

LIVONIA JOINT ZONING BOARD OF APPEALS
Meeting Minutes - October 1, 2012

Page 1 of 5

PRESENT: Chair. P. Nilsson, J. Case, C. Rider, B. Weber - Code Enforcement Officer,
J. Campbell - Town Attorney, K. Masterson

EXCUSED: M. Sharman, R. Ehmann

AGENDA: - Barry Bartlett (Barry Carestio)
- 3804 Livonia Center Road
- Area Variance
- 10' x 24' Shed

- Steve D'Angelo (Gilman/Henderson)
- Pebble Beach Road
- Area Variance
- Single Family Residence

Chair. P. Nilsson opened the meeting at 7:08 p.m.

Chair. P. Nilsson asked the board to review the September 17, 2012 meeting minutes.
M/2/C (J. Case/C. Rider) to approve the September 17, 2012 Livonia Joint Zoning Board of Appeals
meeting minutes as presented.
Motion carried 3-0.

Recording Secretary read aloud the first Legal Notice:

RE: Application of **Barry Bartlett** for a public hearing for an Area Variance for the construction of a
10' x 24' shed which will violate the side setback requirement according to Section 155-31 G (2) of the
Town of Livonia Zoning Code. The property in question is located at 3804 Livonia Center Road,
Livonia, New York..

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

Chair. P. Nilsson	-	yes
C. Rider	-	yes
J. Case	-	no

Barry Bartlett was accompanied by his surveyor, Barry Carestio, to explain his application to the board.

Carestio presented a recent survey map of the property which outlined the proposed area of the storage
structure's location. He explained a previous storage trailer had been placed there years ago on the
existing gravel pad.

The pad's location as shown on the survey map, places the pad 4.5' off the south property line. The front setback of the pad is 142' off the street. A row of dense spruce trees borders at the south property line.

C. Rider asked applicant if he had a letter from the southern neighbor regarding his feelings. Barry Bartlett stated yes, the neighbor has no issues with the application.

C. Rider asked if there was any other viable option to move the pad further away from the south property line.

Barry Bartlett stated the further north he moves the pad, he encounters the slope issue which causes some difficulty & increases the cost.

He prefers to use the existing pad. The previous storage trailer has been located here for years. Nothing is really changing, except an improvement of the structure.

Barry Carestio stated even moving the pad further north you would never get the required 15' offset due to a tree's location he wants to preserve.

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, but is burdensome
- (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

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.

Chair. asked for a motion on this application.

M/2/C (C. Rider/J. Case) to grant the request as shown on the survey map.
Motion carried 3-0.

Recording Secretary read aloud the second Legal Notice:

RE: Application of **Scott Gilman & Shannon Henderson** for a public hearing for an Area Variance for the construction of a single family residence which will violate the front setback requirement according to Section 155-31 G (1) and also the rear setback requirement according to Section 150-31 G (3) of the Town of Livonia Zoning Code. The property in question is located at the corner of Pebble Beach Road and Cluny Point, Livonia, New York. and is zoned Neighborhood Residential (NR) District.

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

Chair. P. Nilsson	-	yes
C. Rider	-	yes
J. Case	-	no

Chair. Nilsson asked applicants to explain their application.

Scott Gilman introduced the co-owner Shannon Henderson and their contractor, Dan Lettro.

J. Case announced that Shannon is currently a neighbor across the street but he feels there is no conflict on his participation in this case.

Scott stated they will be building a 1,450 sq. ft. three bedroom home with an attached garage. The driveway will come off Pebble Beach Road. The lot is somewhat restrictive because it is considered a corner lot, unfortunately having two (2) front setbacks of fifty (50) feet.

Shannon stated they are trying to position the house to avoid cutting too many trees and offering a view of the lake.

C. Rider asked Bill Weber if Cluny Point Road factored into this application.

Bill stated there are no issues relative to Cluny Point's setbacks.

C. Rider asked Kevin Masterson if the Cluny Point Road has shifted its location

Kevin stated the Cluny Point right-of-way is only 16.5' wide, bordered on one side by a wire fence and buildings in close proximity to the road's path. On the applicant's parcel the actual traveled path has shifted westerly into the subject parcel.

Chair. Nilsson asked for public comment.

Jerry & Judy Dehond of 3755 Cluny Point are concerned about the road's current location & if the owners of this lot are considering taking over this encroachment of the road thereby forcing the actual 16.5' right-of-way width to be used by the public.

Shannon & Scott said they have no intention of that happening.

Jerry Dehond stated the original design engineer for the 1988 subdivision indicated the current drainage pipe under Cluny Point and to the lake discharge is undersized. If this pipe is not maintained it could easily plug at the road ditch and thereby cause flooding onto his property. He did recognize the actual pipe was on private property, his & a neighbor's.

Chair closed the public hearing.

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

C. Rider asked if this drainage issue caused concern for this board.

K. Masterson stated it was not the privy of this board. The Livonia Planning Board had reviewed and approved this site plan/subdivision application in 1989. The drainage plan was reviewed and did take this into consideration at the time of approval.

**LIVONIA JOINT ZONING BOARD OF APPEALS
Meeting Minutes - October 1, 2012**

Page 5 of 5

Jerry Dehond stated he and the neighbors are willing to participate in a possible drainage easement to the Town of Livonia or whoever but they would want some assurances.

Town Attorney, Campbell, stated any drainage easement concerns could be directed to the Livonia Town Board by the neighbors. Future discussions may be in order.

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.

Chair. Nilsson asked for a motion on this application.

M/2/C (J. Case/C. Rider) to approve the request as presented.

Code Enforcement Officer, Bill Weber, asked the board to state for the record which property line would be considered as the rear lot line. Answer was the south lot line to be called the rear.

Motion carried 3-0.

Chair. asked for a motion to adjourn.

M/2/C (C. Rider/J. Case) to adjourn the meeting at 7:45 p.m.
Motion carried 3-0.

Respectfully submitted,

Kevin P. Masterson
Recording Secretary

KPM/ts