

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**SEPTEMBER 18<sup>TH</sup>, 2017**

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

Excused: Attorney J. Campbell

- AGENDA:**
- (1) Accept and approve the meeting minutes of July 17<sup>th</sup> & August 7<sup>th</sup>, 2017***
  - (2) John Bedson – 3852 Kathryn’s Way, Livonia, NY***
  - (3) Lawrence Myers – 4825 Federal Road, Hemlock, NY***
  - (4) Old Stump Blower Cider Works – 5901 Big Tree Road, Livonia, NY***

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

Chair P. Nilsson asked if everyone reviewed the meeting minutes from July 17<sup>th</sup> & August 7<sup>th</sup>. The Board agreed they had and Chair P. Nilsson asked for a motion to approve. M/2/C (M. Sharman/R. Bergin) Carried: 4-0

- (2) John Bedson – 3852 Kathryn’s Way, 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 September 18<sup>th</sup>, 2017 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of John Bedson 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 side setback requirements according to Section 150-31G (2) and for the expansion of a non-conforming building which violates Section 150-70A (2). This property is located at 3852 Kathryn’s Way, 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
M. Sharman:	Yes
B. Weber:	Yes

Chair P. Nilsson asked the Contractor for John Bedson, Scott Marshall to come forward and address the Board to explain what they are proposing to do. S. Marshall stated that they are proposing an 8’ X 24’ one story Addition on the north side of the house to be used as a family room, which will encroach on the 15’ side setback requirements. This will place the proposed

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addition 8” into the side setback. Chair P. Nilsson asked for clarification on the front setback requirements. CEO A. Backus stated it is currently a pre-existing non-conforming setback. Today’s setback calls for 50’. M. Sharman asked what the distance was off from the north side. CEO A. Backus stated it would be 14’ 4” approximately. The total distance coming off from the house is 8’.

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 responses, 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? 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 proposed Addition as presented. M/2/C (B. Weber/M. Sharman) Carried: 4-0

***(3) Lawrence Myers – Hemlock Hill Tree Farm – 4825 Federal 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 September 18<sup>th</sup>, 2017 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Lawrence Myers, Hemlock Hill Tree Farm for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. This area variance is requested for a proposed Pole Barn which will violate the front setback requirements according to Section 150-33G (1) and the expansion of a non-conforming building according to Section 150-70A (2) This property is located at 4825 Federal Road, Livonia, New York and is zoned Agricultural Residential Conservation 5 District (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:

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

Chair P. Nilsson asked Lawrence Myers to come forward and address the Board to explain what he is proposing to do. Mr. Myers stated that he would like to build a 24' X 32' Pole Barn addition onto the north side of the existing barn. The new addition will be used for storage of farm equipment. This will free up space in the existing barn to display and sell Christmas trees in a place that is protected from the weather. The existing area has lighting and a bathroom for public use. Sometimes there are 150-200 trees, having them inside protected from the snow will save a lot time trying keeping them cleaned off. The new addition will extend 24' towards the north and will have doors on the north end. It will have windows, sliding doors, a metal roof and metal siding to match the existing barn. He will be using David Graber of Mt. Morris who is an Amish builder that built the Women's Building at the Hemlock Fair. M. Sharman stated that for the record, Larry sells Christmas Trees. CEO A. Backus stated that this would be an agricultural use, which doesn't require a Building Permit, this is strictly for zoning because of the non-conforming, pre-existing setback.

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 responses, 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 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
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 Pole Barn Addition as presented. M/2/C (M. Sharman/R. Bergin) Carried: 4-0

***(4) Old Stump Blower Cider Works – 5901 Big Tree Road, Livonia, NY***

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PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday September 18<sup>th</sup>, 2017 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Old Stump Blower Cider works for approval of a Conditional Use Permit and for Area Variance(s) pursuant to Section 150-17 B & C of the Zoning Code of Livonia. The Conditional Use Permit and Area Variance(s) are requested for an outdoor storage unit, per Section 150-54D and for a 10 X 20 Cooler which will violate the side setback requirements according to Section 150-36F (2).

The property is located at 5901 Big Tree Road, Livonia, New York. The property 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
M. Sharman:	Yes
B. Weber:	Yes

Chair P. Nilsson asked Josh Barnard to come forward and address the Board to explain what they are proposing to do. Josh stated that they won a grant in the spring from “Brew in Livingston County” and used the grant money to expand their production. Their Cider products are currently in 76 bars and restaurants. In order to maintain that level of production and continue to grow, they had to expand for storage and placement of product on site. They are proposing an 8’ X 40’ trailer body storage container to stand along the northeast side of the property behind the building. Due to the increase in customers and orders, they are in need of additional storage for the equipment. They are also here to request an area variance for a walk in cooler which would accommodate the products that are made on site. CEO A. Backus stated that the business has been successful. There have been things that have evolved over time and there has become a need to have some items stored outside. To solve this problem, they put in a storage container not knowing that type of container needed to be approved. They needed a cooler that they originally didn’t envision. They installed a cooler, not knowing that it would require Site Plan review. M. Sharman asked if they were past Site Plan review now. CEO A. Backus stated they have requested a Modification of a previously approved Site Plan. The Planning Board referred them to the Zoning Board once they realized that the Conditional Use Permit was required for the storage container, and that the cooler violated the side setback. The Planning Board’s recommendation was that they looked favorable on their requests. Chair P. Nilsson asked if SEQR was done. CEO A. Backus stated that SEQR was done at the Planning stage. M. Sharman asked if the storage container was temporary. J. Barnard said it is likely permanent based on the amount of available space indoors. CEO A. Backus stated that it is his understanding that if they grow much more, the production will be done off site. B. Weber asked if they anticipate adding additional storage containers. J. Barnard stated no, if they had to expand at that level they would have to look at another site. CEO A. Backus stated that the site is not primarily a production site. The business was originally set up to be at least 50% retail, production was to be ancillary and part of the experience to being there. If growth happened,

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production would be done off site. B. Weber asked if the currently have off site manufacturing. J. Barnard stated that they do not.

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 responses, the Public Hearing was closed

Chair P. Nilsson asked the Board to go through the Conditional Use Permit criteria.

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 the 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? Yes
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 this chapter and other town/village laws, ordinances and regulations? Yes

B. Weber stated that it is 50% manufacturing, and 50% retail sales to meet the zoning. CEO A. Backus stated that it was primarily not to be a production site. It was proposed to be 50% retail sales of merchandise and no more than 50% of the business be derived off production. B. Weber asked how the 50% is determined. J. Barnard stated that it currently varies, but is based on sales, the amount of liquid that they need to bring in to produce. CEO A. Backus stated that in the beginning when they received their Site Plan approval, they had a breakdown of how the sales were. They had a projection of how much was going to be produced and sent to bars and how much was going to be consumed on site. They showed a satisfactory plan to prove that it was not primarily a production facility. As things have progressed and the County is now invested in this with a grant, there is more production than there was originally. No one has challenged or asked if they are meeting their Site Plan approval by numbers relative to production verses retail sales. The issue has been a bar like atmosphere compared to a tasting room, that is what has brought up concerns with the Planning Board. While we were addressing that issue, it was identified things have been put into place without approval.

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Chair P. Nilsson asked the Board for a Motion to approve the Conditional Use Permit for the Storage container: M/2/C (R. Bergin/B. Weber) Carried 4-0

Chair P. Nilsson asked the Board for a motion to approve Area Variance for the proposed walk in cooler as presented. M/2/C (M. Sharman/P. Nilsson) Carried: 4-0

Chair P. Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:04 pm. M/2/C (M. Sharman/R. Bergin) Motion carried: 4-0

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Respectfully submitted,  
Alison Houk, Recording Secretary