

Original

LIVONIA JOINT ZONING BOARD OF APPEALS

MEETING MINUTES - NOVEMBER 4, 2013

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

Excused - Town Attorney Jim Campbell.

AGENDA:

Call meeting to order.

Accept and approve meeting minutes of Oct. 21, 2013

Chair Nilsson asked board members to address meeting minutes as a last time on agenda. Board confirmed.

Recording secretary read aloud the first legal notice:

~~Re: Application of John & Sally Siegl~~ for an area variance to construct a 30' x 20' detached garage which will violate the front set back requirement according to Section 150-31 G (1) of the Town of Livonia Zoning Code. The property is located at 3020 Bronson Hill Rd. and is zoned Neighborhood Residential (NR)

Chair Nilsson asked to have the board members polled on a site visit:

Chair Nilsson - yes

B. Weber - yes

G. Cole - yes

M. Sharman - yes

C. Rider - yes

Chair stated such board members have visited the property and for the record could the applicant explain their request.

John & Sally stated they wish to build a 20' x 30' detached garage which will not comply with the required 50' front set back. They did consider other locations with the contractor but issues such as the septic system location, a large tree they wished to preserve, and the grade cuts and fills and the current house garage location prohibits them from complying with code. The existing driveway is paved and goes up to this proposed area. They are asking for relief to the code.

Chair Nilsson asked if they knew exactly where the septic system was. John stated to the south west of the current house structure.

Chair asked if the applicant had supplied a survey map. Adam said no but the original subdivision map is enclosed, unfortunately it does not show the current house location.

M. Sharman and B. Weber stated they would prefer to see an actual survey map showing the house and septic system location to make a better informed decision. Other board members concurred. Adam Backus explained that he and the home owner did find one front ROW survey pin but it would be difficult to determine the exact set back.

G. Cole asked if the applicants have spoken to the south side neighbors. Answer yes and they have no problem with the application request.

Chair asked if there was any public comments, hearing none, closed that portion of the hearing.

Chair asked board members to review the criteria for the area variance 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?

YES.

(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 the application. Chair then asked if the board wished to table this until applicant provided a survey map. There was much discussion among board members on this suggestion.

M/2/C (B. Weber/C. Rider) to approve the application for a 20' x 30' garage, with survey map confirming the requested minimum 32' off street ROW.

Motion carried 5-0

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Recording secretary read aloud the second legal notice:

~~RE: Application of Peterson Vazquez for an area variance for the construction of a second story addition above an existing one story residence which will violate section 150-70A(2), no non-conforming structure shall be enlarged, extended, or increased in size. The property is located at 4480 East Lake Road and is zoned Neighborhood Residential (NR).~~

Chair Nilsson polled the board members on a site visit:

Chair Nilsson - Yes.

M. Sharman - Yes.

B. Weber - Yes.

G. Cole - Yes

C. Rider - Yes.

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

Mr. Vazquez and his contractor Jose Cipolla explained that the existing house is really a one and a half story cottage. The existing roof is in need of total repair because it does not meet any current construction codes. Because of that they want to tear off the roof and extend the outside exterior walls up to a standard wall height and install a truss designed roof. The actual height of the exterior walls would only increase 3- 4'.

Chair explained that this was an expansion of the building since the cubic floor space was increasing and the area variance application is appropriate.

M. Sharman asked how high would the roof peak be. Answer approx. 16' with 8' high walls.

Chair stated he had some concerns for the current building location being 5 - 6' into the county road ROW. B. Weber expressed the same concerns.

Chair stated the board might want to get a written comment from the County regarding the situation. He stated this board could not legally grant any variance within their jurisdiction unless they have no problem with the request.

B. Weber asked applicant if they had given any thoughts to building across the street? Peterson stated no that is not their desire.

B. Weber asked if this cottage would be rented during the summer? Peterson stated that was not their plan, they wanted to use it for their family and he did not want to enter into some long term lease with a renter.

C. Rider and B. Weber stated they were not in favor of any approval conditioned upon hearing from the county highway department. They felt we should first hear from county then decide.

Chair opened the public portion of the meeting:

Ray Philipson of 4470 East Lake Rd. stated he has lived next door for 46 yrs. And knows the house in question was built in the 1920's before zoning laws and offered a letter from the NYSDEC dated 1970 that

states the State of New York does not have any title to lands under this house nor break wall. He feels this slight change will not impact the neighborhood.

M. Sharman stated he has no problem with a conditional approval if so motioned.

Chair asked for any further 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 detriment to nearby properties be created by granting the variance?

NO.

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

NO.

(3) Is the variance substantial?

NO.

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

NO.

Chair asked for a motion on this application:

M/2/C (M. Sharman/G. Cole) to approve the application as submitted subject to the Livingston County Highway Department approval regarding the expansion of the structure within their jurisdiction.

Motion carried 4-1.

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Recording secretary read aloud the third legal notice:

~~RE: The application of Chris & Dolores Cicero for a use variance for the use of an existing agricultural barn for seasonal use as a wedding and special events barn. The proposed use is not a permitted use in the respective zoning district as per Town Code 150-31B. The property is located at 6679 Big Tree Road and is zoned Neighborhood Residential (NR).~~

Chair Nilsson polled the board members on the site visit:

Chair Nilsson - Yes.

M. Sharman - Yes.

G. Cole - Yes.

C. Rider - Yes.

B. Weber - Yes.

Chair asked the applicants to explain their application request.

Chris Cicero stated he understood they are asking for a commercial use of the property now being used as agricultural and will be continued to be used as agricultural. However they wish to continue use of the existing Wingate Barn as a wedding event place. The barn has been used in this fashion for the last 20 yrs. It was used for such 6-7 times per year but they now want to have more.

Chris said the continued maintenance of the barn and their desire to keep the property in an attractive way causes the expenses to be quite high. The barn was built in 1933 and has become an attractive element in the community. Everyone knows of the Wingate Barn.

Chair asked what type of expense has there been in maintaining the barn? Chris stated the roof alone was \$20,000.

Chair asked if using the barn would cause further expenses? Chris stated yes and the general upkeep of the property. They have taken much pride in preserving the structure.

Chair asked code officer if there are other such barns being used for such? Answer yes right down the road, the Geroulds.

Chair asked how long they have owned the Wingate farm. Chris said 4 yrs now.

Chair asked Chris what other uses have you explored relative to the barn? Chris said its good for only hay storage only and now days most agricultural operations have gone to the round bales stored outdoors. He does farm the land there but owns a farm on Cadyville Road which is his main operation. He does have some farm equipment in the lower part of this barn.

M. Sharman stated this barn has been used for many years for wedding events and everyone knows of it.

Chris stated when they bought the farm and barn they agreed to honor any previously booked events. There obviously was a need for a place for wedding party events.

M. Sharman asked if they specifically purchased the farm to have these events? Chris said no. But I love this barns architecture and wanted to see it preserved, unfortunately it costs money.

M. Sharman asked if Chris just assumed it was ok to be used as a party barn? Answer yes, it has been for many years.

Chair Nilsson open the public hearing portion of the meeting:

Cheryl and John Lavery of 6655 Big Tree Road stated they bought the Wingate House that was part of this farm. They recognized there was and would continue to be party events at the barn. They have lived there 6-7 years now but the increase in events has caused much stress to them. Specifically people continue to drive in their private driveway, not associated with the barn, to attend the events. They have tried putting up barriers but people just go right through anyways. We don't want to live there with a chain up on our driveway. Its nothing to see 10-12 people attempt to get into the area via their driveway. There obviously is much confusion with trying to get to the barn events.

They said they do not have an issue with events, it's a Livonia tradition and they recognize that but the impacts to their life must be reduced. Our major concerns are noise and boundary issues. We counted 28 events last year so you can see the impacts have increased. We would love to see our problems solved because we have looked at moving.

Frank Seelos of 6720 Big Tree Road stated he lives between these two party barn facilities and has not experienced any noise issues but does have concerns for the negative effects the Lavery's are experiencing and believes these should be addressed especially the traffic issues.

Dolores and Chris can understand the Laverys concerns and will do whatever is needed to address their concerns. They believe the recent address assignment for the barn will help especially if it gets on GPS. Currently the GPS systems show Laverys property as the address.

They stop all noise at 10:45 p.m. and require all events to end by 11 p.m. They think more signage along the road will help along with privacy fencing to protect the Lavery's.

Adam Backus felt many of these issues could be addressed during the required site plan review for this project. The Planning Board will have comments for their approval.

B. Weber asked how many nights per week are planned? Chris said only Sat. events but they have to set up Friday and take down Sunday.

Dolores asked if the signage could be lighted, Adam said yes.

Chris admitted we can do better to help the Laverys and would do so. This Sat. is the last event for the season till next May.

Chair Nilsson suggested all parties come back in two weeks for a scheduled meeting to further discuss some possible resolutions. Cicero's and Lavery's agreed to come back.

Chair announced this meeting would be tabled till the November 18<sup>th</sup> meeting and closed the public hearing portion.

Chair asked the board members to review the October 21, 2013 meeting minutes.

M/2/C ( M. Sharman/G. Cole) to approve and accept the October 21, 2013 meeting minutes as submitted.

Motion carried 5-0.

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Chair asked Mike West to approach the board and explain what his desires are. Mike explained he understood the boards' recent decision relative to his family's zoning board application but does not agree with that decision. That being said he asked the board if they would consider another application if the existing lot was split differently?

C. Rider stated he would like to see the lot split in half.

B. Weber asked if they have had any inquires to purchase the whole parcel as is? Mike stated nothing serious to date.

M. West asked B. Weber if he could be impartial if a new application was submitted? Bill said yes. Especially if the new application showed more equally divided lots there would be less a variance request.

M. West questioned the board on why a super majority was necessary for any decision here. Chair Nilsson stated the legal NYS statute is the reasons why.

C. Rider and B. West agreed an equal split lot would be more tolerable.

M. West asked if they could attempt to market the parcel as two. Board stated yes, that's his business but he should make clients aware that it should be subject to town approvals.

Chair Nilsson stated that it appears this current board might look favorably upon a new application representing an equal split of the parcel. He wanted Mike to be aware that any new application before this board must also be referred back to the county.

Chair asked for a motion to adjourn the meeting.

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

Motion carried 5-0.

Respectfully Submitted:

Kevin Masterson

Recording secretary