

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**Meeting Minutes - June 17, 2013**

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

**EXCUSED:** Bill Weber

- AGENDA:** Call meeting to order
- Accept and approve meeting minutes of June 3, 2013
  
  - Sharon Mistretta
    - 4735 East Lake Road
    - Area Variance
    - 14' x 20' accessory building
  
  - Michael Parker
    - 5984 Big Tree Road
    - Area Variance
    - Fence located on a lakeshore parcel
  
  - John Mastasio
    - 5123 South Livonia Road
    - Conditional Use Permit
    - Accessory Dwelling Unit

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

Chair. asked board members to review the June 3, 2013 meeting minutes.

M/2/C (M. Sharman/C. Rider) to approve the June 3, 2013 meeting minutes as submitted.

Motion carried 4-0.

Recording secretary read aloud the first Legal Notice:

**RE:** Application of **Sharon L. Mistretta** for a public hearing for an Area Variance to construct a 14' x 20' accessory building which will violate the side setback requirement according to Section 150-31 G (2) of the Town of Livonia Zoning Code. The property in question is located at 4735 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
C. Rider	-	yes

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

Sharon stated they currently have an existing shed that is in need of replacement and wishes to increase the size to a 14' x 20' shed. She passed out a picture of the proposed shed and a letter from the north-side adjacent neighbor who stated they have no problem with the proposed shed's placement. She also stated the shed would be 5' from one corner to the property line and be approx. 15' at the other shed corner. Only one corner comes in close proximity to the property line.

M. Sharman asked how far the existing shed is from the north property line?  
Sharon stated 4' along its entire length.

M. Sharman reiterated that the existing shed would be coming down.

Chair. Nilsson opened the meeting for public comment on this application, 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

Chair. P. Nilsson asked for comments from the Board. There were none.

Chair. then asked for a motion on the application.

M/2/C (G. Cole/Chris Rider) to approve the Area Variance application for a fence as presented..  
Motion carried 4-0.

Recording secretary read aloud the second Legal Notice:

RE: Application of **Michael Parker** for a public hearing for an Area Variance to construct 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 5984 Big Tree 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
C. Rider	-	yes

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

Michael stated he is co-owner of the property. They installed the fence unfortunately not being aware of the need for a fence permit which has led him here tonight.  
The fence is a split rail type, about 45' in length and is more of a landscaping item than an actual fence. Its location is at the boundary line between the two houses. This area is normally wet between the properties.

Chair Nilsson asked if the current fence is what he's asking permission for? Michael stated yes.

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. Nilsson asked for further questions or comments from the Board.  
There were none.

Chair asked for motion:  
M/2/C (G. Cole/C. Rider) to approve the application for the fence as presented.  
Motion carried 4-0.

Chair asked recording secretary to read the third legal notice of John Mastasio for a Conditional Use Permit.

RE: Application of **John Mastasio** for a public hearing for a Conditional Use permit pursuant to Section 150-17B of the Zoning Ordinance of the Town of Livonia. The Conditional Use Permit is requested to allow an accessory dwelling unit according to Section 150-33 D (7) and the requirements of Article VII, Section 150-60 of the Town of Livonia Zoning Code. The property is located at 5123 South Livonia Road, and is zoned Agricultural Residential Conservation (ARC-5).

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

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

Jim Campbell announced for the record that his law firm has had a client relationship with Mr. Mastasio.

M. Sharman announced he and John both work for the same Real Estate firm and would abstain from any discussions.

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

John stated that he had just purchased the property knowing there was an apartment in the detached building and had assumed everything was in order. He has 3 boys living with him and two (2) live in the apartment.

Chair asked CEO Kevin Masterson if the 40% rule for square footage allowed is in compliance. Kevin stated, "Yes that's not an issue tonight."

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

The Board discussed the legal criteria for a Conditional Use Permit Application:

(1) Will the establishment, maintenance or operation of the conditional use be detrimental to or endanger the public health, safety, comfort, morals or general welfare?

- no

(2) Will the conditional use be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the zoning district of concern? Will the conditional use diminish or impair property values in the immediate vicinity?

- no, if we are looking at friends and family only

(3) Will the establishment of the conditional use impede normal and orderly development and improvement of other property in the immediate vicinity for uses permitted by right in the district of concern?

- no

(4) Will adequate measures be taken to provide ingress and egress in manner which minimized pedestrian and vehicular traffic congestion in the public ways?

- no

(5) Do adequate utilities, access roads, drainage and other facilities necessary to the operation of the conditional use exist, or are they to be provided?

-yes, they exist

(6) Does the conditional use permit in all other respects conform to the applicable regulations of this chapter and other town/village laws, ordinances and regulations.

- yes

Chair asked for a motion.

M/2/C (C. Rider/P. Nilsson) to approve the Conditional Use Permit application as presented.

Motion carried 3-0. M. Sharman abstaining.

Chair announced an upcoming educational conference available to all board members and if interested Tammie has the information.

Chair asked for a motion to adjourn the meeting.  
M/2/C (C. Rider/P. Nilsson) to adjourn the meeting at 7:30 p.m.  
Motion carried 4-0.

Respectfully submitted,

Tammie Schwerzler  
Recording Secretary

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