

PRESENT: Chair. P. Nilsson, C. Rider, M. Sharman, R. Ehmann,, & B. Weber - Code Enforcement Officer

EXCUSED: J. Cambpell - Town Attorney, Kevin P. Masterson - Recording Secretary

ABSENT: J. Case

AGENDA: - Cheryl Ann Cutaia
- 5102 Hartson Point
- Conditional Use Permit
- Accessory dwelling unit

Chair. P. Nilsson opened the meeting at 7:04 p.m. and asked the board members to review the March 5, 2012 meeting minutes before them. Hearing no comments, he asked for a motion to adopt.

M/2/C (M. Sharman/R. Ehmann) to accept the March 5, 2012 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.
Motion carried 4-0.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **Cheryl Ann Cutaia** for a public hearing for a Conditional Use permit pursuant to Section 150-17B of the Zoning Ordinance of the Town of Livonia. The Conditional Use Permit is requested to allow an accessory dwelling unit, subject to the requirements of Article VII, Section 150-60, according to Section 150-31 D (1) of the Town of Livonia Zoning Code. The property in question is located at 5102 Hartson Point, Livonia, New York and is zoned Neighborhood Residential Zoning District (NR).

Chair P. Nilsson polled the board members for site visit:

Chair. P. Nilsson	-	yes
M. Sharman	-	yes
R. Ehmann	-	yes
C. Rider	-	yes

Chair. P. Nilsson stated that the burden is put upon the applicant to show why the permit should be granted. He then asked Cheryl Ann to come forward to explain her application and why she wants relief from this board.

Cheryl Ann's husband, Ara Simonian, approached the board and stated that besides the barn on the property, there are other buildings, including a cottage that they intend to tear down in the future. They want to fix the barn because it was falling over. They've already done some structural repairs.

Bill Weber stopped by the property recently and saw that work was already being done on the barn but no building permit had been issued for the work, he told Ara that he was required to apply for a building permit and proceeded with posting a STOP WORK ORDER on the property. It was determined that a Conditional Use Permit was also required for what they want to do with the barn, which is to provide sleeping quarters for excess overflow of family and friends on the weekends.

Chair. P. Nilsson asked about the cooking facilities. Mr. Simonian did admit there is a small kitchen in the barn and would like to keep it that way. He stated that there is a dining room, t.v. room, kitchen, one bedroom and a bathroom. They are not planning on renting out the property.

M. Sharman asked if they were planning on remodeling the cottage. Mrs. Simonian said it is their plan to tear down the building and to rebuild.

P. Nilsson questions whether or not if this board were to grant the C.U.P., would they agree to a condition that they cannot rent out this property, Ara said yes.

M. Sharman asked Ara if they intend to expand the footprint of a new cottage.

Ara stated that the length of the existing cottage is 50' and they plan to extend it to 55'.

R. Ehmann said that according to the survey map of the property in question, the length of the cottage is only 39.4'.

R. Ehmann told the applicants that their water/sewer bill will double. She thought she'd make them aware of that.

Chair. P. Nilsson asked the board for further questions or comments, hearing none, he asked the gallery for questions or comments.

Paul Nederlk of 5082 Hartson Point asked the board to describe the Use Variance.

Chair. P. Nilsson stated that it is not a variance they are requesting.

Having an accessory building on the same property as the main residence is an allowed use. It gives this board an opportunity to see if this use is good. The accessory dwelling cannot be 40% or more of the main residence.

Paul stated that the structure is leaning to the east.

Mr. Simonian said that is why they are restoring it.

Chair. P. Nilsson explained that the construction will be well monitored by Kevin Masterson and Bill Weber of the Building & Zoning Dept.

Bill Weber read aloud a message from Craig Stratton of 5098 Hartson Point. He called the Building & Zoning Office earlier in the day.

He is the next door neighbor to Cheryl Ann and Ara. He has spoken to Cheryl Ann about their plan. He understands it is to be for family overflow but not a rental property. He's fine with this - he does not want renters living in there.

Bill Weber explained to the board that this is not a variance request, therefore he doesn't believe they can put conditions on any approval.

The Board discussed the legal criteria for a Conditional Use Permit Application:

(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, if we are looking at friends and family only

(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 minimized 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?

-yes

(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

M/2/C (B. Brooks/R. Ehmann) to grant the Conditional Use Permit with the condition that the accessory building be available for friends and family only, no renters.
Motion carried 4-0.

M/2/C (R. Ehmann/M. Sharman) to adjourn the meeting at 7:30 p.m.

Respectfully submitted,

Tammie Schwerzler
Acting Recording Secretary

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