

*Livonia Joint Zoning Board of Appeals
March 7, 2016*

Present: Chair P. Nilsson, R. Bergin, G. Cole, M. Sharman, B. Weber, Code Enforcement Officer-A. Backus, Recording Secretary-A. Houk

AGENDA: **(1) Accept and approve the meeting minutes of February 1, 2016**

(2) Judith D’Hont – 3753 Cluny Point Lakeville NY.

Requesting an area variance for the front, side & rear setbacks requirements and for construction of a two car garage with overhead storage..

(3) Bill Bruyer – 4228 East Lake Road, Livonia, NY.

Requesting a area variance for the minimum side setback requirements for construction of a two story house.

4.) Linda Sykut – 4870 East Lake Road, Livonia, NY.

Requesting an area variance for the minimum side and front setback requirements for the construction of a two story garage. In addition, requesting a conditional use permit for a proposed accessory dwelling to the new construction.

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

(2) Judith D’Hont – 3753 Cluny Point, Lakeville, NY.

Code Enforcement Officer read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday March 7, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Judith D’Hont for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. An area variance is requested for the construction of a two car garage with overhead storage. This proposed construction will violate the requirements according to 150-31G (1) & (2) which state the minimum front and side setback requirements. This property is located at 3753 Cluny Pt., Lakeville, 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.

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

R. Bergin: Yes

M. Sharman: Yes

P. Nilsson: Yes

G. Cole: Yes

B. WeberYes

Chair P. Nilsson asked the person representing **Judith D’Hont – 3753 Cluny Point** to come forward and address the Board and explain what they are purposing to do. Mr. D’Hont explained that they are looking for the approval for a two car garage with overhead storage. Mr. D’Hont gave background information regarding the property subdivision with his neighbor, Patrick Glavey and demolition of existing cottage in hopes of building a garage. He stated that they had tried to purchase property across the road as well as trying to purchase his neighbors garage, both were not successful. Purchasing the property with Patrick seemed to be best option. He gave the dimensions for the proposed garage to be 25’ wide by 30’ deep. He stated the front setback is 30’ and they would

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be 25' from the road. One corner will be 3' from neighbor's property which is both Lakeside and south side for a distance until it branches back off to the road. Chair Nilsson stated that we had received three letters from D'Hont's neighbors on their behalf supporting their request. He asked if anyone wanted those letters read and stated that they should be part of the record. R. Bergin wanted clarification on garage parking. D'Hont advised that there was room for two cars and his old wooden Crist Craft boat in the garage along with 2-3 car parking outside in front of garage on facing the west side. R. Bergin stated that since cottage was torn down this had less impact on the Lake. They did have to take a tree down in order to demo the cottage but the tree was already rotten. Mike Sharman stated that D'Hont's intent was very clear when they came about a year ago for the subdivision. There has been an improvement in the neighborhood. Given the unique circumstances with the odd lot, getting along with the neighbors and splitting the property equally they have made the most of the situation & M. Sharman commended them for their efforts.

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

CEO asked if anyone had any comments on drainage as this was an opportunity to make sure drainage has been established. R. Bergin asked if the D'Hont's were comfortable with the drainage? D'Hont stated that they knew that the roof issue had been taken care of with the Architect's plans. The roof gutters will go to from the east wall of garage all the way down to the Lake to an open catch basin just inside of break wall, then over to a 4" hole in break wall that will be utilized. By having the catch basin, this will prevent over charging. Roof leaders are in place in the soil which goes down to a 4' tile between D'Hont & Patricks's property which the demolition contractor put in with his bulldozer. With the spring like (rain & thaw) conditions they have observed this working properly. Mr. D'Hont stated that he thought that they had submitted a topographical map which showed all the elevations. They planted rye grass last fall in this area. R. Bergin asked Adam if he was satisfied with the drainage. Adam proceeded to show the Board members the topographical maps showing drainage plans. CEO A. Backus wanted to make sure that the drainage has been considered & addressed .Mr. D'Hont went over the topographical map showing drainage plans to CEO A. Backus. No further questions.

Chair P. Nilsson asked the Board for a motion. M/2/C (R. Bergin/B. Weber) to approve application as presented. Motion carried: 5-0.

(3) Bill Bruyer – 4228 East Lake Road, Livonia, NY

Code Enforcement Officer read the Public Notice:

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PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday March 7, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Bill Bruyer for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. An area variance is requested for the construction of a two story house and attached garage. This proposed construction will violate the requirements according to 150-31G (2) which state the minimum side setback requirements. This property is located at 4228 East Lake Road, 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: Yes
G. Cole: Yes
B. WeberYes

Chair P. Nilsson asked Mr. Bill Bruyer to come up and state for the record what he is asking to do.

Mr. Bruyer stated that he and his wife Mandy have owned the property for 15-16 years. The building was built around 1953, no foundation, high utilities, not efficient. Recently their daughter has returned home from Connecticut and she will be living in the house which is across the street from Mr. & Mrs. Bruyer. They want to tear the old cottage down and rebuild making it a new high tech home like they have across the road. The reason for the variance is that it doesn't meet the side setbacks due to the lots on East Lake Road being on an angle. He is trying to take the lot and do the best to equalize neighbors on the North & South to least impact them. The neighbors have looked at the site and consider it to be a fair assessment. The only area he is close to is 6.5' on two corners. R. Bergin asked if there is a particular reason that Mr. Bruyer did not include an elevation drawing or simple sketch. Mr. Bruyer stated he had drawings out in his car & offered to retrieve them for the Board to review. For the record B. Weber wanted everyone to know that he lives next door. He didn't feel there should be a problem with him discussing but he asked the Board if they wanted him to recuse himself from voting on it. Chair P. Nilsson asked if he had any personal financial interest in the project. B. Weber stated no. R. Bergin asked if Mr. Bruyer had any letters from his neighbor. He advised that the neighbor was present at the meeting. Anne Hayes, B. Bruyer's neighbor spoke up that they had seen the sketch of the elevation & indicated there were no objections to the proposed construction. Mr. Bruyer stated that it is an interesting lot because it is very steep. He plans to try to do the least evasive way to remove the dirt off the hill. Mr. Bruyer showed the board the map of the contour lines which starts down by the lake then goes up, across and into a big valley. At driveway, he plans to drive off onto a concrete slab. There will be a small area that will be the basement underneath the slab (garage floor). The reason for this is it makes better sense to take away a small portion of dirt than adding fill and gravel to create room and worrying about it compacting. There is only a small area of dirt to be removed. R. Bergin asked if it was a two story home being proposed & what the elevations were and how they compared to the neighbors. Mr. Bruyer stated that they will be within plus or minus one foot of the other houses and it will not exceed Mr. Weber's house who is the neighbor. Also, Mr. Weber assisted with the driveway elevations and its the same level as Mr. Weber's driveway. Mr. Bruyer stated the pitch for the house is going to be a six on twelve which will keep it lower like his neighbors. Chair P. Nilsson poled the Board for further questions. Mr. Bruyer stated that this improves the site plan, he has narrowed the house & tried to use more of the land. B. Weber stated that everyone in the area has struggled with the lot lines which are scued. Mr. Bruyer is also hiring Barry Carestio to help insure he is within the lot lines. Barry will be hired when they start the excavation for the layout to make sure it meets requirements. CEO Backus stated he would be interested to know if Barry could provide any contours showing drainage along both sides. Mr. Bruyer stated that when he built his home across the street,

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when dirt was removed it was never put back, it was replaced with number 2 washed gravel. They will be bringing in gravel for all the drainage lines including one going to the lake so water will go around the house towards the lake with a natural flow. G. Cole asked if CEO Backus was satisfied with the drainage plan. CEO Backus stated that he will be inspecting as they go through the construction process. A. Backus stated he was curious about the setback from the lake side. It was indicated on the prints however it was difficult to read. Mr. Bruyer clarified that it was 19.6' and 18.7' to the front of the 8' deck. Barry Carestio required Mr. Bruyer to move the deck over one foot as he was encroaching on the angle which was indicated in an email from B. Carestio to Mr. Bruyer. A. Backus also asked if B. Carestio was going to show where the 821 mark is? Yes, B. Carestio is going to provide a certification for the elevations. A. Backus wanted to know exactly where the 821 delineation was, as it will determine whether the FEMA floodplain ordinance is applicable or not. He requested that B. Carestio indicate where the 821 starts. B. Bruyer stated he will work with A. Backus and get him what he needs. Chair P. Nilsson asked the Board if there were 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. Mary Hayes of 4224 East Lake Road had a general question. Where is the Lake Front? Where do you measure from the Lake? A. Backus stated that often times it is at the break wall but you go from the survey map. In this case A. Backus read that the survey line was edge of break wall. Ms. Hayes stated that it was a general question. What point does the break wall supersede the shore line? A. Backus advised that once you get down to 819.4 you fall under the DEC jurisdiction. That is where the survey map is critical for this Board to make a determination. The certification from the surveyor is important. Ann, Bruyer's neighbor to the North, who own the cottage with her siblings came forward to state that the Bruyers have been very neighborly and came forward to share with them their plans & had answered all their questions regarding the construction. M. Sharman commented that he has seen B. Bruyers work and his garage and both are exceptional quality.

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? No
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 (M. Sharman/G. Cole) to approve application as presented. Motion carried: 5-0.

(3) Bill Bruyer – 4870 East Lake Road, Livonia, NY

Code Enforcement Officer read the Public Notice:

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PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday March 7, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Linda Sykut for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. These area variances are requested for the construction of a two story garage. This proposed construction will violate the requirements according to 150-31G (1) & (2) which state the minimum side setback requirements and front setback requirement. Also violates Section 150-31D (1) which states the requirement of a conditional use permit for the use as an accessory dwelling to be constructed in the second story of this proposed two story garage. This property is located at 4870 East Lake Road, 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: Yes
G. Cole: Yes
B. WeberYes

Chair P. Nilsson asked Mr. Bill Bruyer to come up and state for the record what he is asking to do.

B. Bruyer stated that he is the applicant and contractor for this project. He has worked with Linda Sykut for the past five years updating her cottage across the road. She is asking for the garage across the street from her home which is on an angle be torn down. The garage's roof is failing in the back, foundation has cracks, mold & mildew & has been run into by a car. She would like to tear down the garage and build a new garage which will be up to code. The new garage will have an apartment above it for relatives and family only, she has no interest in renting the property. The reason for the front setback is that behind the building, the hill goes up and is very steep. B. Bruyer doesn't want to disturb the hill and plans to leave as many tree/roots intact so it doesn't wash out. He will build up the back of garage at least three blocks so if there is any water coming down it will not go into the garage. The lot is narrow so he is leaving the front exactly the way it is. The North line will also stay exactly the way it is. He just needs a couple more feet on the back and side to give her an accessory dwelling. He went back further to accommodate a staircase & landing to avoid having a very steep staircase and to meet the codes. The proposed dwelling unit is very compact; there will be only one bedroom. As far as parking, B. Bruyer took a picture showing that there are two spots in the garage, two in front of the garage and room for one car to the right side the new garage. There would be room for five cars if necessary. G. Cole wanted clarification on parking. B. Bruyer confirmed there was plenty of room to park before the white line on the road. He is able to park his full size pickup truck with room behind it.

Chair P. Nilsson stated he was grateful that all the house numbers in this area were clearly marked and it can be difficult to locate properties. Bruyer stated he is asking for the setback variances and the 40% rule in addition to the conditional use permit. A. Backus stated that the 40% rule should be based on the actual living space, so that was removed from the request.

Chair P. Nilsson asked if there was any further discussion.

Chair P. Nilsson then opened discussion up to the gallery. Anyone interested in speaking to please state there name and address.

Chair P. Nilsson asked the Board to go through the area variance criteria:

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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? No
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 the Board to go through the criteria for the Conditional Use Permit.

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 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 manner which minimizes 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? No
6. Does the conditional use permit in all other respects conform to the applicable regulations of the chapter and other town/village laws, ordinances and regulations? Yes

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

B. Weber expressed concerns about the potential for an apartment to be used as a rental in the future. A. Backus also noted that if it were rented that the parking might then become an issue and that was not the intended use. The question is whether the Board is able to grant this conditional use permit based on it being used for a family accessory dwelling not rental. B. Weber also asked for clarification on the parking to the south.

R. Bergin asked Linda Sykutt if the property would ever be a rental or if it would be used for family use only? L. Sykutt responded that it was never her intention to rent the property. P. Nilsson stated that there isn't a way to put a restriction stating that the property could never be rented. A. Backus noted that it was important that the discussion was noted in the meeting minutes if traffic did become a problem in the future that it was noted as a concern. B. Bruyer said that an additional parking area, suitable for two vehicles could be provided, as part of the motion to approve this proposed accessory dwelling.

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Chair P. Nilsson asked the Board for a motion. M/2/C (M. Sharman/R. Bergin) to approve the Conditional Use Permit and variance as submitted (with the additional south side parking spot).
Motion carried: 5/0

Chair P. Nilsson asked the Board to go through the criteria for the Short Environmental Assessment Form.

Chair P. Nilsson asked the Board for a motion. M/2/C (P. Nilsson/M. Sharman) to approve the Negative SECR.
Motion carried: 5/0.

Chair P. Nilsson asked if there was further discussion.

G. Cole asked about the garage elevations and if the red house to south was occupied. B. Bruyer advised it was a typical two-story garage and that the owner of the red house only comes down during the summer occasionally to cut the lawn but does not occupy the house. L. Sykut said she would be happy to purchase the property so she could tear it down because it is an eye sore. A. Backus asked if the garage was going to be over 20' in height. B. Bruyer stated yes it will be a 6' on 12', a typical two story. G.Cole asked if the neighbor was aware of this proposed project and B. Bruyer stated only by seeing the sign out in front or the ad in the Livingston County News. Neighbors who own the garage next to L. Sykut are aware of her proposal.

Chair P. Nilsson asked for further discussion.

Chair P. Nilsson asked the Board for motion to approve the proposal with the additional two parking spaces on the south side of garage. 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 8:40 pm.
M/2/C (R. Bergin/M. Sharman)
Motion carried: 5 to 0

Respectfully submitted,

Alison Houk
Recording Secretary