

**LIVONIA JOINT ZONING BOARD OF APPEALS
NOVEMBER 7TH, 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 October 17th, 2016***
 - (2) Vincenzo's Pizza – 5909 Big Tree Road, Lakeville, NY***
 - (3) Keith Vadas – 4532 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/G. Cole) Carried: 5-0

(2) Vincenzo's Pizza - 5909 Big Tree Road, Lakeville, 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 7th, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Mike Yonice/Vincenzo's Pizza for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia.

This area variance is requested for a proposed addition which will violate the west side setback requirements according to Section 150-31G (2) Minimum required side setbacks shall be 20 feet. The variance is also requested for the expansion of a non-conforming buildings which violates Section 150-70A (2) no nonconforming building shall be enlarged, extended or increased. This property is located at 5909 Big Tree Road, Lakeville, New York and is zoned Gateway Commercial District (GC). 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 Mark Muller, Architect representing Vincenzo's Pizza to come forward and address the Board to explain what they are proposing to do. M. Muller stated that they are requesting to build an addition off the back of existing structure. The addition would be 15'4" wide and 24' deep and it

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would be placed on the existing concrete pad where the coolers are currently located. The new addition will be used for kitchen support and interior access to the coolers. This area would also be for kitchen storage and taking deliveries. B. Weber asked for clarification of the coolers indicated on the site map. M. Muller stated that will be the location for the new cooler, the old cooler will be removed. There will also be a door in the new addition, located in the north east corner. Chair P. Nilsson asked if there will be sufficient room for delivery trucks to get around to the back of the building. M. Muller stated there was enough room and the paving goes well beyond back of the building for delivery trucks. B. Weber asked if Vincenzo's are locked into the 3' setback from the west property line. M. Muller explained that the property line changes near the proposed addition. It is 6' on the south side corner then cuts back inward. The addition is only 16' wide and would be located on the existing concrete slab. Attorney James Campbell stated that it will follow the existing wall. B. Weber expressed his concerns of maintaining the building being this close to the property line. Presently the neighbors are all on good terms, but that doesn't always stay the same and could cause issues in the future being so close to the property line. M. Sharman shared the same concerns with the addition being 3' from the property line. If in the future the Cidery decided to install a fence on the property line, it could possibly create some difficulties. CEO Adam Backus commented that when he discussed the needs of the owner, he suggested that M. Yodice contact a design professional to present his proposal. It was CEO A. Backus's understanding that the proposed addition area was already consumed with coolers. It didn't appear that the proposal would change the impact of the actual footprint. He felt that other alternatives would be hard to come up with. M. Muller stated that this design was the best impact visually to the neighbors. M. Sharman asked if they were going to be digging and putting in a foundation. M. Muller confirmed that they would need to put a frost footing in. M. Sharman asked if the new owner considered making more of a major improvement such as a dedicated dining area and running the kitchen prep off from that. M. Muller stated that the dining room addition was just completed in 2011 and that the business isn't in the position to carry that additional expense right now.

Chair P. Nilsson opened the meeting up for questions from the public. Chair P. Nilsson asked that they state their name & address for the record and state their questions or concerns. Not hearing any response, the public hearing was closed.

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 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? 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 to approve the proposal for a Kitchen support addition as presented. M/2/C (G. Cole/R. Bergin) Carried: 3-0 - Nay: M. Sharman, B. Weber

(3) Keith Vadas – 4532 East Lake Rd. Livonia, NY

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Attorney James Campbell read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday November 7th, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Keith Vadas for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. This area variance is requested for a proposed addition which will violate the South side setback requirements according to Section 150-31G (2) Minimum required side setbacks shall be 15 feet. The variance is also requested for the expansion of a non-conforming buildings which violates Section 150-70A (2) no nonconforming building shall be enlarged, extended or increased. This property is located at 4532 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:	No

Chair P. Nilsson asked Keith Vadas and his architect, Mark Muller to come forward and address the Board to explain what he is proposing to do. M. Muller explained that there is currently a deck located on the front of the home where he would like to put a covered porch. He explained that they are asking for a reduced setback of 9' off the property line because it is a pre-existing non-conforming lot. They are requesting a setback of 7'8". At the south west corner of the property, the existing house is currently 8' but and runs at a skew to the property line. M. Muller reviewed the current site drawing with the Board. He also stated that the neighbors on North & South sides were contacted and are in agreement with this proposal. They both have signed the drawings showing their acceptance of the proposal. CEO A. Backus stated that he did not have the latest drawings until that evening. After further review, this proposal should have included the variance for Section 150-31 F Lot coverage. Maximum lot coverage, including buildings and structures, shall not exceed 25% of the area of the parcel. The Board unanimously agreed to add the 7 square feet lot coverage variance to the application. R. Bergin asked if the porch was going to be enclosed. M. Muller stated that it will remain an open covered porch.

Chair P. Nilsson opened the meeting up for questions from the public. Chair P. Nilsson asked that they state their name & address for the record and state their 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? No

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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 as presented and to add the Variance for Lot Coverage 150-31F. (R. Bergin/B. Weber) M/2/C Motion carried: 5-0

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

Follow up meeting from October 17th, 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.

Chair P. Nilsson asked for discussion regarding United Refining. Jerry Fasciano, Director of Retail construction at United Refining was not in attendance. CEO A. Backus started the discussion regarding their proposal.

CEO A. Backus summarized the last Zoning Board Meeting of October 17th, 2016. The meeting was adjourned and the public hearing was closed. The Board requested further clarification regarding the no fuel dispensing equipment within 500' from a public assembly, Code 150-65G. The Client waived 62 day requirement due to circumstances and their choice of approach (ZBA prior to site plan approval). The Board requested the Fire Department to weigh in ability to service this new facility. Water drainage discharge location & possible treatment to be proposed by applicant. 30% open space (possible variance) to be taken care of by United Refining by purchasing an additional parcel.

CEO A. Backus interpreted that the 500' distance was correctly applied & delineated on the map. The proposed facility located in Vitale Park appears to be with the 500' distance, approximately 330'. Further information would be required to determine its use, which may require consideration for a variance from the Zoning Board. The County Planning Board has encouraged both Boards to submit any substantial variations of the original proposal back to them for further review. If United Refining is ready to proceed and present at the next meeting date, they could be placed on the November 21st agenda. The Zoning Board would be comfortable indicating approval prior to full site plan & SEQ. The Board is requesting further information from United Refining regarding the water drainage & treatment depending on location. 30% open space requirement and the Fire Department's ability to service the proposed facility. The Board also asked if United Refining would consider purchasing enough neighboring property to the south to avoid the rear setback variance. The Zoning Board stated that the Planning Board should be the lead agency and determination of the SEQ.

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 7:50 pm.
M/2/C (G. Cole/R. Bergin)
Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary

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