

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

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

Excused: R. Bergin, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of June 21, 2021*
 - (2) Wilkins Tract Association / Chris Hoffman – Wilkins Beach 74.32-1-29, Livonia, NY*
 - (3) Diane Calcagno Jackson – 6136 Wilkins Tract, Livonia, NY*
 - (4) Ronald Hilimire – 4750 South Livonia 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 21, 2021. The Board agreed they had and a motion was made to approve. M/2/C (B. Weber/J. Prato)
Carried: 4-0.

(2) Wilkins Beach Association / Chris Hoffman – Wilkins Tract Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on **Monday July 19th**, 2021 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Wilkins Beach Association/Chris Hoffman**, pursuant to the Zoning Code of Livonia. The applicant has proposed the placement of a fence on lakeshore property between property lines for the purpose of a line marker, which requires approval by the Zoning Board of Appeals per Section 150-56 J. This property is located at **Wilkins Tract Road, Tax Parcel # 74.32-1-29**, 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.

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

Chairman Mike Sharman polled the Board for site visits:

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

Chairman Mike Sharman asked Chris Hoffman to come forward to address the Board for the proposed 200' long, 4 ½' tall Fence. Chris noted that the fence length has changed from 200' to 150'. Joe Prato stated that there was a lot of vegetation there, and asked if the Fence was going to be next to the creek. Chris stated that that the Fence will be located on the north side of the property. It will start where neighbor, Diane Calcagno's retaining wall is located, and head towards the Lake. It will stop in line where Don Denny's fence stops to make it look uniform. It will be a split rail Fence that is 54" tall. It will not block anyone's view. Bill Weber asked if the fence posts or top of the rail were 54"? Chris confirmed that the top of the fence posts will be 54". Bill asked how tall the top of the rails will be? Chris stated that there are 3 rails that have 10" between each rail. Chairman Mike Sharman stated that it is a great idea, for view. Chris stated that the Wilkins Beach Association wanted some type of divider, as there are many members and they don't want to intrude on Diane Calcagno's property. Chairman Mike Sharman stated for clarification, the fence will be located on the south side of Diane's property. Chris stated that was correct. Doug Major asked where the 150' starts and ends? Chris stated that the fence will start on the west side of Diane's retaining wall against her driveway, and will run from there, 150' towards the Lake. It will end where Don Denny's Fence ends to keep them uniform. Don Denny is located on the other side of Diane's property. Doug Major asked what they were trying to solve by implementing a Fence? Chris stated that the Wilkins Beach Association has over 20 members, including kids and animals. The fence will provide a delineation where Diane's property is, so members will stay on the Wilkins Beach property. Doug Major asked if the fence will be on the property line? Chris stated that the fence will not be on the property line. It will be 6"-12" on the Wilkins Beach Association property. Chairman Mike Sharman asked why they would be over a foot on their property? Chris stated that in case they ever need to make any repairs or maintenance, and this will allow them to weed around the Fence. CEO Adam Backus stated that the applicant was advised that they could go up to the property line. Often times it tends to mark where people assume the property line is located. CEO Adam Backus stated that personally he would encourage them to go up to the property line to mark the line. Since it is a vinyl split rail, there shouldn't be any maintenance. Bill Weber asked if the Wilkins Beach Association has an attorney that represents them? Chris stated that they do not for this application, but they have used one in the past. Bill Weber stated that the attorneys usually recommend going right up to the property line to eliminate any grey area.

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

Diane Calcagno of 6136 Wilkins Tract, located on the north side of the fence stated that she approves of the Fence.

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

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.

Since this is not a variance request, the area variance criteria is not applicable and the board realized it doesn't make sense to go through. CEO Adam Backus stated that the intent of this Code procedure is that when a lakeside property wants to install a fence, it warrants review by a five-member Board to ensure that there will be no adverse effects or impeding views to the neighboring properties. Bill Weber stated that the Zoning Codes have widened the scope of fence reviews, due to the sensitivity of lakefront properties. Chairman Mike Sharman stated that it is for property values and peace in the neighborhood.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the 150', 4 ½' tall Fence. Doug Major made a motion to approve the application as presented as it does not adversely affect any views of the lake. Motion to approve. M/2/C (D. Major/B. Weber) Carried: 4-0

(3) Diane Calcagno Jackson – 6136 Wilkins Tract Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on **Monday July 19th**, 2021 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Diane Calcagno Jackson**, pursuant to the Zoning Code of Livonia. The applicant has proposed the placement of a fence on lakeshore property between property lines for the purpose of a line marker, which requires approval by the Zoning Board of Appeals per Section 150-56 J. This property is located at **6136 Wilkins Tract Road**, 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:	Excused
D. Major:	Yes
J. Prato	Yes
B. Weber:	Yes

Chairman Mike Sharman asked Diane Calcagno Jackson to come forward to address the Board for the proposed 30' long, 6' tall vinyl Fence. Diane stated that she would like to put up a white vinyl privacy Fence. She also noted that it will be closer to 40' long. Don Denny is her neighbor to the north, and he has a couple of sheds that are towards the street. The Fence will be located on the back side of the sheds. Chairman Mike Sharman asked for clarification on the placement. Diane stated that it will be located very close to the property line.

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

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

Don Denny located at 6132 Wilkins Tract, located to the north of Diane's property stated that he has no objections to the 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 SEQOR was not required per # 10 of the New York Codes, Rules and Regulations 617.5 Type II Actions.

Chairman Mike Sharman asked the Board if they thought the application would pose any adverse impacts to the neighborhood, the board agreed it did not.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the 40' Vinyl Fence. Joe Prato made a motion to approve the application. Motion to approve. M/2/C (J. Prato/B. Weber) Carried: 4-0

(4) Ronald Hilimire – 4750 South Livonia Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **July 19, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Ronald Hilimire** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 42' X 60' Residential Building, which will violate the front Setback, (50' instead of 75'). This property is located at **4750 South Livonia Road, Livonia** and is more particularly described as the northern 6 acres of tax parcel 84.-1-44.330, located on the west side of South Livonia Road approximately 300 feet south of Cleary Road. This parcel is zoned Agricultural Reservation Conservation-3 District (ARC-3). 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:	Excused
D. Major:	Yes
J. Prato	Yes
B. Weber:	Yes

Chairman Mike Sharman asked Ronald Hilimire to come forward to address the Board for the proposed 42' X 60' Residential Building. Chairman Mike Sharman recused himself from voting on this application, and stated that he is involved in the sale of this property. CEO Adam Backus

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

stated this would mean that the majority of the Board would have to vote in favor in order for it to proceed. Ron stated that he would like to put a building on the lot and be closer to the road. There was a trailer on the property for 50 years that no longer exists. The building would be located in the same location. CEO Adam Backus asked Ron to clarify that this will be a residential structure that he plans to reside in. Ron stated that it is not an independent building, it will be his residence. Chairman Mike Sharman stated that there was previously a mobile home located there. CEO Adam Backus stated that for setback purposes, and the appropriate use of the parcel, its important to make the distinction that this is for his residential home. Ron stated that it is a narrow lot with a steep bank and wetlands located in the back, and hardly possible to build anything on the lot. Chairman Mike Sharman noted that this application has gone before the Planning Board, who looked favorably on the application. Joe Prato asked if this would set a precedence if more lots are divided on this road, that they could be at 50' instead of 75' front setback. Chairman Mike Sharman stated that this parcel is unique in that the back section of the parcel is located in the wetlands, and it reduces the foot print to where you could build, even though there was a residence there prior. The property to the north of Cleary Road was brought up by the Planning Board, and noted that the front Setback requirement changes to 50' automatically. Every application is unique. CEO Adam Backus stated that the other lots incorporated with this Subdivision do not have the encumbrance of steep banks or wetlands. Bill Weber asked how large the original lot was without this being Subdivided? CEO Adam Backus stated that unfortunately it was associated with the bigger farming lot. It was never separate. It was a non-conforming situation prior. Chairman Mike Sharman stated that it is 30+ acres with the house. CEO Adam Backus stated the history of the parcel, that it was 32+ acres without the 1-acre parcel for the homestead. Since then, another 5 acres have been subdivided. Chairman Mike Sharman asked if Surveyor Barry Carestio had provided the maps for this parcel. CEO Adam Backus stated that the maps are ready. They have not been signed by the Planning Board Chairman until this Board determines the outcome of the setback. Bill Weber asked how many acres there are without the applicant's proposal? CEO Adam Backus stated 26 ½ acres prior to this Subdivision. There will be 20 ½ acres remaining after this proposal. Bill stated if more land was acquired to the south than what is proposed, would there be more usable land so the structure could be set back further from the road? CEO Adam Backus stated that there would be. The current owner doesn't see that to be the best way to divide the property. The applicant doesn't want more acres than what he will use. He is not building the garage/residence with the intention of building an additional residence on the property in the future. The proposed structure will be his residence and garage all in one footprint. Ron noted that the proposed building will set back further than the trailer that was previously there. Bill Weber asked for confirmation that the proposed building will set back further than the trailer that was previously there? CEO Adam Backus stated that was correct. Joe Prato stated that it will be pretty close, and looking at an older google map, the trailer looked farther back. CEO Adam Backus reviewed the map and noted the turn around. The driveway went back almost the entire length of the setback. The trailer was slightly closer than the 75', but not much closer than where the applicant is proposing. Joe Prato stated pretty much the same location. Bill Weber asked for clarification and stated that the applicant is proposing a single-family dwelling? CEO Adam Backus stated that it will be used for personal use as a home and for personal storage. Bill Weber stated that, in the future if someone wants to put another structure, they will not be able to meet the Zoning requirements, and will have to return to this Board. CEO Adam Backus confirmed that was correct. There were other proposals for this property that wanted to use the

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 2021

parcel for storage only. This proposal is to make it a dwelling with storage all in one, as opposed to the need for a future Variance. Chairman Mike Sharman stated that another proposed use wanted to offer snowplowing and lawn mowing, which was not a permitted use, and would cause a lot more activity and traffic on the parcel. Bill Weber stated that with 20+ acres left over, it appears there is a remedy to make the proposed Subdivision larger to meet the Setbacks. CEO Adam Backus stated that one of the aspects of this proposal is that, if they wanted to Subdivide the land and farm it, it's a conforming lot and there would be nothing to stop them from doing the Subdivision. The problem is (that we are getting out in front of), is knowing he wants to put a residential structure in place. It is a conforming lot; it is just encumbered with the steep bank and wetlands. If he were to add property from the south to have a more buildable lot, he is still going to want to put a structure where the utilities and driveway are. This is a unique case. Joe Prato asked, that if the structure were moved 90 degrees, would it remove the need for the Variance? Ron stated that the building is drawn wrong by the engineer on the application and it will be turned 90 degrees. Bill Weber asked if it will maintain the required side Setbacks? ZCA Julie Holtje stated it would, they are only over on the front Setback. ZCA Julie Holtje asked if the applicant plans to line up the back of the building with top of the bank? Ron stated that it will be parallel with the road, as close to the bank as possible. Doug Major asked if we know what the front Setback will be? Joe Prato noted that the drawing shows 55' to the edge of the building to the right of way. Bill Weber stated that the Public Hearing advertised for a 50' front Setback and the engineers map shows 55'. The applicant is asking for 55', Ron stated that was correct.

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

Tom Rutherford of 4491 East Lake Road stated that he purchased a 5 acres lot from the Damon Subdivision. He is in favor of the application and would like to see the property being used.

Chairman Mike Sharman closed the Public Hearing.

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 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 – Bill Weber stated Yes
3. Is the variance substantial? Yes

LIVONIA JOINT ZONING BOARD OF APPEALS
JULY 19TH, 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

Bill Weber noted that the application that was submitted requested a 50' front Setback, and the applicant is requesting a 55' front setback as noted on the Engineers drawings.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the 42' X 60' Residential Building. J. Prato made a motion to approve the application as presented with the condition that it will be for residential use only, and that the front Setback will be 55' as noted on the Engineers drawing. Motion to approve. M/2/C (J. Prato/ D. Major) Carried: 3-0 Chairman Mike Sharman - recused

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:45 pm. M/2/C (B. Weber/J. Prato) Motion carried: 3-0

Respectfully submitted,
Alison Houk, Recording Secretary