

**LIVONIA JOINT ZONING BOARD OF APPEALS**

**MEETING MINUTES- October 20, 2014**

Present: Chair P. Nilsson, B. Weber, C. Rider, M. Sharman, G. Cole,  
Code Enforcement Officer A. Backus, Recording Secretary J. Brown

Excused- J. Campbell-Town Attorney

- AGENDA: (1) Accept and approve the meeting minutes of October 6, 2014
- (2) *Janelle Dalberth*  
Area variance requested for a storage shed at *36 East Ave., Livonia, NY 14487*
- (3) *David Polizzi*  
Area variance requested for land subdivision at *3228 Livonia Center Rd., Livonia, NY 14487*

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

M/2/C (M. Sharman/ C. Rider) to approve the October 6, 2014 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried: 5-0

**Code Enforcement Officer A. Backus read aloud the legal notice:**

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday October 20, 2014 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Janelle Dalberth for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia.

The area variance is requested for a replacement shed. The proposed shed will violate the requirements according to Section 150-31G (3) which determines rear setback requirements

The property is located at 36 East Avenue, Livonia, New York and is zoned Neighborhood Residential (NR). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review.

All interested parties will be heard at this time.

Code Enforcement Officer A. Backus asked to have the board members polled on a site visit:

Chair Nilsson- YES

B. Weber- YES

C. Rider-YES

M. Sharman- YES

G. Cole-YES

Chair Nilsson invited Janelle Dalberth to come forward to explain her request-she is accompanied by Eric Johnson, who also resides at 36 East Avenue, Livonia, New York.

Eric Johnson began by showing the board members a picture of the existing dilapidated shed that they want to replace. He stated that he believes that is 6' off the rear property line and he would like to replace it with a grey, shuttered, Amish built shed that is intended to match their house on the property.

Eric said that he would like to go as big as possible in regard to the dimensions of the proposed replacement shed. He would ideally like a 14'x36' shed. CEO A. Backus as well as Chair Nilsson pointed out that his proposal and Zoning Board of Appeal application only stated an 18'x20' shed. Eric said that originally he had wanted an 18'x20' metal shed but this past weekend he saw Amish built sheds that are even more cost effective, even with the bigger size.

Chair Nilsson said that it does not appear that lot coverage would exceed 25 percent and thus would not violate any code. Eric said that he believes that his proposal would place the shed at least 25' off the north property line.

B. Weber asked Eric if his neighbors are aware of his proposal. Eric said that he hasn't spoken to the neighbors behind, or to the north side because they are difficult to track down at home, but he stated that the neighbor across the road as well as Mr. Vandermeid are supportive of his proposal and feel that it is an improvement.

Chair Nilsson opened the meeting to the gallery.

Howard Judd, who resides at 32 East Avenue, Livonia New York, identified himself and asked Janelle and Eric if the intended purpose for this shed would be for storage. Eric answered that yes, the proposed shed would be for storage.

Seeing and hearing no further comment from the gallery, Chair Nilsson closed the public hearing portion of this case.

Chair Nilsson asked the board members to review the area variance criteria:

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- it would be an improvement
2. Can the benefit be sought by the applicant be achieved by some feasible method other than a variance? NO
3. Is the variance substantial? YES
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? NO
5. Is the alleged difficulty self-created? YES

B. Weber said that wherever the existing shed is currently in proximity to the rear property line, is where the new shed will need to be placed to ensure that it is no closer to the rear property line than the current setback of roughly 6 ft. Eric said that he would agree to comply with the setbacks of no closer than the existing shed to the rear property line, and at least 25 ft. from the north property line. M. Sharman noted that the shed need only be 15 ft. from the north property line but Eric stated that he can stay 25 ft. away.

Eric asked that if he stays within the square footage limit of 378 sq. ft. (the original proposal of 18'x20' feet gives the square footage of 378), would he have flexibility in the dimensions. CEO A. Backus agreed

with the board consensus that the proposal would be fine as long as Janelle and Eric stay within the advertised square footage of 378 and the side and rear setbacks agreed upon at this meeting,.

Chair Nilsson asked if there were any further concerns and hearing and seeing none, called for a motion on the application.

Motion: (B. Weber/ C. Rider) to accept the application as submitted.

Motion carried: 5-0

**Code Enforcement Officer A. Backus read aloud the second legal notice:**

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday October 20, 2014 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of David Polizzi for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested for a re-subdivision of an existing parcel and a lot line adjustment. The proposed change will violate the requirements according to Section 150-33E (2) which states the minimum width requirement. The property is located at 3228 Livonia Center Road, Livonia, New York and is zoned Agricultural Residential Conservation- 5 District (ARC-5). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Code Enforcement Officer A. Backus asked to have the board members polled on a site visit:

Chair Nilsson- YES

B. Weber- YES

C. Rider- YES

M. Sharman- YES

G. Cole- YES

Chair Nilsson began by stating for the record, that all the Zoning Board members have visited the site in question and that some of the members need clarity on the proposal in relation to the survey maps that were sent to them.

David Polizzi came forward with his surveyor Barry Carestio to explain and clarify the proposal. David said that after he bought the property, he spoke to Chad Panipinto who is the owner of the adjoining property that is located behind his property. David explained that Chad told him that he would like about 1.98 acres of land which has an old vacant house on it and belongs to David, in exchange for enough land of Chad's to add onto David's parcel to make it the required 5 acres. David said that Chad had told him that he does not plan to develop the piece of land that he wants from David, and he only wants it to provide him access to his 33+ acres of land. Barry said that the proposed lot would be 199 ft. wide at the road front and would be the required 5 acres.

David said that he would like to build a small retirement home on the proposed lot. Barry approached the Zoning Board members with a copy of the existing survey map as well as a survey map indicating the proposed changes.

Chair Nilsson asked David if Chad intends to build a house where the old house would be torn down. David said no, he (David) would like to build his home between the two rows of pine trees which is close to where the newer garage is currently on the property.

Barry said that with this proposal, he would be creating a 50' access strip- which does make an odd looking parcel- but the proposal still provides the right acreage. Barry also pointed out on the map, a few neighboring parcels that are about 200' wide at the road front but still are 5 acres in size.

B. Weber asked what the lot frontage to Chad Panipinto's land is to the south. Barry stated that it is 205' wide.

David stated that he believes that Chad has no intent to subdivide his land as he is attached to it due to his history on the property. M. Sharman asked if Chad's 33 acres is currently used for agricultural purposes. David answered no, and Barry stated that Chad's property is primarily a wooded lot.

B. Weber asked why the proposed lot line for Chad's proposed access strip is not straight. Barry said that they had to work with the side setbacks for the existing buildings on the property as well as the existing driveway. B. Weber also asked what the current lot width of David's property is. Barry answered that it is 385' wide at the road front.

G. Cole asked if the board members had read the email from Joan Beecher, who owns the property adjoining David's to the north. The board members had read the email and agreed with CEO A. Backus that they are unable to attach a condition to the building and zoning appeal that would mandate that trees with questionable integrity be removed. CEO A. Backus stated that trees are a property maintenance issue and the owner of the property would be reminded that it is the responsibility of the owner of the land which has the trees on it, to maintain those trees. CEO A. Backus mentioned that he had visited the property to investigate the trees but the most the board could do to address Ms. Beecher's concerns is to remind the property owner of their responsibility in property maintenance.

M. Sharman asked if Chad would be able to demolish the old farmhouse before David's new house would be constructed. He then asked if the board could make a condition to tear down the old house, as proposed this evening, to approve the variance request. He explained that he does not want a situation where the variance is granted and the old house is not demolished, therefore creating an unapproved, and nonconforming situation.

David said that Chad gave him permission to speak for him regarding his intention to tear it down, but David as well as the board members felt uncomfortable putting a condition on the variance approval without the third party who would be responsible for the condition being present.

Chair Nilsson suggested that they could postpone the variance request until the board receives confirmation from Chad Panipinto that he agrees to the requirement of demolishing the house by no later than July 1, 2015, and that no house is to be built on his property in the future without meeting the required setbacks or first obtaining an area variance.

CEO A. Backus stated that he will notify Chad Panipinto that we need confirmation to removal of the house and that we will make him aware of the future guidelines and conditions placed with the anticipated approval of David's area variance request.

Chair Nilsson opened the meeting to the gallery. Seeing and hearing no comments, he closed the public hearing portion of the meeting.

Chair Nilsson called for a motion to postpone the application until Chad Panipinto has been reached for comment.

M/2/C (B. Weber/ M. Sharman)

Motion Carried: 5-0

**Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:45pm.**

M/2/C (C. Rider, G. Cole)

Motion carried: 5-0

Respectfully submitted,

Jeanne Brown

Recording Secretary