

**LIVONIA JOINT ZONING BOARD OF APPEALS
Meeting Minutes - June 3, 2013**

Page 1 of 9

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

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

- AGENDA:**
- Old Business
 - Graf Appeal of February 5, 2013 determination of Code Enforcement Officer regarding use of property by Finger lakes Timber Company, Inc.

 - David Pietrowski
 - 3513 Pebble Beach Road
 - Area Variance
 - Fence

 - Frank & Sue Berardi
 - 3605 Pebble Beach Road
 - Area Variance
 - Fence

 - Mark Magro
 - 4582 East Lake Road
 - Area Variance
 - Fence

 - Timothy Moore
 - 3831 Grayshores Road
 - Area Variance
 - 430 sq. ft. deck

 - Frank Bell
 - 5050 East Lake Road
 - Area Variance
 - 8' x 24' porch

Chair. P. Nilsson opened the meeting at 7:00 p.m. He asked the board members to review the May 20, 2013 meeting minutes.

M/2/C (M. Sharman/B. Weber) to approve the May 20, 2013 meeting minutes as submitted.
Motion carried 5-0.

Under Old Business - Graf Appeal of February 5, 2013 determination of Code Enforcement Officer, Kevin Masterson, regarding the use of the property at 6273 Decker Road, Livonia, New York by Finger Lakes Timber Co. Inc.

Chair. Nilsson announced that all board members have reviewed all written submitted materials, familiarized themselves with all the documentation and discussed the case with Town Counsel, Greg Nearpass. "We have a proposed decision to consider tonight and any discussions are now in order." Chair. stated the public comment period is over and the board is free to make a decision.

G. Cole stated she would like to make a motion to deny the appeal of the Graf's and have attached the written resolution of the Joint Zoning Board Appeals.

B. Weber seconded the motion.

Chair asked for any further discussion.

B. Weber stated he has looked at the case extensively and feels comfortable with the resolution to uphold the decision of the Code Enforcement Officer.

Chair Nilsson concurred with B. Weber.

M/2/C (G. Cole/B.Weber) to deny the Graf appeal and have the written resolution to uphold the decision of the Code Enforcement Officer attached.

Motion carried 4-0. (M.. Sharman abstained).

Recording Secretary read aloud the first Legal Notice:

RE: Application of **David Pietrowski** for a public hearing for an Area Variance to construct a fence on a lakeshore parcel which requires approval from the Livonia Joint Zoning Board of Appeals according to Section 150-56 J of the Town of Livonia Zoning Code. The property in question is located at 3513 Pebble Beach Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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. stated the board members have all been to the site and for the record, could Dave explain his request.

Dave stated he had purchased the property adjacent to his and tore down the house there. He now wished to install a fence along the northern property line. He has shared and discussed the fence location with his immediate neighbor.

His plan calls for a solid vinyl 6' high fence along the north property line for approximately 72 feet, a shorter 4' high chain link fence along the same property line attached to an existing chain link toward the lake side. Along the street side, between the two present garage buildings, he plans to install an aluminum fence with gate (see attached drawings).

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

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?
- no
- (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 SEQRA and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

Chair asked for a motion to deny or accept the application.
M/2/C (B. Weber/C. Rider) to approve the fence application as presented.
Motion carried 5-0.

Recording secretary read aloud the second Legal Notice:

Re: Application of **Frank & Sue Berardi** for a public hearing for an Area Variance to construct a fence on a lakeshore parcel which requires approval from the Livonia Joint Zoning Board of Appeals according to Section 150-56 J of the Town of Livonia Zoning Code. The property in question is located at 3605 Pebble Beach Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
G. Cole	-	yes
B. Weber	-	no
C. Rider	-	yes

Chair. stated the board members have all been to the site and for the record, could the Berardi's explain their request.

Frank stated to the board that the existing fence up by the road is in a bad state and falling apart. He would like to install a 6' solid vinyl fence from the road side toward the lake approx. 32' in length. From there the fence would be 5' high for 98' toward the lake. The new fence would end 18' from the lake shore. The neighbor's masonry wall is in need of repair and he wants to block its view from his property.

B. Weber asked if the fence would end closer to the lake than the neighbors'? Frank said, "Yes, but would be 18' back from the shoreline." Frank stated that the neighbor's house is about 60' back from the lake.

C. Rider asked if the neighbor was going to do anything about their fence? Frank doesn't know but hopes they will now.

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

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?
- no
- (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?
- no, the neighbor's fence is in disrepair.

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.

Chair asked for a motion to deny or accept the application.

M/2/C (G. Cole/C. Rider) to approve the fence application as presented.
Motion carried 5-0.

Recording secretary read aloud the third Legal Notice:

Re: Application of **Mark Magro** for a public hearing for an Area Variance to construct a fence on a lakeshore parcel which requires approval from the Livonia Joint Zoning Board of Appeals according to Section 150-56 J of the Town of Livonia Zoning Code. The property in question is located at 4582 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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. stated that the board members have all been to the site and for the record, could Mark's representative explain Mark's request.

Mike Ficci, a neighbor of Marks, stated that Mark could not be here tonight and that Mike would be explaining the application to the board. He submitted a written note from Mark stating that Mike would be representing him.

Mike explained Mark's wish to install a 4' picket fence to keep his dogs within his property.

Gwen Cole asked why the application states a 6' solid fence? Mike stated Mark has changed his mind and would like a 4' picket fence instead.

B. Weber stated he had spoken to Mark and agreed with the request for a 4' fence.
The board then felt comfortable with the application change, since it would be less obtrusive.

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

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?
- no
- (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.

Chair asked for a motion on the application.

M/2/C (M. Sharman/G. Cole) to approve the fence application for a 4' picket fence.
Motion carried 5-0.

Recording secretary read aloud the fourth Legal Notice:

Re: Application of **Timothy Moore** for a public hearing for an Area Variance to construct a deck which will violate the maximum lot coverage according to Section 150-31 F, no nonconforming structure shall be enlarged, extended or increased according to Section 150-70A (2) of the Town of Livonia Zoning Code. The property in question is located at 3831 Grayshores Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
G. Cole	-	yes
B. Weber	-	no
C. Rider	-	yes

Chair. Nilsson stated for the record the board members had visited the site and could Tim explain his application to the board.

Tim stated he had purchased the property last year and could now make improvements to the house which the first would be a lakeside deck of approx.430 sq. ft.

Chair. asked Tim if he intended to put a roof on it. Tim said, "No, it would be built as a standard open deck with standard pressure treated materials and railings since it is approx 8' above grade."

Code Enforcement Officer, Kevin Masterson, stated the lot coverage currently is 20%, the maximum lot coverage can be 25%, the proposed is 27 percent.

B. Weber asked if the setbacks from property lines is code compliant. Kevin stated the new deck will be; however, the existing house setbacks are not, that's why he's in front of the board.

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

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?
- no
- (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 the application.

M/2/C (M. Sharman/G. Cole) to approve the Area Variance deck application as presented..
Motion carried 5-0.

Recording secretary read aloud the fifth Legal Notice.

Re: Application of **Frank Bell** for a public hearing for an Area Variance to construct a porch which will violate Section 150-70A(2), no nonconforming structure shall be enlarged, extended or increased according to the Town of Livonia Zoning Code. The property in question is located at 5050 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (NR).

Chair. asked to have board polled on a site visit to the property.

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

Chair. stated that the board members had visited the site and could the applicant's representative explain the application.

Applicant representative, Ron Schneider, the builder, explained that the porch would be 8' x 24' and have a roof. It would comply with all required code setbacks but it is considered a nonconforming building relative to today's setbacks. A concrete patio is planned under the porch roof.

B. Weber asked if they would be taking down the two (2) trees on the lake side.
Ron stated, "For sure."

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

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?
- no
- (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 the application.

M/2/C (B. Weber/M. Sharman) to grant the application as presented.
Motion carried 5-0.

Chair. Nilsson asked for a motion to adjourn the meeting.

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

Respectfully submitted,

Tammie Schwerzler
Recording Secretary

/ts