

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

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

Excused: J. Prato, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of August 16th, 2021*
 - (2) Robert Frohne– 4508 Shelly Road, Livonia, NY*
 - (3) Chris & Katie Blair – 6202 Wilkins Tract, Livonia, NY*
 - (4) James Tiffany – 3604 Shoreline Drive, Livonia, NY*
 - (5) Bryan & Debra Raffa – 3347 Rochester Road, Lakeville, NY*

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

- Chairs are situated to maintain social distancing.
- Hand sanitizer was made available at the entrance of the town hall.

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 August 16th, 2021. The Board agreed they had and a motion was made to approve. M/2/C (B. Weber/R. Bergin) Carried: 4-0.

(2) Robert Frohne – 4508 Shelly Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **September 20, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Robert Frohne** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 24'X 36' Pole Barn which will violate Sections 150-31 G (1), Front Setback, 40' required per filed Subdivision map (15' & 23' proposed). This property is located at **4508 Shelly Road, 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.

Chairman Mike Sharman polled the Board for site visits:

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

Chair M. Sharman: Yes
R. Bergin: Yes
D. Major: Yes
J. Prato Excused
B. Weber: No

Chairman Mike Sharman asked Robert Frohne to come forward to address the Board for the proposed 24' X 36' Pole Barn. Robert submitted a letter to the Board from his neighbor Scott Lazarony, who has no objections to his proposal. Chairman Mike Sharman read the letter aloud. Robert stated that the existing Propane tank was prohibiting him from getting a good visual for the placement of the proposed Garage. He set up landscape timbers to provide a better visual footprint of where the building would be. He felt that the previous proposal was skewed too far towards the south, which made the corner of the building too close to the property line. Using the 15' corner as a pivot point, he swung the rear corner 8-1/2' further south and that puts the Garage more in line with the existing driveway. The one side will bi-sect the driveway, and the other side runs parallel with the parking area. Also, by swinging it further over, it will make the section in the end bay further away from the property line. The new proposal will make it a lot easier to get in and out of the garage bay. Deb Frohne stated that the previous proposal had you heading towards the trees when you pulled out. By adjusting the building, now when you pull out you will be heading towards the driveway. Chairman Mike Sharman asked if they were making any changes to the structure? Robert stated there were no other changes requested. Chairman Mike Sharman stated that the Board appreciates the applicant laying out the proposed building, as provides a better visual. Doug Major asked where the garage doors will be located? Robert stated the doors are on the front, which is facing east.

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

Colleen Gaffney of 4512 Shelly Road asked where construction vehicles would access the driveway? Chairman Mike Sharman stated that the construction vehicles will access the site from the Frohne's driveway, which would be on the east side of the building. The proposed building will be located on the left, (south) side of their home. Chairman Mike Sharman asked who their Contractor was? Robert stated that they will be using Warren Zimmerman. CEO Adam Backus stated that it should be noted that the construction vehicles will not be using Altee's Drive. Robert agreed.

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.

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

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? No
3. Is the variance substantial? Yes - due to the Septic location being behind their house.
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 24' X 36' Pole Barn. D. Major made a motion to approve the Variance as submitted. It was noted that construction vehicles will not use Altee's Drive. Motion to approve. M/2/C (D. Major/R. Bergin) Carried: 4-0.

(2) Chris & Katie Blair – 6202 Wilkins Tract, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **September 20th, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Christopher & Katie Blair** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 20.5' X 24' Deck with a 20' Privacy Fence/guard, (6' high) on the south side, which will violate Sections 150-31 G (2), Side Setback, 9' required (2.5' proposed), and 150-71. The applicant has also proposed the placement of a 50' long, 3'tall wood Stockade Fence on lakeshore property, which requires approval by the Zoning Board of Appeals per Section 150-56 J. This property is located at **6202 Wilkins Tract Road, 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.

Chairman Mike Sharman polled the Board for site visits:

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

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

Chairman Mike Sharman asked Pat Heffernan representing Chris & Katie Blair to come forward to address the Board. Pat stated the owners of the property currently live in Houston Texas and hope to be spending six months out of the year here in the future. Chairman Mike Sharman and the Board have reviewed the letter from the applicant. The letter stated that the Deck & Fence have already been installed. They were not present during the construction and were told by the Contractor that he would be applying for the Permit. They are the “ask for permission not forgiveness” type of people. They trusted their Contractor to handle the process on their behalf. CEO Adam Backus stated that he was made aware of the construction. He had dealt with their Contractor after the Blair’s construction on another project and the Contractor is very upstanding, and not the type to do things under the table. The applicants are very upstanding and this was not intentional on all parties involved. Rosemary Bergin asked for clarification on who’s responsibility it was to obtain the Permit? CEO Adam Backus stated that usually the applicants hire a Contractor, and they trust that they know the procedures. Everyone involved is responsible, but ultimately it is the homeowner’s responsibility. The applicants have cooperated and have done everything that was asked of them. CEO Adam Backus stated that a Variance was previously granted for this property to convert an existing Garage into an Accessory Dwelling. The plan was to convert the garage to a dwelling and demolish the cottage. The Cottage was demolished and the Garage became the primary structure. If they decide to rebuilt the Cottage, that would be a new application. CEO Adam Backus contacted the Department of State regarding the Deck location to the property line, and if it needed to be fire rated. The Department of State stated that they don’t consider it a projection and it doesn’t need to comply with the Fire Code setback. There is no concern with the Fire Code, it is just the Setback Variance. The Fence was a courtesy to the neighbors for privacy, and not a deterrent that would obstruct any Lake views. ZCA Julie Holtje noted that the neighbor to the east, Jay Gunner of 6209 Wilkins Tract provided a letter stating he had no objections to the Deck or Fence. He felt this did not present any obstruction of view and enhances the overall appeal and value of the property.

Chairman Mike Sharman opened up the Public Hearing. He asked that they state their name and address for the record. With no one wishing to comment, the Public Hearing was closed.

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? No
3. Is the variance substantial? Yes

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

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 20.5' X 24' Deck with a 20' Privacy Fence, and placement of a 50' long, 3'tall wood Stockade Fence on lakeshore property. Bill Weber made a motion to approve the Variance as submitted with the condition that the Deck and Fence be inspected by CEO Adam Backus for compliance. Motion to approve. M/2/C (B. Weber/R. Bergin) Carried: 4-0.

(2) James Tiffany – 3604 Shoreline Drive, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on **Monday September 20th, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **James Tiffany**, pursuant to the Zoning Code of Livonia. The applicant has proposed the placement of a 50' long, 48" tall Aluminum Fence on lakeshore property, which requires approval by the Zoning Board of Appeals per Section 150-56 J. This property is located at **3604 Shoreline Drive**, Livonia, New York and is zoned Neighborhood Residential (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	Excused
B. Weber:	Yes

Chairman Mike Sharman asked James Tiffany to come forward to address the Board for the proposed Lakeshore Fence. James stated that they just moved in a couple of months ago and have two dogs that are very active. The main goal is to be a good neighbor and keep the dogs contained on their property. Chairman Mike Sharman asked if the picture of the Fence in the application was what he plans to install? Jim stated that the Fence will have aluminum posts and fencing. He plans to place the Fence on the property line. CEO Adam Backus stated that the Fence can be up to the property line, but not on the property line. Jim agreed. ZCA Julie Holtje stated that the applicant will have a surveyor stake the property prior to installing the Fence. Doug Major asked if the applicant had any thoughts of enclosing the Fence prior to the Lake? Jim stated that two doors down have their Fence going to the Lake. Bill Weber asked what height Fence the applicant would like to install? Jim stated that he would like to have a 3' tall

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

Fence. The intent is not to allow their dogs outside unattended, it only to insure they stay on his property. Bill Weber noted that the application is for 4’.

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

Kristen Brown of 3600 Shoreline Drive is highly in favor of the Fence as she also has a dog that is not the friendliest. She believes it will help avoid any problems. Her only concern is with a 3’ tall Fence, since the puppy is very active that she might jump over the Fence.

Chairman Mike Sharman stated that personally he has no objections to the proposed Fence.

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 for a motion to approve or disapprove the Lakeshore Fence. Bill Weber made a motion to approve the proposed Fence as submitted. Motion to approve. M/2/C (B. Weber/M. Sharman) Carried: 4-0.

(5) Bryan & Debra Raffa – 3347 Rochester Road, Lakeville, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday **September 20, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Bryan & Debra Raffa** for a Conditional Use Permit pursuant to Sections 150-17 B of the Zoning Code of Livonia. The Conditional Use Permit is requested for a proposed Roadside Produce stand per section 150-31 D (10). This property is located at **3347 Rochester Road**, 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.

Chairman Mike Sharman polled the Board for site visits:

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

Chairman Mike Sharman asked Bryan & Debra Raffa to come forward to address the Board for the proposed Roadside Produce Stand. Bryan stated that he is asking to operate a Corn Stand in his driveway. Chairman Mike Sharman mentioned that the stand has been removed. Bryan

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

stated that he removed the stand for now, as he wasn't going to have more corn available for another two weeks. He didn't want to leave the stand without corn. The Pumpkins, Gourds and Indian Corn are coming in soon. If everything goes well tonight, he may put the stand back out to sell those items. Chairman Mike Sharman asked what has been done to ensure traffic safety. Bryan stated pretty much everyone pulls over the white line on the side of the road. 80% of people pull into this driveway and then, back out. He has received a letter from his neighbor across the street who works second shift at the Salt Mine. He has given his permission for Bryan to use his driveway to accommodate parking for the Corn Stand. He has obtained a letter from the property owner next door, James Sloan who resides in Brooklyn Ohio for full use of his property for the Corn Stand. They are trying to buy that piece of property, but the owner isn't ready to let it go yet. Bryan stated that when they moved into the house six years ago, the Town of Livonia sent Mr. Sloan a letter stating to maintain the property because the grass was 6' tall. Mr. Sloan did have someone come in to brush hog the grass, and Bryan has been mowing it ever since he has lived there. Chairman Mike Sharman stated that he hopes that Bryan gets the property, but if he doesn't, how would that negatively impact him aside from the parking. Chairman Mike Sharman stated that he has never seen a problem at the Corn Stand. ZCA Julie Holtje stated that we have received a couple of complaints about two specific items; items blowing across the road, and traffic complaints. Rosemary Bergin asked if it was the applicant's intention to sell Christmas Trees & Wreaths? Bryan stated no, on October 31st the stand will be removed for the season. Rosemary Bergin asked when would the stand open for the year, and what the hours of operation would be. Bryan stated that he will start to sell once the corn is ready. Debra stated that typically it would be open in July through October 31st. They would operate from sun up to sun down. Bill Weber asked where the property line was located? Bryan stated that it was approximately 2' off the edge of the driveway. The Stand is located on the corner of Bryans driveway. Bill Weber asked if the Corn Stand is on his neighbor's property? Bryan stated that the Corn Stand is partially on his and the neighbor's property. Bill Weber asked for confirmation that was the neighbor that provided a letter stating he granted permission to use his property. It was confirmed that the letter was from James Sloan. Rosemary Bergin asked if there have ever been any traffic problems? Bryan stated that there have never been any problems. CEO Adam Backus asked if Mr. Sloan would be open to creating a "T" turn around on his property? Bryan stated that Mr. Sloan states in the letter provided that he could use his property for a turn around or parking. Bill Weber stated that he would be reluctant to incorporate the neighbor across the street. People trying to the cross the street would be dangerous. CEO Adam Backus stated that making a parking loop, and providing a clear "in & out" direction would be the safest option. They will be returning to the Planning Board after this for continuation of Site Plan approval. Bryan stated that he has pictures of another Corn Stand on the other side of the road near the Gas station. The pictures show people parking on the other side of the road facing the opposite direction. CEO Adam Backus stated that we have started the process with the other Corn Stand. They will also need Site Plan approval for traffic safety and hours of operation for their Corn Stand. They are currently not in compliance. Bill Weber asked if it was the Gas Station running the Corn Stand? CEO Adam Backus stated it was not the Gas Station. Rosemary Bergin asked if they wanted to include the turn around parking on the neighbor's property in the approval. Bill Weber clarified that the turnaround should be included. The parking across the street should not be included as it poses traffic safety concerns.

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

Doug Major stated that he is not a fan of encouraging people to pull off on the side of the road. He would prefer the applicant use the neighbor's property to create a turn around. CEO Adam Backus stated that it would be a good idea to have a written agreement with the neighbor for a four-month lease. Bill Weber stated that hopefully the applicant will end up owning the property, but in the mean time he would prefer to see a 4-month lease agreement from July through October for the Corn Stand. This will provide a safe turnaround for the customers.

Chairman Mike Sharman closed the Public Hearing with no one present.

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

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 Conditional Use Permit criteria:

- (1) Will the proposed building or use will be in harmony with the general purpose, goals, objectives and standards of the Comprehensive Plan, this chapter and, where applicable, Chapter **125**, Subdivision of Land. Yes No
- (2) Will the proposed building or hours of operation or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare? Yes No – Dealing with traffic for general welfare.
- (3) Will the proposed building or use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations? Yes No
- (4) Will the proposed building or use will be adequately served by essential public facilities and services? Yes No – Water & Sewer available but not needed for business.
- (5) Will the proposed building or use comply with all additional standards imposed on it by the particular provision of this chapter authorizing such use? Yes No – Planning approval of Site Plan.
- (6) Have all steps possible been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping, and screening. Yes No
- (7) If appropriate, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the conditional use permit. Yes No
 N/A

LIVONIA JOINT ZONING BOARD OF APPEALS
September 20th, 2021

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Roadside Produce stand. Bill Weber made a motion to approve the application as submitted with the following conditions. Looped driveway according to standards of Planning Board and CEO Adam Backus, Secure 4-month lease that is renewed annually, and Site Plan approval from the Planning Board. Motion to approve. M/2/C (Bill Weber/D. Major) Carried: 4-0

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:06 pm. M/2/C (D. Major/B. Weber) Motion carried: 4-0

Respectfully submitted,
Alison Houk, Recording Secretary