

LIVONIA JOINT ZONING BOARD OF APPEALS
Meeting Minutes - July 1, 2013

Page 1 of 4

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

EXCUSED: Tammie Schwerzler - Recording Secretary

AGENDA: Call meeting to order
- Accept and approve meeting minutes of June 3, 2013

- Patricia Heffernan
 - 5148 East lake Road
 - Area Variance
 - Deck roof
- Ted Barber
 - 6063 Millard Avenue
 - Area Variance
 - Pergola Structure

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

Chair. asked the board members to review the June 24, 2013 meeting minutes.

M/2/C (M. Sharman/C. Rider) to accept the June 24, 2013 meeting minutes as changed on page 4.
Motion carried 4-0, B. Weber abstained.

Recording secretary read aloud the first Legal Notice:

RE: Application of **Patricia Heffernan** for a public hearing for an Area Variance for the construction of a roof over an existing deck. No nonconforming building shall be enlarged, extended or increased according to Section 150-70 A (2) of the Town of Livonia Zoning Code. The property in question is located at 5148 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (NR) District.

Chair Nilsson polled the board members for the site visit:

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

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

Pat stated that she has an existing open deck as shown on the drawing and wishes to build a roof structure over it. It would not be as big as the existing deck. She wants to be able to get out of the direct sun light. She stated she has made considerable improvements to the property and has received a variance for some of the construction previously done.

B. Weber asked if the porch would be enclosed. Pat said no that is not her intent. There were no further questions from the board.

Chair. Nilsson asked for any public comments, hearing none, closed that portion of the meeting.

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

- (3) 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 a motion on the application.

M/2/C (B. Weber/M. Sharman) to approve the area variance application as presented with the condition the porch roof assembly not be enclosed.

Motion carried 5-0.

Recording secretary read aloud the second Legal Notice:

RE: Application of **Ted Barber** for a public hearing for an Area Variance for the construction of a pergola roof over an existing patio which will violate the front setback requirement according to Section 150-31 G (1) and also no nonconforming building shall be enlarged, extended or increased according to Section 150-70 A (2) of the Town of Livonia Zoning Code. The property in question is located at 6063 Millard Avenue, Livonia, New York and is zoned Neighborhood Residential (NR) District.

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

Chair Nilsson polled the board members on the site visit:

Chair Nilsson - yes

M. Sharman - yes

B. Weber –yes

G. Cole - yes

C. Rider - yes

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

Ted stated he and his wife wish to construct a street-side pergola which will not comply with the front setback requirements. Their house, along with most others on the street, sits very close to the actual surveyed front property line, although the actual paved street seems farther away. In addition there historically were two separate traffic-ways within the legal right-of-way. Today there is only the one. The pergola will be attached to the house and cover the current stamped concrete patio/sidewalk. It is more decorative than functional as a roofed structure. They have made considerable improvements to the property since they have owned it. Ted showed the board members a picture of a similar pergola.

B. Weber asked Kevin what the required front set-back is. Kevin stated “Unfortunately, it’s 50 feet, this is a conforming lot relative to size and lot width.” H also stated that all of the homes are built along the same street set-back.

Chair Nilsson asked for public comment on the application, 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 any further comments from the board members. There were none.

Chair asked for a motion on the application:

M/2/C (G. Cole/ C. Rider) to approve the application with the condition the pergola not be enclosed in the future such as conversion to a roofed porch enclosure.

Motion carried 5-0.

Chair asked for a motion to adjourn:

M/2/C (B. Weber/M. Sharman) to adjourn the meeting at 7:30 p.m.
Motion carried 5-0.

Respectfully submitted,

Kevin P. Masterson
Acting Recording Secretary