

**Livonia Joint Zoning Board of Appeals**  
**June 20, 2016**

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

Excused: James Campbell, Attorney

AGENDA:     ***(1) Accept and approve the meeting minutes of June 6th, 2016***

Chair P. Nilsson asked the Board for a motion. M/2/C (M. Sharman/R. Bergin) to approve the meeting minutes.

***(2) Ian & Cassandra Coyle – 6534 Florence Lane, Livonia, NY***

An area variance is requested for a proposed Addition off the back of the Dwelling which will violate the rear setback requirements according to Section 150-31G (3) which states the minimum required rear setbacks. This property is located at 6534 Florence Lane, Livonia, New York and is zoned Neighborhood Residential District (NR)

***(3) Raymond Paladino – Tax Parcel # 74.-1-2.11 Pebble Beach, Livonia, NY***

An area variance is requested for a proposed Dwelling which will violate the rear setback requirements according to Section 150-31G (3) which states the minimum required rear setbacks. This property is located at Tax Parcel number 74.-1-2.11 Pebble Beach Road, Lakeville, New York and is zoned Neighborhood Residential District (NR)

***(4) Jeff & Dawn Gerstner – 5984 Decker Road, Livonia, NY***

The Modification of a Conditional Use Permit is requested for the expansion to existing dog kennel according to Section 150-32D (6) and subject to the requirements Section 150-51 and the placement of a Sign according to Section 150-32C (9) This property is located at 5984 Decker Road Livonia, New York and is zoned Agricultural Residential Conservation (ARC3)

Further discussion from June 6<sup>th</sup>, 2016 Zoning Board Meeting regarding the expansion of the Dog Kennel and a request for a privacy fence and kennel sign.

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

Chair P. Nilsson asked if everyone reviewed the meeting minutes. The Board agreed they had and Chair P. Nilsson asked for a motion. M/2/C (M. Sharman/R. Bergin) Carried: 5-0

***(2) Ian & Cassandra Coyle – 6534 Florence Lane, Livonia, NY***

CEO A. Backus 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 June 20th, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Ian & Cassandra Coyle for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia.

An area variance is requested for a proposed Addition off the back of the Dwelling which will violate the rear setback requirements according to Section 150-31G (3) which states the minimum required rear setbacks. This property is located at 6534 Florence Lane, Livonia, New York and is zoned Neighborhood Residential District (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 polled the Board for site visits:

Chair P. Nilsson:	Yes
R. Bergin:	Yes
G. Cole:	Yes
M. Sharman:	Yes
B. Weber:	Yes

Chair P. Nilsson wanted it stated for the record that he knows Ian Coyle as he is his Grandson's Basketball Coach. He would not be disqualifying himself based on that but just wanted to be up front.

Chair P. Nilsson asked the person representing Ian & Cassandra Coyle – 6534 Florence Lane to come forward and address the Board and explain what they are proposing to do. Ian Coyle and his Architect, Tim Brinduse came forward to explain that they are requesting a variance for a rear setback for the proposed two story addition to the back of their house. They are asking for a 14' 4" which is a little more than 50%. The second story part of the new addition doesn't get back into the setback. G. Cole stated that when the Coyle's came before the Board in the past, there were no issues with the neighbors. B. Weber asked if the second story addition meets the setback requirements. T. Brinduse stated that just the first story part of the new addition fails to meet the setback requirement. Behind this area is presently a farm field.

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 P. Nilsson asked that they state your name, address and state your questions or concerns. Not hearing any response, the public hearing was closed.

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

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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 for a motion. M/2/C (R. Bergin/B. Weber) to approve proposal for a rear setback as presented.

**(3) Raymond Paladino – Tax Parcel # 74.-1-2.11 Pebble Beach, Livonia, NY**

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 June 20th 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Raymond Paladino for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia.

An area variance is requested for a proposed Dwelling which will violate the rear setback requirements according to Section 150-31G (3) which states the minimum required rear setbacks. This property is located at Tax Parcel number 74.-1-2.11 Pebble Beach Road, Lakeville, New York and is zoned Neighborhood Residential District (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 polled the Board for site visits:

Chair P. Nilsson:	Yes
R. Bergin:	Yes
G. Cole:	No
M. Sharman:	Yes
B. Weber:	Yes

Chair P. Nilsson asked the person representing Raymond Paladino – Pebble Beach Tax Parcel # 74.-1-2.11 to come forward and address the Board and explain what they are proposing to do. R Paladino came forward and stated that the 30’ rear setback for the house he would like to build would put him behind the house located next door. This would obstruct his view of the lake. Gaining an additional 12’ would give his Livingroom and Bedroom the view of the lake. B. Weber asked if there was a map showing the property to the East and what their rear setback was. R. Paladino stated he thought it was 40’. A. Backus confirmed that R. Paladino is looking for an 18’ rear setback. The house in front of this property did not require a variance, so the 30’ rear setback must have been maintained. B. Weber stated that the lots are 190’ deep. If R. Paladino kept within the 30’, he would still have 10’ setback off set from the neighbor’s house. R. Paladino confirmed he is asking for 18’.

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 P. Nilsson asked that they state your name, address

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and state your questions or concerns. The Neighbors to the east of the proposed construction, Ismael & Marissa Campos came forward. They stated that their house is the one blocking the lake view. They wanted to know the proposed placement of the house. R. Paladino confirmed that he will be placing the new home closer to the south lot line so he will not be directly in line with the Campos house. A. Backus confirmed that his proposed dwelling will be located further west up the hill and closer to south lot line, still maintaining the west setback. Not hearing any further responses, the public hearing was closed.

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 the Board for a motion. M/2/C (M. Sharman/R. Bergin) to approve proposal for a rear setback as presented.

B. Weber opposed this motion.

***(4) Jeff & Dawn Gerstner – 5984 Decker Road Livonia, NY.***

Chair P. Nilsson asked the Gerstner's to come forward and address the Board for further discussion from the June 6<sup>th</sup>, 2016 Zoning Board Meeting and asked if they had brought with them the information that was requested at the June 6<sup>th</sup> meeting.

It was requested by the public in attendance that the public notice and the memo from the Planning Board be read. CEO A. Backus read the memo & the public notice.

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday June 6th, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Jeff & Dawn Gerstner for modification to a Conditional Use Permit pursuant to Section 150-17B and proposed placement of a Sign pursuant to Section 150-32C (9) of the Zoning Code of Livonia.

The Modification of a Conditional Use Permit is requested for the expansion to existing dog kennel according to Section 150-32D (6) and subject to the requirements Section 150-51 and the placement of a Sign according to Section 150-32C (9) This property is located at 5984 Decker Road Livonia, New York

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and is zoned Agricultural Residential Conservation (ARC3). The application is on file in the Building Zoning Department at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review.

All interested parties will be heard at this time.

Jeff & Dawn Gerstner came forward to address the Board. They stated that they contacted the Dog Warden who boards her dog at their kennel but were unable to obtain anything in writing. This would require a chain of command to document anything in writing, but anyone was able to call her to request information verbally. She also stated that the four years that the Gerstner's have operated a dog kennel there have been no complaints. J. Gerstner wanted to state the conditions of the Town Code for Kennels and stated that they were complying with all of the conditions as previously discussed. G. Cole asked for discussion regarding their request for the kennel sign. J. Gerstner stated that he has obtained the Code requirements and will comply with the requirements. They will also be removing two of the pine trees to be well within the setback requirements. J. Gerstner stated that the neighbor was concerned about the placement of a sign. Doing a "Google" search on Heavenly Kennel will bring the kennel address & map location. When using a "GPS", their location is indicated on the "GPS" – Heavenly Kennel dog boarding. D. Gerstner also stated that the way she offers drop off and pick up times, there are no traffic issues. She stated that she has several emails from people that were unable to attend the meeting on their behalf but would like the Board to read the emails and be part of the record. The emails are on file at the Town of Livonia Building and Zoning Department. B. Weber asked if there were any complaints or issues that Building and Zoning was aware of. A. Backus stated that the only complaints he was aware of was those while the Gerstner's were trying to implement getting the Kennel setup the way they asked for in the prior site plan approval. Once things were setup, we are not aware of any complaints according to the records and conversations with the Dog Warden. G. Cole confirmed their request at this time; Expand for 16 more kennels, Install a 6' board type fence in the outside area so the dogs are not seeing each other & a Kennel Sign. A. Backus asked for clarification for everyone present explaining what they currently have and what they are asking for. They had 17 kennels for boarders plus 6 kennel spaces for their dogs who have all passed away except one dog, which was a total of 23 kennel spaces. Not more than a total of 23 dogs. Those 6 kennel spaces are used for storage & 1 is used for a kennel space for the one dog they currently have. They are asking to add 16 additional kennel spaces.

Chair P. Nilsson opened the meeting up for the public hearing.

The Gerstner's had several people who board their dogs at Heavenly Kennel in attendance at this meeting on their behalf. The general discussion and consensus from all were that the Gerstner's run a nice, clean Kennel where they feel comfortable leaving their dogs knowing they are getting quality care. They are given drop off & pick up times, so there are not any traffic issues. When they are dropping or picking up, there is not a lot of dogs barking, if any at that time. All of the boarders have requested a sign for the Kennel. They all have found it difficult to locate and have concerns regarding turning around on the curve on Decker Road. The list of those boarders are as follows:

Kimberly Katsur – 2230 County Road 50, Wayland, New York 14572  
Mary Gala – 5827 Powell Road, Conesus, New York 14435  
Debbie Aberbach – 6053 Cleary Road, Livonia, New York 14487  
Beryl Conklin – 5706 McPherson Point, Livonia, New York 14487  
Robbin Fennell – 6135 Stone Hill Road, Livonia, New York 14487

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Abbey Fennell – 6135 Stone Hill Road, Livonia, New York 14487

Barry McGrain – 3603 Shoreline Drive, Livonia, New York 14487 – who is D. Gerstner’s Brother, stated that he helps out on occasion and there is not barking on a constant basis. He has trail cams located south of the property and has seen deer on the cam with their young. The deer are not showing any signs of being scared away by the barking of the dogs. On any given night, there may be up to 15 deer located in the back field behind the kennel and they are not affected by the dogs or barking.

The Gerstner’s neighbors on both sides were present indicating their concerns with the noise and constant dog barking, as well as the non-compliance of the privacy fence that was supposed to be built with the previous site plan approval from October 17, 2011. There were also concerns regarding property values. The Gerstner’s stated that when J. Rock & his wife were looking to purchase the property next door, they did come to the Gerstner’s to meet them and were aware then, prior to purchasing that there was a Dog Boarding Kennel next door. Mr. Gerstner also stated that when researching property values, from 2013 to present the neighbor’s property had increased in value and sold for more than assessed value. Both J. Rock and C. Buckley indicated that they were opposed to having a Kennel sign and were opposed to the expansion request. Mr. Buckley stated that he was not made aware of the one year review from the last site plan approval. J. Gerstner stated that both neighbors were present at the one year review, and it was stated then that they were zoned for a Kennel. At the time of the one year review, the neighbors had opportunity to say something but there were no complaints. The Gerstner’s stated that they approached both neighbors in the past, introducing themselves and stated that if they have any issues or hear anything to please come and discuss it with them as they wanted to be considerate to their neighbors.

The neighbor on the west side - Jeff Rock 5974 Decker Road, Livonia, New York. The neighbor on the east side – Mr. Chris Buckley – 6004 Decker Road, Livonia, New York.

Mr. C. Buckley wanted it stated for the record that he felt that Chair P. Nilsson should disqualify himself from the vote because he made a biased comment. Chair P. Nilsson stated that the Kennel was in a suitable location on a quiet country road with little traffic. Chair P. Nilsson stated that he was not going to disqualify himself from the vote. Those were his opinions which had to do with logic in regards to the Kennels location.

Chair P. Nilsson asked the Board if there was any further discussion, being none the Chair P. Nilsson asked the Board for a motion to approve expansion & fence proposal as follows:

B. Weber made a motion for the expansion of 8 additional kennels, making the total number of kennels 25, for a total of 33 dogs. Subject to one year review to discuss progress, noise, neighbor complaints and compliance. It was also stated that the privacy fence will be built in its entirety prior to building the new 8 additional kennels. The 6 existing dog kennels previously used for the Gerstner’s dogs will not be used except for storage only.

Motion to approve: M/2/C (B. Weber/G. Cole)

Chair P. Nilsson asked the Board for a motion to approve request for a Kennel sign proposal as follows:

Kennel sign shall be a 2’ X 4’ sign, 4’ high, setback 17’ from property line. The sign shall have Kennel name, address & phone number.

Motion to approve: M/2/C (B. Weber/P. Nilsson)

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

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Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:50 pm.  
M/2/C (M. Sharman/R. Bergin)  
Motion carried: 5 to 0

Respectfully submitted,

Alison Houk  
Recording Secretary