

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**JULY 17<sup>TH</sup>, 2017**

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

Excused: Recording Secretary-A. Houk.

**AGENDA:**     ***(1) Accept and approve the meeting minutes of June 19<sup>th</sup>, 2017***  
  
                  ***(2) Daniel Johnstone – 4821 Main Street, Hemlock, NY***

Chair P. Nilsson brought the meeting to order at 7:02 p.m...

Chair P. Nilsson asked if everyone reviewed the meeting minutes from June 19th. The Board agreed they had and Chair P. Nilsson asked for a motion to approve. M/2/C (M. Sharman/R. Bergin) Carried: 5-0

***(2) Daniel Johnstone – 4821 Main Street, 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 July 17<sup>th</sup>, 2017 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Daniel Johnstone for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. This area variance is requested for a proposed single family home with garage & workshop which will violate the front setback requirements according to Section 150-33G (1). A Conditional Use Permit is also requested for a Home Occupation located in a detached structure according to Section 150-66D (6). This property is located at 4821 Main Street, Hemlock, New York and is zoned Agricultural Residential Conservation – 5 (ARC-5) 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 Daniel Johnstone to come forward and address the Board to explain what he is proposing to do. D. Johnstone stated that his proposal is the have a 2400 sq. ft. single family home, with an attached 1600 sq. ft. garage and workshop which will violate the front setback requirements. He currently runs a woodworking business out of his garage and would like to move the business to the new location and continue out of the new workshop. Moving

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**JULY 17<sup>TH</sup>, 2017**

the home forward will reduce the amount of trees that will need to be cleared, and preserve the natural surroundings. Power lines and a new transformer would need to be installed further back than 250', which would be an additional cost. The septic test was done closer to the front of the property and the area in the back tends to be wet. The setback requirements cause limited space and a much higher cost of the construction as the land will require more site preparation. The home Workshop will be used for a woodworking business that is based on reclaimed materials. Any items not used will be recycled or disposed of in an official manner. The business does not include any onsite sales or visitors.

Chair P. Nilsson asked how far back from the road he was planning to be. D. Johnstone stated that as far back as possible. The septic was done at 160' back and he would put his house just behind that, at approximately 200' back from the road. There is already a natural laneway which he would use for his driveway. CEO A. Backus stated that the front setback was the only reason for the variance. The lot was created with another lot from the Ward subdivision. It has the proper acreage to be a conforming lot, because of the preexisting road frontage, the building would have to be further back off the road. Chair P. Nilsson asked if the plans were to attach the house & garage. D. Johnstone stated that after speaking with his builder, they have decided that it would be more cost effective to attach them.

CEO A. Backus asked D. Johnstone to explain to the Board the noise level of the woodworking business and why it will not be a nuisance to the neighborhood. D. Johnstone stated that he has a table saw, welder & grinder. He makes his furniture using a steel frames and old recycled barn wood. Currently he lives on Rt. 21 in the Village of Manchester, his neighbors are 10' away on each side. He spends 90% of his time inside the shop and limits his outside exposure to only during the day during normal working hours. Mr. Johnstone brought a letter from one of his current neighbors stating that Mr. Johnstone is respectful of the neighbors and his home is well kept.

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.

Daniel Finucane of 4845 Main Street, one of the neighbors near the new proposed site came into to find out further information regarding the proposal. He asked when the construction was to begin and if the house was being built first. D. Johnstone stated that the goal was to have everything built at once. There was also a question regarding the right of way to the aqueduct that was located on this property. D. Johnstone stated that the aqueduct barely touches the back corner of his property. He did speak with the Water Works in Hemlock and wasn't concerned about it as it was so far back on the property. With no further comments the Public Hearing was closed.

R. Bergin asked about the hours of operation and asked when he would be operating the equipment. D. Johnstone stated that there will not be any power equipment in the late hours. The machines that will be making any noise would be operated earlier, during normal business hours between 9-5 p.m. Late hours would be used for the gluing & sanding the pieces and drying overnight.

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**JULY 17<sup>TH</sup>, 2017**

CEO A. Backus stated that there will be no traffic issues because there are no retail sales or customers coming. There is no store front and no signage needed. The setback off the property line is not out of character. Because this lot was made into a conforming lot, relative to acreage, the preexisting non-conforming road frontage is what triggered the need for the variance. The neighbor present doesn't have any objection to the proximity of the corner lot line.

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? Yes, but it would be expensive & not practical.
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 proposed application as presented subject to items listed on the Grains of Steel business description. Normal work hours of 8:00 a.m. to 6:00 p.m. Monday – Saturday. No storefront, showroom & no regular visitation and no signage. Consultations are okay. For the front setback, the house is to be no closer to the road than the neighbor to the south, back property line. M/2/C (M. Sharman/R. Bergin) Carried: 5-0

Chair P. Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:04 pm. M/2/C (G. Cole/R. Bergin) Motion carried: 5-0

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Respectfully submitted, Alison Houk, Recording Secretary