

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

**EXCUSED:** J. Campbell - Town Attorney

**AGENDA:**

- The Estate of Raymond Morrell (Joanne Backus)
  - 106 Big Tree Street
  - Area Variance
  - 12' x 24' addition to existing garage
  
- Peter & Jennifer Paradiso
  - 3983 Graywood Center
  - Conditional Use Permit
  - Accessory Dwelling Unit
  
- Jeff & Dawn Gerstner
  - 5984 Decker Road
  - 1 Year review
  - Dog Kennel

Chair. P. Nilsson opened the meeting at 7:03 p.m.

Chair. P. Nilsson asked the board to review the July 2, 2012 meeting minutes.  
M/2/C (J. Case/M. Sharman) to approve the July 2, 2012 Livonia Joint Zoning Board of Appeals meeting minutes as presented.  
Motion carried 5-0.

Chair. P. Nilsson asked the board to review the June 18, 2012 meeting minutes.  
M/2/C (R. Ehmann/M. Sharman) to approve the June 18, 2012 Livonia Joint Board of Appeals meeting minutes as presented.  
Motion carried 5-0.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **The Estate of Raymond Morell (Joanne Backus)** for a public hearing for an Area Variance for the construction of a 12' x 24' addition to an existing garage which will violate the side setback requirement of 9' as per 155-71 Non Conforming Lots according to Section 155-31 G (2) of the Neighborhood Residential District of the Village of Livonia Zoning Code. The property in question is located at 106 Big Tree Street, Livonia, New York.

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 Joanne to explain her application request. She deferred to her husband, Tony Backus, who explained their desire & need to obtain more garage/storage/work shop space. The existing garage is not large enough and they want to add on to the existing 24' x 24' structure with a 12' x 24' addition. It will extend southerly along the same side setback and be approximately no closer than 8.6' as shown on the survey map submitted.

The new final corner of the addition may be in compliance with the required 9' minimum side setback requirement. The east lot line offset gets greater than further south you go.

M. Sharman asked what would the roof addition look like?

Tony stated it would be the same gable pitch design but may not be as high as the current garage roof.

R. Ehmann asked if Joanne, the daughter of the estate, is now the legal owner of the property. Joanne stated "yes, today it closed."

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

Tony asked to address the board again and stated he did speak with the two (2) neighbors and neither had any issues or concerns with his application.

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, not practical
- (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

There was no further discussion.

Chair. asked for a motion on this application.

M/2/C (M. Sharman/C. Rider) to grant the Area Variance request as submitted.

Motion carried 5-0

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Peter R. & Jennifer T. Paradiso** for a public hearing for a Conditional Use Permit (CUP) for the proposed construction of an accessory dwelling unit on the same property as the principal dwelling is a permitted use provided a Conditional Use Permit is obtained from the Joint Zoning Board of Appeals, subject to the requirements of Article 7, Section 150-60. The property in question is located at 3983 Graywood Center, Livonia, New York and is zoned Neighborhood Residential (NR) Zoning 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	-	no

Chair. Nilsson asked applicant, Peter Paradiso & wife Jennifer to explain their application for the CUP.

Peter stated he submitted a site plan showing the location on which lot would be used for the new garage and the 2<sup>nd</sup> floor accessory dwelling unit above. The accessory dwelling unit would be 36% of the floor area of the principal dwelling on the lake side lot.

The accessory dwelling would be a bedroom, kitchen, bath, dinette & living area. It will be used by family members and grandchildren.

There is currently a small garage structure on the lot now that will be removed. The accessory dwelling/garage would be Phase I of the entire project and begin this September. Phase II will begin soon after the garage/accessory dwelling is built. This phase will encompass tearing down the existing lakeside cottage and building a new home of approximately 2,223 sq. ft.

Chair. asked Code Enforcement Officer, Bill Weber if there are any concerns regarding the Phase II house.

Bill stated, "no, everything is in conformance with applicable zoning laws. The only issue tonight is the CUP for the accessory dwelling unit.

Chair. asked if the board had any questions, hearing none, he opened the public hearing portion of the meeting. There were no questions or comments. Chair. closed that portion of the meeting.

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?

- no

(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. asked for any further comments from the board, hearing none, asked for a motion on this application.

M/2/C (C. Rider/R. Ehmann) to approve the requested CUP for the accessory dwelling.

Motion carried. 5-0.

Chair asked Jeff & Dawn Gerstner to approach the board to further discuss their previously issued CUP for a dog kennel located at 5984 Decker Road.

The Board's previous decision was approved contingent upon returning for a one year review at which time a discussion can take place regarding any impacts to the neighborhood.

For the record, the recording secretary had spoken to the County Dog Control Office and no complaints were received for the kennel operation.

Chair. asked CEO, Bill Weber if any complaints had been received.

Bill stated, "none had been received."

Recording Secretary stated the two adjacent neighbors had been notified of this meeting.

Dawn stated that one of the neighbors did tour the facility four weeks ago.

The board members seemed satisfied with the discussion.

Chair. asked for a motion regarding the CUP.

M/2/C (P. Nilsson/C. Rider) to grant final approval to the CUP Kennel operation located at 5984 Decker Road

Motion carried 5-0.

Chair. asked for a motion to adjourn the meeting.

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

Motion carried 5-0.

Respectfully submitted,

Kevin P. Masterson  
Recording Secretary

KPM/ts