

*Livonia Joint Zoning Board of Appeals  
February 1, 2016*

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

Excused: B. Weber

AGENDA: **(1) Accept and approve the meeting minutes of December 21, 2015**

**(2) Margaret and Richard Schenkel - 5810 Old Orchard Point, Livonia, NY 14487**

*Requesting an area variance for side setback and a variance for nonconforming building shall be enlarged, extended or increased.*

**(3) Shiela Hooker - 6689 Richmond Mills Rd., Livonia, NY 14487**

*Requesting an area variance for side setback from the west property line and a variance for the housing of poultry or stabling of livestock or storage of manure or other odor or dust-producing material shall be allowed within 100 feet of adjacent residences.*

**(4) Livonia Public Library - 2 Washington St., Livonia, NY 14487**

*Requesting an area variance for front setback and an area variance for landscape requirement which requires a twenty-foot strip with a solid wall, fence or berm which will effectively screen the activity on the lot as well as conform to the character of the area.*

Chair P. Nilsson brought the meeting to order at 7:00 p.m..

Chair P. Nilsson asked if everyone reviewed the meeting minutes. The agreed they had and Chair P. Nilsson asked for a motion. M/2/C (M. Sharman /G. Cole) Carried: 4 to 0

CEO Adam Backus announced that this board will not be hearing the Cell Tower tonight and they will not be addressing any questions regarding the Cell Tower. Anyone wishing to submit questions and/or concerns regarding the Cell Tower can certainly still do that by emailing or calling the Building and Zoning Department. Adam stated that there will be future meetings on the Cell Tower.

**1. Margaret and Richard Schenkel - 5810 Old Orchard Point, Livonia, NY 14487**

CEO A. Backus read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday February 1, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Margaret and Richard Schenkel for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested to construct a wood deck adjacent and detached of the existing house which will violate the side setback requirement according to Section 150-31 G (2) which states the minimum required side setbacks. This proposed work will also violate Section 150-70 A (2), which states that no nonconforming building shall be

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enlarged extended or increased. The property is located at 5810 Old Orchard Point, 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.

CEO A. Backus asked for a poll of the Board for site visit:

R. Bergin: Yes

M. Sharman: Yes

P. Nilsson: No

G. Cole: Yes

CEO Adam Backus referred to a letter received from the neighbor to the south of Richard and Margaret Schenkel.

Chair P. Nilsson asked the person representing **Richard and Margaret Schenkel - 5810 Old Orchard Point** to come forward and address the Board and explain what they are purposing to do. Mr. Paul Schenkel introduced himself as the son of the applicants. Mr. Schenkel explained that there is an existing concrete stoop patio that is preexisting and measures 7' 9". Their goal is to hide the concrete stoop and they would like to build a new deck over the top of the concrete stoop. This deck will be encroaching on the side setback by a little less than 2'. This deck will be of wood construction and will not impact the existing grade or drainage. Mr. Schenkel has talked with the neighbor and has a letter from them indicating that this deck is not a problem for them. M. Sharman asked if the curve section beyond the concrete is at ground level and Mr. Schenkel stated that it will be at ground level.

Chair P. Nilsson asked the Board if there was any further questions, being none the Chair opened the meeting up for questions from the public. Chair Nilsson asked that they state your name, address and state your questions and/or concerns. Not hearing any response.

Chair P. Nilsson closed the public hearing part of the meeting.

Chair P. Nilsson 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
3. Is the variance substantial? No
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? No

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5. Is the alleged difficulty self-created? Yes

Chair P. Nilsson asked if there is any further discussion by the Board.

Chair P. Nilsson asked the Board for a motion. M/2/C (R. Bergin/G. Cole) to approve the request for the variance as submitted.

Motion carried: 4 - 0

**2. *Shiela Hooker - 6689 Richmond Mills Rd., Livonia, NY 14487***

CEO A. Backus read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, February 1, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Sheila Hooker for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. This area variance is requested for a proposal to construct a barn on the left side of the vacant field approximately 15' from the property line. This proposal violates Section 150-5 which states that no housing of poultry or stabling of livestock or storage of manure or other odor or dust-producing material shall be allowed within 100 feet of any lot line separating the farm operation from adjacent residences or other uses. The property is located at 6689 Richmond Mills Rd., 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.

CEO A. Backus asked for a Poll of the Board for site visit:

R. Bergin: Yes

M. Sharman: Yes

P. Nilsson: No

G. Cole: Yes

Chair Nilsson asked the person or persons representing **Shiela Hooker - 6689 Richmond Mills Rd.** to come forward to address the Board and state what they need from this Board. John Hooker explained that their original intent was to have the barn for woodworking. They explained that they have a farm in Dansville where they have horses. Their grandchildren and Shiela like to ride and after talking with CEO A. Backus regarding building this barn, John and Shiela thought it would really be nice and convenient to have the horses at the 6689 Richmond Mills Road location. Every time their two granddaughters want to ride they have to transport the 2 horses to 6689 Richmond Mills Road and transport them back to their farm in Dansville. They would like to be able to house the horses at the barn at 6689 Richmond Mills. The barn they want to build for woodworking would also house the horses. According to Town Code the barn has to be 100' away from the property line because of the horses. Mr. Hookers stated that one of their primary concerns was for Anthony Finocchario, he works

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George Schuster's land. He farms right up to about 15' of the property and he has no problem with the horses being there. They have talked with their neighbor to the east, Susan Thayer, they do not have a problem with having the horses. He also stated that there are underground tiles in and they do not want to disturb these tiles, this could cause some real hardship for the farmers in the area. CEO A. Backus helped them by plotting the proposed barn according to the setbacks established per code, but John and Shiela have a Christmas tree farm that would be disturb and there is a water well that the pad for the barn would cover the top of and they really do not want to close off the water well. Chair P. Nilsson asked if there are any homes within a 100' of this proposed site. John Hooker stated no. CEO A. Backus stated that there is a significant drainage ditch that will prohibit building. Chair P. Nilsson also asked if they are going to have stalls in the barn or have an open style shed in the pasture. The Board wanted to make sure that there are only going to be two horses and that the horses will be pastured toward the back of the property. M. Sharman asked is they would be opposed to limiting to two horses and John indicated no, two horses only. CEO A. Backus verified that the code will restrict them to two horses.

R. Bergin asked if these horses will be at the 6689 Richmond Mills Road location permanently. John stated that the grandchildren live just up the road so they are looking forward to walking there, but they do not have any specific plan as of right now.

Chair P. Nilsson asked the Board if there was any further questions, being none Chair P. Nilsson opened the meeting up for questions from the public. Chair Nilsson asked that they state your name, address and state your questions or concerns. Not hearing any response.

Chair P. Nilsson 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? 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

Chair P. Nilsson asked if there is any further discussion by the Board.

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Chair P. Nilsson asked the Board for a motion. M/2/C (M. Sharman/R. Bergin) to approve the request for the variance with the stipulation that they are limited to having two horses as per the code. Motion carried: 4 - 0

**4) Livonia Public Library – 2 Washington St., Livonia, NY 14487**

CEO A. Backus read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday February 1, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Livonia Public Library for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. 1) An area variance is requested for the proposed building addition to the Livonia Public Library for the front setback to Washington Street which violates the setback requirements for 150-33F (2)(a) which states the minimum front setback requirement is 20 feet or average of block. 2) A variance is requested in order to provide parking, drive aisles and landscaping along the northern lot line for the proposed building addition of the Livonia Public Library. This will violate the landscape buffer requirements for 150-77C, which requires a twenty-foot strip with a solid wall, fence or berm of a location, height, design and materials which will effectively screen the activity on the lot as well as conform to the character of the area. This property is located at 2 Washington Street, Livonia, New York and is zoned Core Commercial (CC). 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.

CEO A. Backus asked for a Poll of the Board for site visit:

R. Bergin: Yes

M. Sharman: Yes

P. Nilsson: Yes

G. Cole: Yes

Chair Nilsson asked the person or persons representing the Livonia Library – 2 Washington Street to come forward to address the Board and state what they need from this Board. Joseph Jacobs, Project Engineer, with Passero introduced himself and stated that Passero has been working the Library project for approximately two years. He explained that the new addition is approximately 3800 square feet and is roughly the same size as the existing library today. They are keeping the original façade on the existing library and the new addition will have the same style façade so they will match. Mr. Jacob explained that the material used will be chosen for longevity. He explained that a variance will be required on the new addition for a front setback from Washington Street. Also a variance is required on the north side of the Library property. This variance required is to serve as a buffer to give privacy and sound barrier to the neighbors to the north. Mr. Jacob stated that this will be accomplished with a six foot tall wood fence along the north property line.

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Tom McNamara, 6 Washington Street asked how far from the property line will the fence be. Mr. Jacob stated that it will be right up to the property line, but this is not set in stone. Mr. Jacob indicated that Passero still needs to go to the Planning Board for site plan approval. Mr. McNamara asked for the fence to be placed four feet to the south of the property line because his concern is regarding snow removal. Attorney J. Campbell referred to the print which indicated that the distance between the property line and the fence is approximately four feet. Mr. Jacobs stated that we can go to a smaller driveway width, but he would not recommend. CEO A. Backus noted that it is not uncommon to put the fence on the property line, but it is also not recommended and he also stated that the four foot two inches is a pretty good size buffer.

Attorney J. Campbell noted that the parking is what limits the design aspect. He stated that there needs to be enough room to back out and not hit the fence and also have access to Washington Street. There was discussion regarding the curb cut and proximity to the other curb cuts. M. Sharman stated that the closeness of the curb cuts is an uncomfortable situation. Mr. Jacobs stated that he has looked at turning the parking, but that would create an issue with the handicapped parking and the accessibility to the stairs into the library. Attorney J. Campbell noted that there can be lighting issues. People prefer to pull in rather than back in and by pulling the lights will be directed at the library. Mr. Jacobs noted the issue and stated they will look into going to an eight foot fence. Tom McNamara expressed concern that his tenants exiting the driveway, the fence will be obstructing their visual site of the traffic on Washington Street. Mr. Jacobs stated that they can cut this fence back if this situation is identified in the site plan approval. M. Sharman noted that Mr. McNamara has a good point, that the fence should be cut back about eight to ten feet from Washington Street. Mr. Jacob stated they can cut back the fence from the street, but Passero is asking for a four foot buffer on the north property line as opposed to the twenty foot buffer as specified by code. Mr. Jacobs noted that this should be specified in the site plan. Attorney J. Campbell asked about the space near the dumpsters, he is concerned about being able to back out of this particular spot. Can the dumpster be move more to the south to allow more mobility? Mr. Jacobs stated that technically they can move the dumpster right up to the property line, this rear setback is 0 feet. The present location was chosen because of the trees and the landscaping. Attorney J. Campbell stated that consideration should be given to moving the dumpster to the south a little. Mr. Jacob stated that the dumpsters would not be accessible at that location. Mr. Jacobs stated that when they develop plans for parking they allow for 5 foot bump out at the end to allow for that movement.

Kevin Masterson asked for them to review the setbacks. What is the rear setback requirements? Mr. Jacobs stated zero, but regardless of the requirements, two variances will be required. He expressed that they wanted to maximize onsite parking so as to lessen the overflow parking across the street.

Tom McNamara asked if there is any way that parking on Washington Street can become one side of the street parking only, at least to the north past his residence. He was advised to talk to the Village Board.

Chair P. Nilsson asked the Board if there was any further questions, being none the Chair Nilsson asked if there are any further questions from the public. Not hearing any response.

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Chair P. Nilsson 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 deterrent 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 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

Chair P. Nilsson asked if there is any further discussion by the Board.

Chair P. Nilsson asked the Board for a motion. M/2/C (G. Cole/R. Bergin) to approve the request for the variance as submitted.

Motion carried: 4 - 0

Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:00 pm.

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

Motion carried: 4 to 0

Respectfully submitted,

Betty Miles  
Recording Secretary