

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

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

Excused: Attorney J. Campbell.

- AGENDA:**    (1) *Accept and approve the meeting minutes of February 7, 2022*
- (2) *Brian & Janice Durr – 3527 Pebble Beach Road, Livonia, NY*
- (3) *Sciarrino Lake Property Holdings – 4933 East Lake Road, Livonia, 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 February 7<sup>th</sup>, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (R. Bergin/M. Sharman) Carried: 5-0.

**(2) *Brian & Janice Durr – 3527 Pebble Beach Road, Livonia, NY***

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **March 7, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Brian & Janice Durr for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 12' X 28' enclosed Porch. The proposed structure violates the maximum lot coverage requirement of 25%, according to Section 150-31F. The existing lot coverage is 24%, and the proposed lot coverage is 29.3%. This property is located at **3527 Pebble Beach Road, Livonia**, New York, and is a zoned Neighborhood Residential District (NR). 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

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

J. Prato                      Yes  
B. Weber:                    No

Chairman Mike Sharman asked Brian Durr and Contractor Todd Cole to come forward to address the Board for the proposed 12' X 28' enclosed porch. Brian stated that they would like to put a covered porch on the house to provide a place to be outside to enjoy the Lake and backyard and to be able to be protected from the sun.

Chairman Mike Sharman read the following statements:

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.

Chairman Mike Sharman stated with no one present from the public, the Public Hearing is closed.

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

Doug Major asked if they were proposing to enclose the patio. Brian stated that they propose building a covered deck above the existing concrete patio. It will be at the level of the back room of the house. Joe Prato asked if it would be open or have sides? Brian stated that it would be open. Brian noted that the deck would be 26' to the edge of the outside windows on the back of the house, not obstructing the window view of the Lake, and 12' depth from the home. Rosemary Bergin noted that the application indicates 28'. Brian stated that was correct; it will be 28', including each side's posts. Bill Weber pointed out on the Legal Notice states that the proposed Lot Coverage will be 29.3%, and the applicant's plan shows Lot Coverage proposed at 30.1%. ZCA Julie Holtje confirmed that the correct proposed Lot Coverage is 29.3%. Rosemary Bergin stated that speaking with the builder during the site visit, the neighbors all have covered porches. Rosemary asked if the proposed covered porch would be in line with the other neighbors. Brian stated that the house to the south would be shorter, and the home to the north would be closer to the lake than their proposal. Contractor Todd Cole stated that it would be just about a straight line as you look down the lake. Chairman Mike Sharman asked whose fence was located on the north side. Brian stated that the fence was on his property. Rosemary Bergin wondered if there were any letters received from the neighbors. Rich Everton said he was the property manager for the home located to the north. He talked to the owner regarding the proposal, and they have no objections. Brian stated that he has spoken to the new neighbors on the other side, and they also have no objections to his proposal.

Chairman Mike Sharman asked the Board to go through the area variance criteria:

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

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
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 12' X 28' enclosed Porch. B. Weber made a motion to approve the Variance as submitted. Motion to approve. M/2/C (B. Weber/R. Bergin) Carried: 5-0.

***(3) Sciarrino Lake Property Holdings, LLC – 4933 East Lake Road, Livonia, NY***

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **March 7, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Sciarrino Lake Property Holdings LLC– Barbara Sciarrino** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area Variance is requested for a proposed 8' X 29'4" kitchen and mudroom addition located along the south side of the house which will violate the front Setback (15' instead of 30') and the side Setback (5' instead of 9') requirements according to Sections 150-31G (1 & 2), and 150-71 non-conforming lots. The proposed structure also violates Section 150-70A (2 & 3). No nonconforming building shall be enlarged, extended, or increased. This property is located at **4933 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 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 Ray Sciarrino and Architect Tim Brinduse to come forward to address the Board for the proposed 8' X 29'4" kitchen and mudroom addition. Mr. Sciarrino stated that he was there to represent his wife, who was out of town. This proposal is for an

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

addition to the kitchen. When they purchased the home, it did not have a real kitchen. Their goal is to bring the property back to a beautiful piece of property on the lake. They are hoping that adding a kitchen will add value for their family. Tim Brinduse noted that part of the house had been worked on, but a lot of it is still open studs. What they are proposing is not as deep as what was previously there. There is also an issue with drainage water, and there is a breach in two different concrete sluice walls. The swale comes down between both properties. They would like to connect the two walls to have a clean swale that takes the water off the hill above. Ray stated that approximately the last 20' would be on the property a small portion. The hope would be to pipe that last section so that the connection between them and the neighbors would not be a 6' drop into the broken concrete. Tim Brinduse stated that the existing swale is on the neighbor's property, then switched to being shared. The concrete sluice wall in question is on Sciarrino's property. It then goes down to an inlet and under the street by a pipe to the lake. They are not changing the water; they are accommodating the flow. The previous kitchen, which was in disrepair and torn off, had a side setback of 2.7'. The new addition proposes a 5' side setback. Rosemary Bergin asked how far back does the property go? Ray Sciarrino stated that they own 1/3 of an acre. Rosemary asked if they considered putting the addition on the rear of the property instead of the side. Ray stated that there are future plans to possibly add a master bedroom on the backside of the property. Ray noted that the ideal view for doing dishes would be off the front of the property. Tim Brinduse stated that the proposed kitchen would be adjacent to the current dining room. Bill Weber asked when the old kitchen was removed and if they were issued a demolition permit. Ray stated they were issued a demo permit approximately a month ago. Bill stated that there would be plenty of room for the addition on the north side near the driveway, and it wouldn't require the Variance for the side setback. Ray stated that they didn't want to be in that position where they couldn't access the back of the property for parking. Tim Brinduse stated that there is a bump-out on the north side of the house towards the narrow driveway that comes up the hill. It is a little over 8' from there to the driveway's edge. It is not feasible to put a kitchen on the north side because there is physically no room. Bill Weber stated that what they are proposing on the south side is 8'. CEO Adam Backus stated that the previous south side location blends into their existing space. It is a reasonable place for the kitchen relative to their existing living space without adversely affecting the rest of the living area. They propose making it better and pushing it towards the dining room without obstructing the stairway. CEO Adam Backus stated that his biggest concern is the drainage issue. Water from all future development on this lot will have to go south and into the existing channel and then west to the inlet at the road. We have to ensure that the water can get between the addition and the neighbor's property line. It is preferable to keep all of this drainage on Sciarrino's property. By bumping this kitchen in, they are pushing it towards the living space, and the footprint is moving north to accommodate the stormwater flow. Bill Weber asked if moving the kitchen somewhat into the south part of the living room would work, why wouldn't it work for the north side of the house. Ray stated that the other side is narrower and not as deep, and as you go towards the driveway, he doesn't know how much room that would leave for a driveway on that side of the house. CEO Adam Backus noted that they could have renovated the existing kitchen, keeping the situation non-conforming, but by rebuilding it and moving it north, they are creating a buffer and some room for drainage to the south. He would like it noted that the applicant's plan does offer improvements in site design and will be beneficial in dealing with the stormwater issues. This would be more difficult if the old kitchen remained. Doug Major asked where the

# LIVONIA JOINT ZONING BOARD OF APPEALS

March 7, 2022

old kitchen area was located? CEO Adam Backus stated that it was located 2.7' from the property line. CEO Adam Backus stated that he wanted to make sure that Tim Brinduse is comfortable addressing the stormwater management if they are not going to get an Engineer involved. He wants to ensure that we have enough in place to manage the stormwater on this property alone for current and future development. He felt that if the Board were to approve this proposal, it should be conditioned on a feasible stormwater management plan. Chairman Mike Sharman agreed. ZCA Julie Holtje stated that she investigated a complaint from the neighbor to the south about the drainage. Her suggestion was for both owners to correct the swale together, but if the neighbor is unwilling to participate in improvements, then at least the Sciarrino's are accounting for their own stormwater. CEO Adam Backus stated that the property needs to have self-sufficient drainage. Ray stated that from the middle of the kitchen toward the lake, the swale is on their property. Everything above that to the end of the property is on the neighbor's property. His concern is that he can't control what the neighbors will do, but he can control where his water is going and ends up in the right place. Tim Brinduse felt that the neighbor to the south should address their drainage issues. On Sciarrino's side, there are two concrete walls with a gap. The other side is rubble stone. There was a complaint that water was coming into the neighbor's basement, but the neighbor's sump is pumping water up the hill and back down into their basement again. They felt that taking care of their side may entice the neighbors to solve their drainage issues. They plan to improve their side. Rosemary stated that she would hate to build anything there on the assumption that the neighbors might address their own drainage. Tim Brinduse stated that water comes under the old kitchen in heavy rain. The problem is more towards the south for the neighbors, but water is coming off their property and flowing back onto their property. The property line goes down the swale. Ray noted that it is a problem for the neighbors to dump uphill where the water will flow back down. CEO Adam Backus stated that in this case, the best thing to do is to be self-sufficient and take care of any stormwater on your own property. Chairman Mike Sharman asked Tim Brinduse to address the stormwater management plan. CEO Adam Backus stated that the question was whether the applicant would manage the stormwater for this project and any future developments. Tim stated they absolutely would. CEO Adam Backus stated that if the neighbor complains that stormwater has increased since we issued a permit for the development, we need to be able to prove that a stormwater management plan has been considered, showing no adverse effects. Tim stated that the water that comes from up higher on the hill comes from the neighbor's property and is not generated from the Sciarrino's property. Tim also noted that he was made aware of a history of complaints between the previous owner and the neighbors. This has been an issue for a while. Hopefully, people will appreciate that they are trying to improve the property. Doug Major stated that we all know the history between the properties, and if the first heavy rain floods the area, the new construction will get blamed. A documented stormwater management plan is needed as a condition of the approval to substantiate the Boards decision. CEO Adam Backus stated that it would also be part of the building permit process. If Tim's plan has taken these things into account and it can be confirmed prior to issuing a permit. If the Board was inclined to approve this application, a condition could be included that stormwater management has to be confirmed and documented prior to the issuance of a permit. Chairman Mike Sharman stated that along with Architect Tim Brinduse's name attached to the stormwater plan, he requests that the applicant's name also be attached to the document. CEO Adam Backus stated that he would like Tim to provide a rationale for how the determinations were made. Bill Weber asked what the

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

setback was from the house to the north property line; it is not indicated on any maps. Tim Brinduse stated that they are not asking for a Variance on the north side. Bill stated that his earlier question was why you are not proposing the addition on the north side where there is more room, and you wouldn't need a Variance. You would still have room for a driveway to get to the other side of the property. CEO Adam Backus asked if there were any other reasons why the kitchen and bath wouldn't be suitable on the north end. Tim stated that there is a stairwell, and it seemed to be a natural fit and that they are so close to the driveway. The existing driveway is substandard from a Code perspective; it is very narrow & steep. He would recommend that the steepness at the base be flattened out. The only other alternative would be to tear out a built-in alcove which is the nicest part of the house, and put the kitchen in that space. Otherwise, you won't have the room to the north. To build that direction would cut off the entire back of the property where the parking wants to be. There is no good opportunity to have permanent parking for the house itself on the lakeside. There is a perfect large spot to the rear for parking. Ray stated that when you observe the north property line, which is at the neighbor's sidewalk and house, a swale comes off from the sidewalk down the driveway. The swale takes up about another 3', which you don't see on the map because contours are not shown.

Chairman Mike Sharman stated with no one present from the public, the Public Hearing is closed.

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

Chairman Mike Sharman read the following statements:

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 # 11 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
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**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**March 7, 2022**

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed 8' X 29'4" Kitchen addition. D. Major made a motion to approve the Variance as submitted with the condition that the stormwater management plan is approved & documented by the Building & Zoning Department prior to the issuance of a Building Permit. The drainage agreement shall have the property owner's name attached. Motion to approve. M/2/C (D. Major/R. Bergin) Carried: 4-0, B. Weber - opposed.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:28 pm. M/2/C (B. Weber/J. Prato) Motion carried: 5-0

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Respectfully submitted,  
Alison Houk, Recording Secretary