current garage is full along with the shed and just needs more storage area, doesn't really want stuff stored outdoors.

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

M. Sharman asked Art if he wished to amend his application to move the shed back 5' from the property? Indicating the board might look favorably upon that request. Mike further added that if the shed was only 1' from the property line and the neighbor to the north decided to put up a fence, how would you maintain your shed? Art agreed that this could cause some difficulty.

C. Rider asked why the shed couldn't be extended easterly and therefore not require a variance.

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 detriment to nearby properties be created by granting the variance?

-NO, but future adjacent property owners might.

(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 a motion on this application.

M/2/C (m. Sharman/C. Rider) to grant the area variance providing the shed addition not be any closer than 5' from the north property line.

Motion carried 3-0.

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Recording Secretary read aloud the second legal notice.

Re: Application of Edward Robinson for an area variance pursuant to Section 150-17C of the Livonia Zoning Code. The variance is requested to construct an addition to a barn housing animals which will be located less than the required 100' from a property line according to Section 150-5 of the Livonia Zoning Code. The property is located at 3895 East Lake Rd. Livonia, N.Y. and is zoned Neighborhood Residential (NR).

Chair polled the board members on the site visit:

C.Rider -yes

M. Sharman - yes

Chair Nilsson - yes

Chair stated for the record that all board members have been to the site and for the record could the applicant explain his request.

Ed explained he wants to put up an addition to the existing barn to house horses and plans on having some cows and chickens too. He will eventually build a better new barn and comply with the 100'. But for now wants to build the barn addition.

Ed submitted a written purchase offer to buy more land from the adjacent property owner to the north who stated he refused to sell to him.

Chair Nilsson explained the rationale for the required 100' separation of the code. Applicant understood the requirement.

Chair asked for public comment:

Joe Plano of 3900 East Lake Rd. stated he will be purchasing the property to the south of Eds and will be building a new home. He said he was not opposed to Eds request but there are subdivision restrictions on the subject parcel that require any building structures or additions be approved by the Wyndemere subdivision members. Basically an architectural review.

Ed Robinson spoke up and didn't know anything about these deed restrictions and said no one is going to tell him what he can build or not build.

Adam Backus submitted written correspondence from Robert Shouldice to the board for the record. Robert had concerns for the batting cage construction currently on the property. Ed stated the batting cage would be soon coming down it was only temporary for his sons use.

Jim Campbell told the board that the deed restrictions exists regardless of the boards decision but that they may continue. Board discussed item #10 of the deed restrictions that owners permission is necessary but not for any action this board may take. Jim Campbell stated that whatever approval this board gives, it does not supersede the deed restrictions. Jim suggested the applicant consult with his attorney to better understand the deed restrictions.

Chair then closed the public hearing and asked the board members to review the area variance legal criteria form.

(1) Will an undesirable change be produced in the character of the neighborhood or will a detriment 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 request substantial?

- YES

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

-NO

(5) Is the alleged difficulty self created?

- YES

Chair asked for a motion on this application:

M/2/C (M.Sharman/C.Rider) to approve the area variance as submitted.

Motion carried 3-0.

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Recording Secretary read aloud the third Legal Notice:

Re: Application of Sheri West (Pat Knapp Estate) for an area variance pursuant to Section 150-17C of the Livonia Zoning Code. The area variance is requested to subdivide an existing lake shore parcel into two nonconforming lots which will violate the minimum lot size requirements of the Livonia Zoning Code. The property is located at 4142 east Lake Rd. and is zoned Neighborhood Residential (NR).

Chair Nilsson explained the previous public hearing comments from the board members and that the West's wished to obtain further information for the board to consider so the application was tabled at the last meeting.

Mike West stated he had land surveyor Craig Welch provide an updated survey map showing the buildable area for a house on lot 36 which would meet the required setbacks. The maps were distributed to the board members. It appears there is about 850 sq. ft of area as shown by the map. Maximum lot coverage is not an issue.

Chair Nilsson open the meeting for any public comment. Ronald O'Connor asked if a deed restriction could be placed on the property prohibiting any further variance requests? Chair felt that the Livonia Town Board could entertain such. Attorney Jim Campbell said he would take this request to the Town Board and return with their comments.

Chair stated this application needs a super majority to override the County Referral comments and there is not a majority of the board here tonight and would the West's prefer to table any such decision until the next regular meeting? West's agreed to wait till October 21, 2013 meeting.

Chair asked for a motion to adjourn:

M/2/C (C. Rider/M. Sharman) to adjourn the meeting at 8 p.m.

Motion carried 3-0

Respectfully Submitted,

Kevin Masterson

Recording Secretary