

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**Meeting Minutes - May 7, 2012**

**Page 1 of 8**

**PRESENT:** Chair. P. Nilsson, M. Sharman, C. Rider, R. Ehmann, , B. Weber - Code Enforcement Officer, Kevin P. Masterson - Recording Secretary

**Absent:** J. Case, J. Cambpell - Town Attorney

- AGENDA:**
- Eric Randall
    - 3835 Grayshores Road
    - Area Variance
    - Increasing the square footage & habitable space of an existing nonconforming residence
  
  - Todd Travaglini
    - 6751 Richmond Mills Road
    - Area Variance
    - Accessory dwelling unit
  
  - Charles Bayer
    - 5066 Hartson Point
    - Area Variance
    - Single family residence
  
  - David Ochenrider
    - 4766 East Lake Road
    - Area Variance & Conditional Use Permit
    - Accessory dwelling unit (C.U.P.)
    - Maximum allowed 40% of the area of a principal dwelling unit and side setback (Area Variance)

Chair. P. Nilsson opened the meeting at 6:58 p.m. and asked the board members to review the April 25, 2012 meeting minutes before them. Hearing no comments, he asked for a motion to adopt.

M/2/C (R. Ehmann/C. Rider) to approve the April 25, 2012 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried 3-0, M. Sharman abstaining.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **Eric A. Randall** for a public hearing for an Area Variance for increasing the square footage and habitable space on an existing nonconforming residence according to Section 150-70-A (2) of the Zoning Ordinance of the Town of Livonia. The property in question is located at 3835 Grayshores Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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

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

R. Ehmann announced for the record that she has had discussions with Eric regarding membership in the lake association.

Chair. P. Nilsson asked Eric, accompanied by his contractors Jim Ghostlaw & Bob Graham to explain his request to the board.

Eric stated the existing cottage is 103 years old and its life is running out. Specifically, he wants to build a new full height walkout basement to support the cottage. The existing foundation is built of piers which are unstable and caused shifting of the cottage.

He and his wife really want to preserve the old cottage feel but will install new roofing, siding & windows.

Currently there is a concern & issue with the storm water coming off Grayshores Road and discharging onto & through the property. They plan on installing a new catch basin at the road shoulder and a 12" directional pipe to the lake. Gutters and foundation drains will be connected to the same pipe.

C. Rider asked if they would use this new basement area for storage or habitable space.

Eric stated most likely for storage of summer items.

B. Weber stated Eric is here tonight to have the future ability to use this area for legal habitable space.

Chair. P. Nilsson asked if the footprint of the house would change.

Answer was no.

M. Sharman suggested Eric discuss flood zone issues with the Building Department they can be of great assistance.

Chair. asked for public comment, hearing none, he closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the Area Variance legal 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 sought by the applicant be achieved by some feasible method other than a variance?  
- no

- (3) Is the request substantial?  
- no
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood district?  
- no
- (5) Is the alleged difficulty self created?  
- yes

Chair. Nilsson asked for a motion.

M/2/C (M. Sharman/C. Rider) to approve this application as presented.

Motion carried 4-0.

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Todd Travaglini** for a public hearing for an Area Variance to allow an accessory dwelling unit, which will violate the maximum 40% of the area of a principal dwelling unit according to Section 150-60 D of the Zoning Ordinance of the Town of Livonia. The property in question is located at 6751 Richmond Mills Road, Livonia, New York and is zoned Mixed Use Hamlet District (MUHD).

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

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

Chair. P. Nilsson asked Todd & his contractor Scott Marshall to explain the request.

Scott stated they would use the rear portion of the existing accessory structure that now also houses a hair salon & computer service business. The plan is to use approximately 672 sq. ft. of this building for an in-law apartment for Todd's mother. The accessory dwelling would be 42% of the primary residence sq. footage. The code states a maximum of 40%, thus the request for the area variance.

B. Weber stated a Conditional Use Permit (CUP) for an accessory dwelling is not required in this MUHD Zoning District, it's a permitted use by right.

R. Ehmann asked what would the future use of the computer & hair salon areas be?

Todd stated he will soon be moving his computer business hopefully to the Village. His wife's salon will stay. He will use the computer area for storage.

M. Sharman asked if additional parking for the apartment would be needed.

Todd stated his mother does not drive, so there will be less need of parking especially when his business moves.

M. Sharman asked where the entrance to the apartment will be.

Scott stated through the existing salon door. The apartment does have a rear sliding glass door.

Chair. asked for public comment, hearing none, closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the Area Variance legal 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 sought by the applicant be achieved by some feasible method other than a variance?  
- no
- (3) Is the request substantial?  
- no
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood district?  
- no
- (5) Is the alleged difficulty self created?  
- yes

Chair. asked for a motion to this application.

M/2/C (R. Ehmann/C. Rider) to approve the area variance as requested for more than 40% sq. footage requirement.

Motion carried 4-0.

Recording Secretary read aloud the third Legal Notice:

RE: Application of **Charles Bayer** for a public hearing for an Area Variance for the reconstruction of a single family residential structure which will violate the front setback requirement, one side setback requirement & the maximum allowed lot coverage according to Sections 150-31 G (1) & (2), 150-31 F and 150-71 of the Zoning Ordinance of the Town of Livonia. The property in question is located at 5066 Hartson Point, Livonia, New York and is zoned Neighborhood Residential (NR).

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

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

Chair. asked **Charles Bayer** and his brother Tom to explain their request.

Tom stated his family has lived seasonally there on the lake for 80 years. The property has always been in the family & they wish to remove the existing house and build a new one to better serve the family's needs & be maintenance free. The total parcel size is approximately 1.5 acres but the cottage sits upon the lake side parcel. They propose to have the new house placed 22.5' off the street right-of-way, 12' off the north property line, 7' off the south property line, and 28' off the lake shore line.

The requested variance is for the south side & street r.o.w. side. The lake and north side setbacks comply with the code.

There was discussion about the percentage of lot coverage for the lakeside portion of the parcel, it was determined no variance is required & confirmed by C.E.O. Bill Weber.

Bill Weber stated the required setback from the south side was 9' and the required setback for the street r.o.w. was 30 feet.

Chair. asked for public comment, hearing none, closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the Area Variance legal 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 sought by the applicant be achieved by some feasible method other than a variance?  
- yes

- (3) Is the request substantial?  
- no
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood district?  
- no
- (5) Is the alleged difficulty self created?  
- yes

M/2/C (M. Sharman/R. Ehmann) to approve the request as presented.  
Motion carried 4-0.

Recording Secretary read aloud the fourth Legal Notice:

RE: Application of **David Ochenrider** for a public hearing for a Conditional Use permit for an accessory dwelling unit according to Sections 150-31 D (1) of the Zoning Ordinance of the Town of Livonia. The Area Variance is requested because the construction of a new primary dwelling unit will violate the side setback requirement, thereby violating Section 150-31 G (2) and 150-71 of the Town of Livonia Zoning Code. The Area Variance is also requested to allow the accessory dwelling unit, which will exceed the maximum allowed 40% of the area of a principal dwelling unit according to Section 150-60 D of the Town of Livonia Zoning Codes. The property in question is located at 4766 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (NR).

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

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

Chair. P. Nilsson asked applicants representative to explain the request.

Dave Ochenrider was represented by his son, Jim, and Architect Rob Meehan.

Rob Meehan explained the request as shown on the submitted site plan. The son, Jim, currently lives in the lakeside cottage and the father, Dave, wishes to build a new retirement home across the street on the parcel that currently has a garage on it. The garage currently has a driveway cut on East Lake Road, they would extend this driveway to the new house which is to be located to the rear of the lot.

The new house would be five feet off the north property line and conforms to all other setbacks. They are requesting a Conditional Use Permit (CUP) for an accessory dwelling unit which would become the existing cottage and the new house would be considered the primary residence.

Also an Area Variance for the 40% rule as per Town of Livonia Code 150-60 is requested.

Chair. Nilsson asked for comments from the board members, hearing none, asked for any public comments. Hearing none, he closed that portion of the meeting.

Chair. P. Nilsson then asked the Board to review the Area Variance legal 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 sought by the applicant be achieved by some feasible method other than a variance?  
- no
- (3) Is the request substantial?  
- no
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood district?  
- no
- (5) Is the alleged difficulty self created?  
- yes

Chair. asked for a motion on the Area Variance request.

M/2/C (R. Ehmann/M. Sharman) to grant the two Area Variances as presented.  
Motion carried 4-0.

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

(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

Chair. P. Nilsson asked for a motion.

M/2/C (M. Sharman/P. Nilsson) to approve the Conditional Use Permit.

Motion carried 4-0.

Chair. Nilsson asked for a motion to adjourn the meeting.

M/2/C (C. Rider/M. Sharman) to adjourn the meeting at 8:00 p.m.

Respectfully submitted,

Kevin P. Masterson  
Recording Secretary

KPM/ts