

LIVONIA JOINT ZONING BOARD OF APPEALS
NOVEMBER 21, 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 November 7th, 2016***
 - (2) Molly Gifford – 7335 Adams Road, Hemlock, NY***
 - (3) Thomas Hevers – 4594 East Lake Rd. Livonia, NY***
 - (4) United Refining – 5845 Big Tree Road, Lakeville, NY***

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 to approve. M/2/C (M. Sharman/B. Weber) Carried: 5-0

(2) Molly Gifford – 7335 Adams Road, Hemlock, 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 November 21st, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Molly Gifford for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia.

This area variance is requested to allow use of the property for (miniature size) horse ownership which normally requires the minimum of five (5) acres according to Section 150-50 of the Livonia Zoning Code. In addition, the housing stable will be located less than 100' from the adjacent residential property lines. Section 150-5 (agricultural definitions) of the Livonia Code requires a minimum 100' separation from adjacent residences. This property is located at 7335 Adams Road, Hemlock, New York and is zoned Agricultural Residential Conservation District (ARC-3). 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

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Chair P. Nilsson asked the Gifford's to come forward and address the Board to explain what they are proposing to do. Molly and her Dad, Chris came forward. Molly stated that five acres are required to own livestock and the distance from the lot line is less than 100'. Chris Gifford explained that the back of their property backs up to farm land and to the east & west sides are neighbors. They have selected an unused portion of their property to pasture the Horse. The area is greater than 130' from the neighboring homes across the street. The fence line is greater than 12' from their property line & ditch. They plan to build an 8' X 12' stable for the horse. There is a tree line separating the area from the neighbors to the left, which would maintain their privacy and comfort. M. Sharman asked if Molly currently owns a horse and how the neighbors feel about the Miniature Horse. Molly explained that she has been involved with horses since 2008. She has owned a Pony since 2009, at the age of 6 and continues to ride and board her full sized Pony at Wynn Farms in Lima. She would like to assume the responsibility of farming and caring for a horse on her own property. A Miniature Horse stands less than 32 inches high at the shoulder and is roughly the size of a Great Dane dog. Molly provided pictures for the Board members to see what the Miniature Horses looks like, as well as obtained signatures from the neighbors in agreement with her proposal. M. Sharman stated that in the past they had granted approval for a Miniature Horse, but the Board required a one year follow up.

R. Bergin asked what the actual size of the paddock area was and if she plans to exercise the horse regularly. R. Bergin also asked if the Gifford's had considered using the back portion of their property for the horse, instead of the side. The paddock area would be 34' X 44' and Molly does plan to exercise the horse on a regular basis. They have invisible fence on the property for their dogs, this does not include the side area where they plan to keep the horse. R. Bergin suggested they consider increasing the size of the paddock area, C. Gifford stated that they could push the brush back in that area to easily increase the size for the pasture. B. Weber asked for clarification on the 8' X 12' shed from the property line and location of the neighbors who signed Molly's proposal. C. Gifford stated the building will be 7' from the property line and the fence will be 5'. The neighbors are located across the street to the right, next door near the barn and directly across the street. M. Sharman asked if they obtained a signature from the neighbor on the western side. Molly explained that since the properties are separated by a small plot of farm land, they didn't not ask for their signature. CEO A. Backus asked for clarification for the manure plan which would be included in the one year follow up. After research, Molly plans to compost the manure in covered bins in the woods to be used as fertilizer as long as this plan doesn't disturb the neighbors. If this plan isn't acceptable, she will dispose of the waste in the weekly trash.

Chair P. Nilsson asked the Board if there was any further questions. Being none 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 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 to approve the proposal for a Miniature Horse as presented with a one year follow up. M/2/C (M. Sharman/R. Bergin) Carried: 5-0

(3) Thomas Hevers – 4594 East Lake Rd. 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 November 21st, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Tom Hevers for a permit to install a fence which requires approval by the Zoning Board of Appeals per Section 150-56J.

This property is located at 4594 East Lake Road 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 asked Thomas Hevers to come forward and address the Board to explain what he is proposing to do. Thomas stated that he is requesting Zoning Board approval to install 2 - 4' X 8' white vinyl fence panels on the north side of his driveway. Currently in this area there is an approximately a 3' drop down and they are concerned about visitors falling down into this area. They are asking for these two fence panels to provide safety in that area.

Chair P. Nilsson asked the Board for a motion to approve the proposal as presented for the addition of 2 additional vinyl fence panels. (M. Sharman/B. Weber) M/2/C Motion carried: 5-0

(4) United Refining – 5845 Big Tree Road, Lakeville, NY

Chair P. Nilsson asked for discussion regarding United Refining. This is a follow up meeting from November 7th, 2016 Zoning Board Meeting for request of an area variance for a rear setback and no fuel dispensing equipment within 500' from a public assembly.

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The questions the Board had regarding clarification on the 500' measurement and the Fire Department's ability to service the proposed facility have been answered. CEO A. Backus stated that he has emphasized to the applicant that they are moving forward at their own risk for approval of the variances in order to purchase the property. They are still subject to Planning Board Site Plan approval. If the Zoning Board grants the proposed variances and the applicant does not receive site plan approval, the variance approval would become null & void.

Chair P. Nilsson asked the Board if there was any further questions. Being none 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 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 for a motion to approve the proposal as presented for the rear setback variance and no fuel dispensing equipment within 500' from public assembly entrance subject to Site Plan approval granted by the Planning Board. (B. Weber/G. Cole) M/2/C Motion carried: 4-0 (M. Sharman abstained)

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

Chair P. Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:42 pm. M/2/C (G. Cole/R. Bergin) Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary