

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

Present: Chair P. Nilsson, M. Sharman, R. Bergin, G. Cole, B. Weber  
Town Attorney-J. Campbell, Code Enforcement Officer A. Backus, Recording Secretary  
B. Miles

AGENDA: (1) Accept and approve the meeting minutes of July 20, 2015

*(2) Peter and Kristine Vasquez*

Conditional Use Permit requested to use the three season accessory building as an accessory dwelling unit. An area variance is also requested for the accessory dwelling unit. **4480 East Lake Rd., Livonia, New York**

Chair P. Nilsson opened the meeting at 7:04 p.m.

M/2/C (M. Sharman/G. Cole) to approve the July 20, 2015 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried: 5-0

Chair Nilsson asked for a motion to remove the previous meeting of July 6, 2015 from adjournment and continue discussion on **Peter and Kristine Vasquez, 4480 East Lake Rd., Livonia, New York.**

M/2/C (M. Sharman/Weber) to approve the removal of the adjournment of July 6, 2015 meeting.

Motion carried 5-0

Chair Nilsson invited **Peter and Kristine Vasquez** to come forward. Chair Nilsson reminded everyone that the Vasquez's had asked for an adjournment so that they could put together additional information for the ZBA Board.

Mr. Vasquez apologized for not being able to be at the last meeting. P. Vasquez explained that his Attorney had promised several things to be submitted to the Board. He explained that they have already submitted the information required when they initially submitted their request for the variance and conditional use permit. His Attorney, Mr. Boldt had made a promise information/ feasibility report regarding the parking. Chair Nilsson agreed that his attorney had indicated that information would be available tonight to address the parking issue. Mr. Vasquez did not understand why his attorney had offered the feasibility study when Mr. Vasquez saw no need for such a study. Mr. Vasquez stated that there will only four cars parked there on a regular basis, with exception to a July 4<sup>th</sup> celebration. He felt that through additional discussion and information that he has with him that all the Boards questions will be answered. Mr. Vasquez explained the drainage issue.

He also stated that as far as the drainage is concerned there is access to storm drains that will resolve the issue of water runoff from the gutters and other runoff that may occur.

R. Bergin asked Mr. Vasquez about the feasibility study for parking and drainage? Mr. Vasquez stated that no he does not have a feasibility study that as he stated before there will be at most 4 cars parked at 4480 East Lake Road. He also added that if both were occupied at the same time with both couples there only four cars will be present and sufficient parking available and he referred to the supporting documents. Mr. Vasquez stated that there is natural drainage which comes down to the edge of the road where there are two points of access to existing storm drains. They will utilize the existing catch basins/storm drains to take care of the runoff.

Chair P. Nilsson asked if they would be utilizing the existing roadside storm drains. Mr. Vasquez indicated yes. Mr. Sanford verified that there are two access areas where they can tie into the storm drains to address any drainage issues, which they plan to do. Mr. Sanford also explained that there is a

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

drainage issue of water draining to 4480 East Lake Road from neighboring properties. He noted that there is a drawing of what they plan to do included in the packet given the board received. Their plan is to put a catch basin at the top between the driveway and the house directing the water to the road into the existing catch basins. These additional storm drains were put in by previous owners. If parking needed to be increased the storm drains to assist with drainage.

Mr. Vasquez reviewed and explained how he plans to manage parking which does not necessitate any on the road parking.

R. Bergin expressed her confusion. She stated that at the July 6<sup>th</sup> meeting, on the recommendation of Mr. Vasquez's attorney the meeting was postponed until tonight so that a feasibility study could be done on the parking and drainage issue.

Mr. Vasquez stated that he was not sure why his attorney agreed with doing a feasibility study. It is not what he and his attorney had discussed, he had the information available to him and Mr. Vasquez is not sure why a feasibility study was even considered. It is very costly and he felt it was not necessary and he apologized for the misunderstanding.

CEO A. Backus stated that some of the Board Members felt it was needed or they would not have asked for it. He also stated that as far as the drainage goes he did a site visit. He has seen where the Vasquez's have access to existing drain tiles and that it appears that Mr. Vazquez is currently managing some runoff from both neighbors. He stated there is the ability to control the drainage that is created by the work they are presently doing. There is an area behind the structure which has been used for parking but it appears somewhat steep. Mr. Vazquez stated that there is a brush or shrub stump that he plans to remove which will allow for a more gradual slope. CEO A. Backus stated that it is practical that there is room for two additional vehicles. He also stated that he notified Mr. Vasquez is responsible to implement adequate parking, should the proposal be granted.

Mr. Vasquez reviewed with the Board the parking and drainage issue and explained how they were going to address the parking and drainage and noted that there would not be any negative impact on traffic and /or neighbors.

M. Sharman asked what the \$9,000 cost regarding the Livingston County Water and Sewer is for that you referred to? Mr. Vasquez told the Board that Mr. Sanford had contacted the Livingston County Water and Sewer to ask what the cost would be to tap into the water and sewer as an option and that is an approximate figure he was given. Mr. Vasquez stated that they were talking with the Health Department to see if a chemical sewer system would be feasible but have decided to go with the public water and sewer.

G. Cole asked CEO A. Backus if they are to consider the side setback, expansion of non-conforming and also the conditional use permit tonight?

CEO A. Backus responded yes.

B. Weber asked CEO A. Backus just for information, if the Board has ever in the past required a parking study or drainage study for an accessory dwelling. CEO A. Backus stated that during the McCoy, Pebble Beach proposal there was discussion regarding traffic or the possibility of increased traffic. He noted that at the last (Vazquez) meeting it was mentioned by several people and even some of the board members. One of the issues that should be considered is room to get these vehicles off the street and not create a

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

traffic hazard. He also stated that maybe a traffic feasibility study was not really what the board was looking for until Mr. Vasquez's attorney asked for a postponement so that a feasibility study could be done.

B. Weber asked CEO A. Backus if it is normal in a case like this when the applicant explains to the Board how they will address the parking issue, then the Board makes a reasonable assumption that there will be sufficient parking on site. CEO A. Backus stated that should be the normal procedure. If the Board members do a site visit and see a reasonable concern then that concern should be addressed.

G. Cole asked CEO A. Backus if he is satisfied with the how the parking situation is at **4480 East Lake Road**. CEO A. Backus stated that he is satisfied that there is enough property for sufficient parking with some minor adjustments.

B. Weber asked Mr. Vasquez, just to verify, you are going to tap into the existing public water and sewer system? Mr. Vasquez stated that he is going to tap into the public water and sewer system.

B. Weber asked CEO A. Backus about a document the board has received regarding the 40% rule. CEO A. Backus stated that the 40% is no longer an issue.

G. Cole asked if the Board could proceed with the three issues of the side setbacks, expansion, and conditional use permit.

Chair P. Nilsson stated that before we do that he would like to hear from anyone that might have any concerns and/or questions, they would like to express. He stated that for those that have something to contribute, please state name and address.

Ray Phillipson (4477 East Lake Road) He stated that he is the previous owner to the above property. He told the Board that a year or two ago the County came through and rebuilt all the storm drains. At that time he had piping placed to handle drainage. At that time he also spoke with the county and he was told that all he would have to do is submit for a driveway application to do the work for the driveway. He has the driveway application at his house.

Chair P. Nilsson asked if anyone else would like to address the Board.

G. Cole asked to have Joan Beecher's email read. CEO A. Backus stated that Joan Beecher want to be here but she sent him an email dated August 17, 2015 and asked that it be read at tonight's meeting. He read her email.

Mr. Vasquez asked if he could make a statement. Chair P. Nilsson motioned for him to continue. Mr. Vasquez stated that in 2013 they had wanted to do the work on the buildings and property, but more pressing business came up so that they were unable to do the work then. They did have someone that was maintaining the properties, but this person passed away. When they found out that the property was not being maintained properly, we did send out someone to take care of cleaning up the property. He did contact the Building and Zoning Office to see what needed to be done to take care of the situation. Due to all this they have decided to do both buildings at the same time. The reason for working on both the primary structure and secondary structure is because they have their children, his mother and mother-in-law live with them. His mother has Parkinson's and is wheelchair bound most of the time. He stated that to make the primary structure wheelchair accessible is very costly, but they could make the secondary structure wheelchair accessible for less cost. When his mother and mother-in-law come out to visit they will be staying in the secondary structure. When they are not staying out here, Mr. Sanford and his wife

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

will be staying in the secondary structure, in exchange Mr. Sanford is helping us do most of the renovation work that needs to be done. Mr. Vasquez indicated that he does have architectural drawings completed by an architect. They should be available shortly so that they can apply for the permit. They hope to complete this project within the next year or so.

Chair P. Nilsson asked Mr. Phillipson if he had something to say. Mr. Phillipson stated that Mrs. Beecher does not live next door. She is a landlord and she rents the property out. He asked CEO A. Backus to tell the board how many complaints he has had from Mrs. Beecher. CEO A. Backus agreed that there has been many complaints. Mr. Vasquez stated that the garbage referred to was back in 2014. He explained about the garbage and how they tried to cleanup, because of all the snow sometimes it was difficult.

CEO A. Backus stated that the present discussion on the above mention issue is not relevant to this case. He stated that there have been issues and Mr. Vasquez has finally agreed to cooperate and has provided architectural prints, thus things are much improved. With this case we need to move on and Mr. Vasquez is in compliance as best he can at this time.

M. Sharman asked if CEO A. Backus has architectural drawings. CEO A. Backus responded that he has preliminary drawings for the primary dwelling and he has a sketch for the secondary dwelling. M. Sharman asked if Mr. Vasquez plans on supplying architectural drawings for the secondary dwelling. Mr. Vasquez responded that they have supplied a letter describing the renovations with applicable specifications. CEO A. Backus indicated that he is comfortable with the documentation he has received for the main dwelling and the accessory structure

G. Cole stated that we are not here for the primary, we are here for the secondary dwelling. CEO A. Backus agreed. There was discussion regarding the proposal of a secondary dwelling without the primary residence in habitable condition. He stated that he considers the primary dwelling to be in compliance relative to zoning. B. Weber made a point that there have been instances where there is a primary and secondary dwelling, but the secondary dwelling was built first, prior to the primary dwelling. B. Weber stated that CEO A. Backus's responsibility is to oversee the architectural drawings and it is not the concern of the board. B. Weber made the comment that he feels that CEO Adam has things well under control.

Attorney Campbell stated that the applicant inferred that they were going to do both buildings simultaneously. He asked Mr. Vasquez if that is true. Mr. Vasquez stated that is correct. Once they get the permit, the primary dwelling will be completed this year and they will also be working on the secondary dwelling. Attorney Campbell stated that he sees no problem with the secondary building being completed prior to the primary. The law states that the accessory dwelling is supposed to be subordinate to the primary structure. In this case where both structures are going to be completed at the same time, the secondary dwelling being completed first is not a problem. There was discussion regarding the timeliness of the completion of the primary dwelling versus the secondary/accessory dwelling.

Chair P. Nilsson asked if there was any further discussion or comments. He asked the board to go through 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
2. Can the benefit be sought by the applicant be achieved by some feasible method other than a variance? Yes

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

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? Yes
5. Is the alleged difficulty self-created? Yes

Chair P. Nilsson asked the board to go through the conditional use permit criteria:

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
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 a manner which minimizes pedestrian and vehicular traffic congestion in the public ways? Yes
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
6. Does the conditional use permit in all other respects conform to the applicable regulations of this chapter and other town laws, ordinances and regulations? Yes

Attorney Campbell asked if the Board is going to review the short form SECR should be done. CEO A. Backus stated that a short form was included in the packet, but was not sure if the short form needed to be completed. Attorney Campbell stated that the SECR is not required, but if the Board felt that the SECR should be completed, that would be acceptable. It was agreed that the short form SECR was not necessary.

Chair P. Nilsson asked if there were further issues and CEO A. Backus expressed that he noticed that there is a fence on the map and wondered if it was sufficient to block headlights from vehicles from the Vasquez's property shining into the Beecher's cottage. There was discussion regarding the fence on the Vasquez's property and Mr. Vasquez stated that he would be extending that fence to his property line.

R. Bergen asked Mr. Vasquez if there was a timeframe as to when the work on these buildings will be complete. Mr. Vasquez stated that the primary property (lake property) should be completed this year and the secondary would be completed sometime after the beginning of next year. He stated that a lot of work has already been done.

Attorney Campbell asked Mr. Vasquez for verification that the primary structure will be completed this year and the secondary will be completed sometime in the spring of next year? Mr. Vasquez stated yes.

*Livonia Joint Zoning Board of Appeals  
Meeting Minutes August 17, 2015*

Chair P. Nilsson asked the Board if they were ready to do a motion on the variance and conditional use permit. CEO A. Backus suggested that the Board do the motion for the variance and conditional use permit separately.

M/2/C (M. Sharman/G. Cole) to approve the variance, B. Weber stated with the exception the deck is not to be enclosed. There can be a roof over the deck, the roof cannot extend past the deck and there are not to be any sides/walls.

Motion carried: 4 to 1

R Bergin stated that maybe it would be beneficial that the Board see architectural drawings. B. Weber stated that we have never asked for architectural drawings from anyone else and that is Adam's job to review the drawings. There was discussion regarding the extent of repairs that need to be done. CEO A. Backus stated that he is satisfied with the architectural plans that he has received. Adam stated that he is sure that Mr. Vasquez will give him the details and information he needs.

Chair P. Nilsson asked for discussion on the conditional use permit.

M/2/C (P. Nilsson/B. Weber) to approve the conditional use permit for the accessory dwelling. M. Sharman stated that the applicant needs to do the following:

1. Connect to the public water and sewer system.
2. The existing fence needs to be extended east to the property line.

Motion carried: 4 to 1

Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:10 pm.

M/2/C (G. Cole/ M. Sharman)

Motion carried: 5 to 0

Respectfully submitted,

Betty Miles  
Recording Secretary