

LIVONIA JOINT ZONING BOARD OF APPEALS
Meeting Minutes - July 2, 2012

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

ABSENT: J. Campbell - Town Attorney

- AGENDA:**
- Brian O'Neil
 - 84 Big Tree Street
 - Area Variance
 - To raise poultry

 - Steve & Debbie Bacon
 - 6393 Coe Road
 - Area Variance
 - 18' x 25' garage

 - James J. Corcoran
 - 3601 Pebble Beach Road
 - Area Variance and 60% rule
 - 16' x 26' deck

 - Kuhnle Bros. Inc.
 - 3375 Rochester Road
 - Area Variance
 - 9' fence

Chair. P. Nilsson opened the meeting at 7:00 p.m. and waived the discussion and adoption of previous June 18, 2012 meeting minutes until the next regularly scheduled meeting.

M/2/C (M. Sharman/R. Ehmann) to waive the adoption of meeting minutes June 18, 2012 until the next regularly scheduled meeting.

Motion carried 5-0.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **James J. Corcoran** for a public hearing for an Area Variance to construct a 16' x 26' deck which will violate the side setback requirement according to Section 150-31 G (2) and will violate the 60% rule according to Section 150-71 of the Zoning Ordinance of the Town of Livonia. The property in question is located at 3601 Pebble Beach Road, Livonia, New York and is zoned Neighborhood Residential (NR) District.

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

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Chair. P. Nilsson	-	yes
Mike Sharman	-	yes
R. Ehmann	-	no
C. Rider	-	yes
J. Case	-	yes

Chair. Nilsson asked James to explain his application.

James stated he has had the cottage in his family for many years and now has a desire to have built a deck on the lakeside. The deck would be 16' x 26' and offset approximately 6-7' from the north property line.

Chair. P. Nilsson asked how far the deck would be from the lake shore and was this also an issue for the board to consider tonight.

Code Enforcement Officer, Bill Weber, stated there is no issue relative to the lakeside setback.

B. Weber explained to the board that the only issue for this application is a side setback on the north side. The survey map submitted shows a request for a 6.75' offset. The code requirement for a preexisting/non-conforming lot is a 9' side setback.

Chair. P. Nilsson stated this seems to be a relatively small request.

C. Rider asked if the neighbor to the north had any issues.
James said no.

M. Sharman asked how far above grade would this deck be?
Jim stated approximately 24".

R. Ehmann asked if a roof was planned.
Jim states no, only a deck.

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

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(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.

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

Motion carried 5-0.

This action has been determined to be a Type II action under SEQR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Brian O'Neil** for a public hearing for an Area Variance to raise poultry for agricultural use on less than five (5) acres which will violate the minimum required according to Section 155-5 of the Zoning Ordinance of the Village of Livonia. The property in question is located at 84 Big Tree Street, Livonia, New York and is zoned Neighborhood Residential (NR) District.

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

Chair. P. Nilsson - yes

Mike Sharman - yes

R. Ehmann - yes

C. Rider - yes

J. Case - yes

Chair. Nilsson asked Brian to explain his request.

Brian currently raises organic farm produce vegetables and does sell them from his farm stand. His plan is to raise chickens for fertilizing and pest bug control in the vegetable garden. The garden is fenced all around so chickens will be confined to the gardens. He raises them using an open range method, now very popular. It's more environmentally friendly.

Chair. Nilsson asked how many chickens.

Brian stated 8-10 with 2 roosters.

R. Ehmann stated there are four (4) chickens now? Answer was yes.
R. Ehmann asked what size this Village lot is. Answer 1.9 acres.

Brian stated all the neighbors have been advised except one.

Chair. Nilsson asked if the chickens would be inside at night.
Answer was yes, within the housing trailer. It's designed to be moved around the garden area.

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Brian described the actual housing trailer and that the chickens are put inside at night and let out in the morning.

C. Rider stated he felt the board was opening a pandora's box by allowing chickens in the Village.
R. Ehmann stated the population is dense in the Village.
Brian stated the board had previously issued approval for chickens to be raised on a parcel of land less than five (5) acres.

R. Ehmann stated the previous application Brian is referring to was located on Pennemite Road and in the Town, very rural, not in the Village.

J. Case asked about the noise from roosters.
Brian stated that even female chickens can crow noise. He would be willing to not have roosters.

B. Weber informed the board that the Area Variance request is also for the location of the chicken housing not being a minimum of 100' from a property line.

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?
- yes
- (2) Can the benefit sought by the applicant be achieved by some feasible method other than a variance?
- no
- (3) Is the request substantial?
- yes
- (4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood district?
- yes
- (5) Is the alleged difficulty self created?
- yes

Chair. asked for any further discussion, hearing none, asked for a motion.

M/2/C (R. Ehmann/C. Rider) to deny the request.
Motion carried 3-2.

Recording Secretary read aloud the third Legal Notice:

RE: Application of **Steve & Debbie Bacon** for a public hearing for an Area Variance to build an 18' x 25' garage which will violate the side setback requirement according to Section 150-33 G (2) of the Zoning Ordinance of the Town of Livonia. The property in question is located at 6393 Coe Road, Livonia, New York and is zoned Agricultural Residential Conservation - 5 (ARC-5) District.

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

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

Chair. P. Nilsson asked Steve to explain his request.

Steve stated he wanted to build a one and a half car garage which is in addition to his existing garage. This would be a stand alone garage not attached to the existing.

Chair. asked if the septic system location influences where the garage can not be built. Steve stated yes. Steve said he, his wife, and the builder, Alan Wallace, feel this is the only possible location. He said the house location dictates an eastern location on the lot.

M. Sharman asked if the garage is a one story. Answer was yes and the new siding will match the existing siding.

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

B. Weber stated the proposed garage appears to be approximately 9' from the east property line. Board members and the applicant agreed.

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?
- yes

- (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.

M/2/C (M. Sharman/J. Case) to grant the application for a 9' setback.

Motion carried 5-0.

This action has been determined to be a Type II action under SEQR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

Recording Secretary read aloud the fourth Legal Notice:

RE: Application of **Kuhnle Bros. Inc.** for a public hearing for an Area Variance to build a 9' fence which will violate the maximum height requirement according to Section 150-56 D, it will also violate Section 150-56 E to allow barbed wire to be placed at the top of the fence, and will also violate Section 150-56 H because of the possibility of this type of fence being able to maim or injure intruders according to the Zoning Ordinance of the Town of Livonia. The property in question is located at 3375 Rochester Road, Livonia, New York and is zoned Industrial (I) District.

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

Chair. P. Nilsson	-	yes
Mike Sharman	-	yes
R. Ehmann	-	no
C. Rider	-	yes
J. Case	-	yes

Chair. Nilsson asked Kuhnle Bros. representative, Ted Clinton, to explain their application.

He stated the company was requested by Federal Home Land Security to install a perimeter security fence to keep out intruders/terrorists. Ted distributed their transportation security plan which was approved by the Federal Department. This plan is to install a 6' high chain-link fence with three (3) strands of security barbed wired above, thereby making the fence over the six (6) feet in height maximum allowed by the Town Code.

He explained that approximately five (5) weeks ago, someone entered the property and opened up many of the truck trailer drains. Luckily no product was in them. Feds said it was considered an act of terrorism.

These tankers are regularly traveled to Kuhnle Brother's other truck terminal in New Burey, OH. There is sulfuric acid liquid in some of the tanks. The Ohio plant has the same fencing currently. Ted has spoken to all the neighbors, none had any concerns.

The total cost of the fence is \$52,000.

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?
- yes
- (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?
- no

M/2/C (R. Ehmann/M. Sharman) to approve the application as presented.
Motion carried 5-0.

This action has been determined to be a Type II action under SEQOR and is exempt from Review under Part 617.5 (12) and (13) of the State Environmental Quality Review.

M/2/C (M. Sharman/C. Rider) to adjourned the meeting at 8:00 p.m.
Motion carried 5-0.

Recording Secretary

Kevin P. Masterson
Director of Building & Zoning

KPM/ts