

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

Present: Chairman M. Sharman, R. Bergin, J. Prato, M. Thompson, CEO A. Backus, Zoning Compliance Assistant Julie Holtje, Attorney J. Campbell

Excused: D. Major.

- AGENDA:**
- (1) Accept and approve the meeting minutes of September 16, 2024.*
 - (2) John & Kathleen Padlick – 5218 East Lake Road, Livonia, NY*
 - (3) Daryl Johnston – 3191 Rochester Road, Lakeville, NY*
 - (4) Gary Albanese – 5722 Old Orchard Point, Livonia, NY*
 - (5) Peter & Lisa Wall – 5112 Hartson Point, Livonia, NY*

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 September 16, 2024. The Board agreed they had, and a motion was made to approve the minutes. M/2/C (R. Bergin/J. Prato) Carried: 4-0.

(2) John & Kathleen Padlick – 5218 East Lake Road, Livonia, New York

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **November 4, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **John & Kathleen Padlick** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed Garage and Addition, which will violate the front and side Setback requirements according to Sections 150-31G (1 & 2), the maximum lot coverage per 150-31 F, and Sections 150-70 A. (2) & 150-71 regarding nonconforming buildings. This property is located at **5218 East Lake 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 M. Sharman polled the Board for site visits:

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

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

Chairman Mike Sharman asked Jeff & Kathleen Padlick, and Architect Randall Peacock to come forward for the proposed Garage and Addition.

K. Padlick presented a history of the applications made before the Zoning Board and described the changes in the new application. This application consists of several small additions and rebuilding the garage. Currently the lot coverage is 27.7% not counting the decks, the new proposal is 27.9% without decks. These decks are not included in the lot coverage because they were advised by their attorney not to as they are not specific to Town of Livonia or State building codes for lot coverage. The decks in this third proposal have been reduced by 343 SF. If included in the lot coverage calculations, the lot coverage proposed is 35.6% as opposed to the 39.5% in their first request.

Chairman Mike Sharman stated for the record: This application was submitted to the Livingston County Planning Board for their review. They acknowledge receipt of the above-mentioned zoning referral on September 26, 2024, submitted by the Town of Livonia to the Livingston County Planning Board for review pursuant to Section 239-1 of the NYS General Municipal Law. After close review of the application, the Planning Department has determined that the proposed area variance has not significantly changed since it was first reviewed at the June 8, 2023, County Planning Board meeting. Therefore, the County Planning Board's recommendation of "Disapproval" with advisory comments concerning lot coverage is still valid.

This application was determined to be a Type II action, and SEQOR was not required.

Chairman M. Sharman: all variance requests are treated on an individual basis, not a comparative basis. M. Sharman asked the applicant to share about the engineered drainage.

J. Padlick: The purpose of lot coverage is to prevent runoff to the lake. The deck is a pervious surface that allows runoff to the ground. The problem area is East Lake Road, so they have hired a civil engineer to do the survey and topography and to design new drainage plans to capture road runoff and treat it before it goes to the lake. They are fully prepared to implement a stormwater plan.

ZCA J. Holtje confirmed that the B&Z office had received the topographic survey from their engineer.

Architect R. Peacock: runoff comes from the road and runs over the retaining wall. There is a drainage structure to the north and with adjusting the retaining wall, the drainage can be redirected to the existing drainage structure. They will also be doing infiltration structures for roof runoff, putting this runoff into the ground.

Discussion:

- One patio is being removed and one patio will be added. The deck at the house has been reduced by 343 SF and will be put over the existing patio, with the remaining patio returned to grass. The patio at the garage will be done with pavers to increase permeability. The area is on a hill. Tiers will be added to make it more accessible.

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

- The in-fill additions to the house are 95 SF and these additions will help them to age in place with a downstairs bedroom. The garage elevator will also help.
- The garage is moved further away from the road than the existing garage to provide safer parking. There is parking for 3 cars inside the garage and 3 cars outside.
- The Board acknowledged the letters received from the neighbors.

No one present requested to make any comments, and the Public Hearing was closed.

Chairman Mike Sharman stated for the record that the Board received letters with several neighbors' signatures supporting their application.

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 sought by the applicant be achieved by some feasible method other than a variance? No
3. Is the variance substantial? Yes
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No, it will make improvements to drainage.
5. Is the alleged difficulty self-created? Yes

Atty. J. Campbell explained that because of the County referral recommended disapproval, a super majority will be necessary to carry any approval.

With no more discussion, Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed Garage and Additions. Rosemary Bergin made a motion to approve the application to grant area variances as presented: a front setback of 8 feet on the proposed garage, a side setback of 2.2 feet on the proposed garage, and lot coverage of 35.6% for the construction of 685.2 SF of new deck construction, additions totaling a footprint of 72.1 SF. , and a new garage footprint of 994.35 SF. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 4-0

(3) Daryl Johnston – 3191 Rochester Road, Lakeville, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **November 4, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Daryl Johnston** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 30' X 52' Garage Addition, which will violate the rear setback

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

requirements according to Sections 150-40 F. (2). This property is located at **3191 Rochester Road, Livonia**, New York, and is zoned Commercial/Light Industrial (C/LI). 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 M. Sharman polled the Board for site visits:

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

Chairman Mike Sharman asked Daryl Johnston to come forward for the proposed 30' X 52' Garage addition, opened the public hearing, and stated the following:

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.

This application was determined to be a Type II action, and SEQR was not required per (#12) of the New York Codes, Rules, and Regulations 617.5 Type II actions. The Livonia Joint Planning Board will complete SEQR review with the applicant's application for site plan and conditional use permit approval.

D. Johnson:

- Would like to make an addition to his repair facility since he has grown his business. He needs space for storage and to be able to work
- Rear setback was approved at 20 feet on the original garage. The additions will have a rear setback of 19'6".
- The goal is to make the property better and more useful

Discussion:

- R. Bergin – what is your plan for all the sheds around the property?
- D. Johnson—He could get rid of some of them, which is why he needs a bigger building. He also works on mowers and equipment and does many different things.
- M. Sharman – The Planning Board put conditions of clean up on the site prior to entertaining the site plan and conditional use permit applications. The nature of your business requires the storage of cars, but it is imperative to be able to accommodate your growth with the maintenance of the site.
- D. Johnson explained he cannot control the cars that come to his site or how long they need to stay there.
- ZCA J. Holtje – this was discussed with the Planning Board. The Site plan map will control the number of spaces available, which will determine what he can and cannot allow to occupy the site. This will impact his towing and uses. There will have to be a determined number of spaces on site.

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

-D. Johnson, the hard thing is that he often does not know where he will be towing the cars. He has a fenced in impound lot, the County does not. He serves $\frac{3}{4}$ of the County now. Not having place for storage is a problem with the County.

- R. Bergin – how long ago was the applicant asked to clean up?
- In January 2012, a CUP and site plan approval were given for vehicle repair and towing services. This permit referred to a site visit to confirm the required condition of cleaning up the site.
- October 2000 a variance was granted for a 24'x40' pole barn with conditions, one of which was no outside storage except for 1 working tractor and licensed motor vehicles
- He is also a used car dealer and has some cars for sale. This is not a junkyard.

With no further discussion and no one from the public present, Chairman Mike Sharman closed the Public Hearing.

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 sought by the applicant be achieved by some feasible method other than a variance? No, limited parking area space
3. Is the variance substantial? Yes, 40' required, 19.5 ' requested
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No, it will improve if cleaned up.
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 30' X 52' Garage addition.

Discussion: 5 small storage structures along the rear property line. The applicant did not know he needed a permit for those. Barrels of used motor oil have been taken care of. The oil is used to heat the garage.

Rosemary Bergin made a motion to approve the application for a 30'x52' garage addition with a 19.5' rear setback contingent on the Site Plan and CUP approval from the Livonia Joint Planning Board and with the condition that all of the sheds and truck boxes are to be removed. Motion to approve. M/2/C (R. Bergin/M. Thompson) Carried: 4-0

(4) Gary Albanese – 5722 Old Orchard Point, Livonia, NY

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **November 4, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Gary Albanese** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 16' X 28.7' Addition, which will violate the front & side Setback requirements according to Sections 150-31G (1) & (2) and 150-71 non-conforming lots. The proposed structure also violates 150-70 A (2) no non-conforming building may be enlarged. This property is located at **5722 Old Orchard 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.

Chairman M. Sharman polled the Board for site visits:

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

Chairman Mike Sharman asked Gary Albanese to come forward for the proposed 16' X 28.7' Addition, opened the public hearing, and stated the following:

This application was determined not to require Livingston County Planning Board review. This application was determined to be a Type II action, and SEQR was not required.

G. Albanese: They are doing this to add bedrooms for their family. The addition will extend out 13' from the northwest corner of the existing house, and the side setback at this corner will be 5 feet. The front setback is proposed to be 15.9 feet. The lot coverage is 24.3 % on the lakeside lot, but it is attached to an additional parcel across the street.

Discussion:

- This is a first and second-floor addition
- Renderings were reviewed
- Variances are for side and front setbacks and enlarging a nonconforming building.
- There will be approx. 13 feet to the house on the west from the addition

With no one from the public wanting to speak, Chairman Mike Sharman closed the Public Hearing and 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 sought by the applicant be achieved by some feasible method other than a variance? No

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

3. Is the variance substantial? Yes

4. Will the proposed variance have an adverse effect or 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 16' X 28.7' two-story Addition.

M. Thompson made a motion to approve the application for a 16'x28.7' two-story addition as described with a 5-foot west side setback, a 15.9' front setback, and for the expansion of a nonconforming building. Motion to approve. M/2/C (M. Thompson/R. Bergin) Carried: 4-0

(5) Peter & Lisa Wall – 5112 Hartson Point, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **November 4, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Peter & Lisa Wall** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia.

This area variance is requested for a proposed 26'8" X 44' detached Garage, which will violate the side Setback requirements according to Sections 150-31G (2) and 150-71. This property is located at **5112 Hartson 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.

ZCA J. Holtje stated that the proof of ownership has not been supplied for the property that was added to the Wall parcel with a lot line adjustment. Information was submitted after 5 pm today and we have not had time to review the documents. We are also aware of another common owner that may have been missed.

Atty. J. Campbell: Since the applicant is here, we could allow them to give the Board some information about what they will be submitting and how it will address the issue of the common parcel.

Discussion:

- Tax rolls vs. abstract for finding the parties that have an interest in the common parcel.
- J. Campbell – we can't lawfully grant the variance if they do not have the consent of all the property owners. We can have a presentation, gather public comment, but will not close the public hearing. The Walls attorney will need to provide proper assurances to close the loop on the ownership issue.

Chair M. Sharman polled the Board for site visits:

LIVONIA JOINT ZONING BOARD OF APPEALS
November 4, 2024

M. Sharman	Yes
R. Bergin:	Yes
D. Major:	Excused
J. Prato	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Peter & Lisa Wall to come forward for the proposed 26' 8" X 44' Garage, opened the public hearing, and stated the following:

This application was determined not to require Livingston County Planning Board review. This application was determined to be a Type II action, and SEQR was not required.

Chairman Mike Sharman stated that the Public Hearing will remain open and that the application will be tabled until ownership can be confirmed. They will be able to finish the application process at the next scheduled Zoning Board meeting.

Todd Markevicz: from ADP Engineers. The proposed scope of work includes the new house, renovations and a new garage. The existing garage will be demolished to be able to erect a new garage in approximately the same spot. Since the proposed garage is larger, the property line skew makes the side setback 4.4 feet. The side requirement is 9 feet and the existing nonconformity is 4.6 feet. There is a creek to the south, so the impact is reduced. Support letters have been supplied from adjacent property owners. The placement of the new garage is restricted by the existing sanitary easement.

Discussion:

- R. Bergin – is the creek an issue?
T. Markevitz – should not be an issue, we will make sure there is silt fence and there will be no disturbance to the creek. The creek is not in the 100 year flood plain in any of the area of development.
- Flood Plain – The garage is not in the flood plain. The survey shows the area to be filled and the area removed from the flood plain.
- M. Thompson – would you be using any of the footprint of the existing garage?
T. Markevitz – the existing garage will be demolished but they will hold the same south building line for setback.
- Criteria for the variance will be reviewed at the next meeting
- Kathy Stein and her sister Susan, the neighbors to the north, spoke in support of the Wall project.

With no further discussion, Chairman Mike Sharman tabled the Wall application, keeping the public hearing open, and asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:35 p.m. M/2/C (J. Prato/M. Sharman) Motion carried: 4-0

Respectfully submitted,
Julie Holtje