

LIVONIA JOINT ZONING BOARD OF APPEALS
JUNE 21, 2021

Present: Chairman M. Sharman, R. Bergin, D. Major, J. Prato, B. Weber, Zoning Compliance Assistant Julie Holtje, Recording Secretary A. Houk

Excused: CEO A. Backus, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of June 7th, 2021*
 - (2) John Pschierer – 5770 McPherson Point, Livonia, NY*
 - (3) Mark & Tracie Cole – 6000 Big Tree Road, Livonia, NY*

Note, Public Meetings (Covid-19) precautionary policies were followed to the best of our ability and included:

- Applicants would typically be asked to wait in their vehicles until instructed to enter the building; however, the attendees at this meeting were able to maintain social distancing and wore face coverings.
- Hand sanitizer was made available at the entrance of the town hall.
- Meeting room occupancy was restricted to no more than 50% of the maximum occupancy (or 48 persons). Less than 48 persons attended this meeting.

Chairman Mike Sharman brought the meeting to order at 7:00 p.m., and opened with the Pledge of Allegiance.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from June 7th, 2021. The Board agreed they had and a motion was made to approve. M/2/C (D. Major/R. Bergin)
Carried: 5-0.

(2) John Pschierer – 5770 McPherson Point, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **June 21, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **John Pschierer** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 10' X 12' Shed, which will violate the front Setback, (0.5' instead of 30') 150-31 G (1.) and 150-71. The proposed structure also violates the maximum lot coverage requirement of 25%, according to Section 150-31F. The existing lot coverage is 22%, and the proposed lot coverage is 25.7%. This property is located at **5770 McPherson Point, Livonia,** New York and is zoned Neighborhood Residential District (NR). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

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Chairman Mike Sharman polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
B. Weber:	Yes

Chairman Mike Sharman asked John and Lynn Pschierer to come forward to address the Board for the proposed 10' X 12' Shed. John stated that he would like to put up a Shed for their storage needs. The proposed location is the most logical spot for the Shed. It won't block anyone's view of the Lake. He could place the Shed in his side yard, but this would block his neighbor's view. The side yard is also used to store his boat hoist and dock sections during the winter months. The neighbors from across the street were present, and he has obtained a letter from the next-door neighbor to the north, Rusty Ehmann of 5768-5769 McPherson. John stated that he has also spoken with the neighbor to the south, and he has no objections to the proposed Shed. Rosemary Bergin asked if the side yard is used for parking during the summer. John stated that on occasion such as July 3rd it is used for parking. On a day-to-day basis, it is just him and his wife's car in the driveway. John stated that he is considering cutting the grass shorter in the side yard to provide additional parking. Chairman Mike Sharman asked if he was planning to cut the grass shorter in the side yard to offset the parking that he would lose by placing the Shed in the driveway. John said no, they were considering doing that anyway without the placement of the Shed, as they have limited parking. Lynn stated that they live there year-round. They are coming from a large house down to the smaller house and they need additional storage. Chairman Mike Sharman asked if the lot across the street belongs to the neighbor that was present. John stated that was correct. Doug Major asked if the right of way was the edge of the road. John stated that he measured from the center of the road. The placement of the Shed is several feet behind the mailboxes. ZCA Julie Holtje explained that the right of way is 15' from the corner of John's house. Bill Weber stated that the actual driving lane of the road is not the edge of the right of way. Chairman Mike Sharman asked if the applicant was aware where the gas and water lines were located on his property. John stated that the water lines run underneath his driveway. John was unsure where the gas lines come in. The gas meter is located on the north side of the house. Joe Prato asked if the Shed could be placed closer to the house? John stated that he could move it about a foot closer to the house.

Chairman Mike Sharman opened up the Public Hearing. He asked that they state their name and address for the record.

Dale & Stacey Spencer of 5771 McPherson Point located across the street stated that they support installing the Shed at the proposed location in front of the house, to preserve their view of the Lake. John has also taken a tree down which helped to increase their view of the Lake.

Chairman Mike Sharman asked if any trees would be taken down for the Shed placement. John stated that the power company removed one of the trees, and John removed another tree. Doug

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Major asked for clarification how far off the road the Shed would be. It was determined that the Shed would be about 15' off the road edge.

Chairman Mike Sharman closed the Public Hearing.

Chairman Mike Sharman asked the Board if there were any further questions.

This application was determined to be a Type II action, and SEQR was not required per # 10 of the New York Codes, Rules and Regulations 617.5 Type II Actions.

This application was submitted to the Livingston County Planning Board for their review. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

Chairman Mike Sharman asked the Board to go through the area variance 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 be sought by the applicant be achieved by some feasible method other than a variance? Yes – It could be located in the side yard. John stated that would eliminate his winter storage area.
3. Is the variance substantial? Yes
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed 10' X 12' Shed. Rosemary Bergin made a motion to approve the Variance as presented. Motion to approve. M/2/C (R. Bergin/B. Weber) Carried: 4-1 – Chairman Mike Sharman - Nay

(3) Mark & Tracie Cole – 6000 Big Tree Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **June 21, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Mark & Tracie Cole** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 2764 Square Foot Single Family Dwelling with attached Garage which will violate Sections 150-31 G (2), Side Setback, 9' required, 5' proposed and 150-71. This property is located at **6000 Big Tree Road, Livonia**, New York and is zoned Neighborhood

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Residential District (NR). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Chairman Mike Sharman polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
B. Weber:	Yes

Chairman Mike Sharman asked Tracie Cole and builder Jim Sickle to come forward to address the Board for the proposed 2764 Square Foot Single Family Dwelling with attached Garage. Tracie stated that they purchased the neighbor's property and were considering doing just a remodel. Builder Jim Sickle suggested it would be more cost effective to do a tear down and rebuild. They are proposing to tear down the existing house and garage and rebuild a 2764 square foot dwelling with an attached garage. Rosemary Bergin asked if they had elevation drawings. Tracey provided the drawings & stated that they also own the property next door to the east. When they purchased that property, they removed the existing house and rebuilt a dwelling with an attached garage. Doug Major asked which house they will live in. Tracie stated that they currently live in Pavilion, but they will reside at 6000 Big Tree once it is completed. Rosemary Bergin asked if the elevation of the proposed home is keeping within the rest of the homes in the neighborhood. Jim Sickle stated that it would be. Rosemary Bergin asked if there was going to be an attic for storage. Jim stated that they will have unfinished storage over the garage. Bill Weber asked if it would be possible to pivot the house in order to equal out the side setbacks towards the road. Instead of 11.5' & 5.7', it might be two 10' Set Backs. Jim stated that their proposed plans are proportional with the other houses. Bill Weber stated that once the construction is complete, that small pivot may not even be noticed. It would be nice to center the house on the lot. Jim stated that rotating the house would make it unparallel in comparison with the other homes. People tend to notice the placement of a house verses the lot lines. Doug Major asked for clarification why the side setbacks were needed. Jim stated it is the desired floor plan of the applicant. Doug Major stated that the Variance is needed due to the jut-outs on the side. Jim stated that the jut-outs often add character to the house, it's a trade off for the look of the house. He felt that this would be a huge improvement to the neighborhood. Bill Weber stated that he is aware that the applicant doesn't want to be any further away from the Lake, but the farther they could go back would lesser the degree of the Variance. Jim stated that the proposed house is back further than the existing house. This placement would also slightly improve the views to the neighbor to the west. Rosemary Bergin stated that many of the properties on the Lake were skewed prior to the Zoning Laws. Bill Weber stated that if the placement was pivoted, they would still be within the Setbacks for the two south corners of the house. Jim stated that there is a good size healthy tree back on the west corner of the property. Chairman Mike Sharman stated that if the Coles ever sold the next-door property, and a fence was installed, there would be minimum access for emergency vehicles with the requested

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Setbacks. Jim stated that they might possibly be able to make that a Deed restriction. Chairman Mike Sharman stated that it would still need to be enforced. Bill Weber stated that unless the Town is part of the Deed restriction, he doesn't feel that the Town Attorney would be in favor of that.

Chairman Mike Sharman opened up the Public Hearing. He asked that they state their name and address for the record.

Richard Versluys of 5996 Big Tree stated that on the west side there are water problems. He has concerns moving the house closer to that lot line. Over the years he has done a lot of work to build a dike around his house. The water runs off the hills and down the driveways on Big Tree Road. He has spent almost two years working with the neighbor to the west of him putting drainage in. At one time they had the Ducks swimming in their back yards, instead of the Lake. His concerns are around the water issues and to make sure there is an area between the two houses to ensure there is room for drainage. Chairman Mike Sharman stated that Bill Weber suggested an idea to pivot the house. Bill Weber stated he suggested pivoting the house to the furthest north corner so the 5.7' on the east side wasn't that close. ZCA Julie Holtje suggested making it 6' parallel along the south property line. Jim stated that they are proposing that they will put in yard drains and concrete "D-I's". Richard Versluys stated that he has directed all of his gutters and downspouts into the drainage. This has helped them lose a lot of the rain runoff water. He also put in a drain insert and drainage tile all along the property line and hooked the downspouts into the drainage to eliminate a lot of the surface water. Jim offered for Richard Versluys to tie his downspouts into the Cole's drainage. He would be willing to work with him to eliminate as much surface water as possible. ZCA Julie Holtje stated that Building & Zoning will also work with the applicant regarding the drainage. As well as capturing all of the runoff, the water will also need to be treated prior to dumping it into the Lake. We can review different methods to determine the best way for their situation during the permitting process. Doug Major asked for clarification regarding the grading. Jim stated that once they can get started, they will work with the Town to gain approval on the grading and drainage prior to construction.

Chairman Mike Sharman closed the Public Hearing.

Chairman Mike Sharman asked the Board if there were any further questions.

This application was determined to be a Type II action, and SEQR was not required per # 10 of the New York Codes, Rules and Regulations 617.5 Type II Actions.

Chairman Mike Sharman asked the Board to go through the area variance 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 be sought by the applicant be achieved by some feasible method other than a variance? Yes – The applicant is choosing to widen the house.

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3. Is the variance substantial? Yes
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed 2764 Square Foot Single Family Dwelling with attached Garage. Bill Weber made a motion to approve the Variance as presented with the following conditions: The house should be rotated so that the Setback that's requested on the east side, at the southeast corner of the porch (proposed at 5.7'), shall be a minimum of 7'. The side setback at the midpoint of the house (proposed 6.2' setback to the south lot line) will be a minimum of 6.2'. The purpose of the rotation is to even out the setbacks at the front of the house. Building & Zoning to approve drainage plan prior to construction. Motion to approve. M/2/C (B. Weber/J. Prato) Carried: 5-0

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:24 pm. M/2/C (R. Bergin/M. Sharman) Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary