

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**Meeting Minutes - May 20, 2013**

**PRESENT:** Chair. Peter Nilsson, Mike Sharman, Bill Weber, Gwen Cole, Chris Rider, Kevin Masterson - Code Enforcement Officer & Tammie Schwerzler - Recording Secretary

**OTHERS PRESENT:** Gregory Nearpass, Esq. - Acting Town Attorney

- AGENDA:**
- Graf/Munson appeal
    - Work session
    - Fingerlakes Timber Co., Inc.
  
  - Jason Seeley
    - 37 East Avenue
    - Area Variance
    - 32' x 48' detached garage
  
  - Dan O'Shea
    - 3967 Graywood Center
    - Area Variance
    - Fence
  
  - Michael Shaughness (Tim Wahl)
    - 5140 East Lake Road
    - Area Variance
    - Fence

Chair. P. Nilsson opened the meeting at 7:00 p.m. He asked the board members to review the May 6, 2013 meeting minutes before them. Hearing no comments, he asked for a motion to adopt.

M/2/C (M. Sharman/C. Rider) to accept the May 6, 2013 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried 5-0.

Recording Secretary read aloud the first Legal Notice:

**RE:** Application of **Jason Seeley** for a public hearing for an Area Variance for the construction of a 32' x 48' garage which will violate the side setback requirement of fifteen (15) feet according to Section 150-31 G (2) of the Town of Livonia Zoning Code. The property in question is located at 37 East Avenue, Livonia, New York and is zoned Neighborhood Residential (NR) District.

Chair P. Nilsson polled the board members for site visit:

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

Chair. explained to Jason that they've all visited the property and would like to him to explain what he'd like to do, what the board could do for him and why.

Jason explained that he'd like to build a 43' x 48' three (3) car garage on the Town property portion of his property (northeast). He tried to stay fifteen (15) feet from the property line but he would like to utilize his existing driveway which dictates where the garage doors would be placed. He has three (3) children who have a lot of toys, two (2) vehicles and needs storage space. His neighbor has an existing fence along their shared property line. He has spoken to his neighbors about his request.

The picture in the packet represents the style garage with a dormer. The sidewalk in the picture will not be included. He is asking for a 43' x 48' garage, not a large barn. Prior to a fire, a previously existing barn was much larger.

M. Sharman commented that the proposed design of the garage is attractive and will go well with the residence.

Jason stated that every residence down the street was built on farm land and he feels the garage will fit well with the neighborhood.

Chair. P. Nilsson opened the meeting up to the public for comment or questions. There were none so he closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the **Area Variance** legal criteria:

- (6) 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?  
- somewhat
- (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

This action has been determined to be a Type II action under SEQR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

M/2/C (B. Weber/G. Cole) to approve the Area Variance for a 43' x 48' three (3) car garage as requested.

Motion carried 5-0.

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Dan O'Shea** for a public hearing for an Area Variance for the construction of a fence located on a lakeshore parcel which requires approval from the ZBA according to Section 150-56 J of the Town of Livonia Zoning Code. The property in question is located at 3967 Graywood Center, Livonia, New York and is zoned Neighborhood Residential (NR) District.

Chair P. Nilsson polled the board members for site visit:

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
G. Cole	-	yes
B. Weber	-	no, but he is familiar with the property
C. Rider	-	yes

Chair. explained to Dan that some of the board members had visited the property. He asked Dan to explain what he'd like to do, what the board could do for him and why.

Dan told the board he wishes to construct a fence on his property to keep his dog safe, confined to the yard, not on a leash but mostly to keep other dogs out of the yard. The split-rail fence will merely go an additional five (5) feet out from his existing deck. His plans show a future fence on the southerly boundary line in which he'd like approval for at this time.

Chair. P. Nilsson noted that a hedge runs about 15 - 20' beyond where the fence will go.

Dan explained there will be 50' to the lake from the fence. The fence along the side property lines will be aluminum.

C. Rider asked Dan if he considered an electric fence.

Dan said yes, but it would not prevent other dogs from coming onto his property.

Chair. Nilsson asked for public comment from the gallery. There were none so he closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the **Area Variance** legal criteria:

(6) 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?  
- somewhat
- (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

This action has been determined to be a Type II action under SEQR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

M/2/C (M. Sharman/C. Rider) to approve the Area Variance for the construction of a fence as requested.

Motion carried 5-0.

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Michael Shaughnessy** for a public hearing for an Area Variance for the construction of a 9' x 10' deck which will violate a side setback requirement according to Section 150-31 G (2) of the Town of Livonia Zoning Code. The property in question is located at 5140 East lake Road, Livonia, New York and is zoned Neighborhood Residential (NR) District.

Chair P. Nilsson polled the board members for site visit:

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
G. Cole	-	yes
B. Weber	-	no, but he is familiar with the property
C. Rider	-	yes

Chair. explained to Mike and his brother-in-law, Tim Wahl, that some of the board members had visited the property. He asked Mike to explain what he'd like to do, what the board could do for him and why.

He explained that his father has MS and it's very difficult for him to go down the flight of stairs to go outside. The proposed deck would be on the upper level on the lake side of the house. It would allow him the convenience to sit outside and enjoy the lake. The 9' x 10' deck would be five (5) feet from the property line, it is an advantage that it would

Chair. P. Nilsson asked if they plan on putting on a roof.  
Answer was no.

Chair. made note for the record that there were no people in the gallery to comment so he closed the public portion of the meeting.

K. Masterson stated that the existing structures on the premises cover 33% of the property and with the deck it would cover 37 percent.

Chair. P. Nilsson then asked the Board to review the **Area Variance** legal criteria:

- (5) 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?  
- relatively
- (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

This action has been determined to be a Type II action under SEQR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

M/2/C (B. Weber/G. Cole) to grant final approval for a 9' x 10' second-floor deck as requested.  
Motion carried 5-0.

M/2/C (B. Weber/M. Sharman) to adjourn the meeting at 7:45 pm  
Motion carried 5-0.

Respectfully submitted,

Tammie Schwerzler  
Recording Secretary

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