

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**April 18, 2022**

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

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

**AGENDA:**    ***(1) Accept and approve the meeting minutes of April 4, 2022***

***(2) David Fisher/Richard Fischer – 5816 McPherson Point, 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 April 4<sup>th</sup>, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (B. Weber/M. Sharman) Carried: 4-0.

***(2) David Fisher/Richard Fischer – 5816 McPherson Point, Livonia, NY***

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **April 18, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **David Fisher & Richard Fischer** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 25' X 30' Garage, which will violate the front Setback (27' instead of 50'), and the rear Setback (18' instead of 30') according to Sections 150-31 G (1 & 3). This property is located at **5816 McPherson Point, Livonia**, New York and is zoned Neighborhood Residential District (NR). All interested parties will be heard at this time.

ZCA Julie Holtje polled the Board for site visits:

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

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Chairman Mike Sharman asked David Fisher and Richard Fischer to come forward. Richard Fischer stated that he owned the property at 5816 McPherson Point and is in the process of purchasing a 15,000. Sq. Ft. parcel that borders his back lot #1 from David Fisher, his neighbor. Prior to finalizing the purchase of that land, he wanted to get the Boards approval to obtain a Variance to build a Garage. Currently, he has no storage and would like to use the Garage to store his boats, kayaks, and summer stuff. He has worked with Kevin O'Donahue, who has worked to make the best proposal for the future Garage. It will be 25' X 30' and will be placed on the flattest section of the land. The Garage will be approximately 18' away from his back property line. ZCA Julie Holtje noted information regarding the background for this property. We currently have an application for a Lot Line adjustment between David Fisher and Richard Fischer. This 15,000. Sq. Ft. parcel would be added to the existing Lakeside parcel and the property across the street on McPherson Point. When the survey first came to our attention, the Surveyor showed no legal record of a private road up to East Lake Road. Both have agreed to provide that Easement in the form of a filed map clearing up the legal access from McPherson Point, where it ends at Richard Fischer's property. With the filing of this map, it will continue up to East Lake Road.

Chairman Mike Sharman asked what benefit McPherson Point residences gain from this? Mr. Fischer stated that the road will now be an abstracted map. Mr. Fisher noted that after discussing this proposal with the applicant David Fisher, one of the things he has agreed to is making the proposed Garage no taller than one story. It will be tucked into the lower portion of the land that goes towards the Boat Launch area and will not take away from the scenery. He believes that it will fit the character of the neighborhood. The proposed Garage would not even be a fifteenth of the lot size that he will be purchasing. The lot is currently wooded, and Richard has agreed to go through to prune and clean up the dead stuff to give it a park-like atmosphere. He believes it will be an improvement.

Doug Major asked for clarification regarding granting a Variance to a non-property owner. ZCA Julie Holtje stated that is why both parties are listed on the application. Bill Weber commented that one party has a legal vested interest in the property, even though he doesn't own it yet. A signed purchase offer is subject to terms that allow him to be the applicant. Chairman Mike Sharman noted that any decision by the Board would be subject to the sale of the property. Rosemary Bergin asked David Fisher how long he had owned the property. Mr. Fisher stated since 1987. Rosemary asked if it was broken off from the property located above? Mr. Fisher noted that he had sold three little parcels off the main parcel. One Lot to Tom Parinello. A Variance was not needed at that time as there was no proposed building. He sold a plot to Carolyn Peck and Richard Dacks, who live on McPherson point. They wanted to increase their lots an additional 50' in the back to meet the Town requirements in order to build a garage. Bill Weber asked if the portion of McPherson Point Road that was not originally part of the right of way now allows anyone who lives on McPherson Point to access that all the way around from East Lake Road? Mr. Fisher stated that it would allow everyone access, and there would be no changes because it's always been that everyone had access. It will now have legal documentation. Town Attorney Jim Campbell reviewed the map and advised on the language used on the survey map. Bill Weber stated that he was looking for confirmation that it would be

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documented with Livingston County. Mr. Fisher noted that it would be. ZCA Julie Holtje stated that Attorney Jim Campbell stated that including that wording on this map would be sufficient, and it will be a matter of public record.

Chairman Mike Sharman opened the Public Hearing and asked those who wished to speak to state their name and address and direct their questions to the Board.

Martin Schuh of 5780 McPherson Point. He introduced these gentlemen to the potential sale. He has no vested interest in the sale and is happy that the Easement for the road will still be conveyed. The property owners on McPherson Point have maintained that along with the bridge. He has no objections to these improvements.

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

Rosemary Bergin asked if there was water remediation planned for the project. ZCA Julie Holtje stated that would be part of the Building Permit process. Bill Weber asked if the portion of the area where the garage will be placed would be combined with Mr. Fisher's lot. ZCA Julie Holtje confirmed that it would be. This is a lot line adjustment between the two parcels.

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 4).

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 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 – Making a positive change for the Town.
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 be improved.
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 25' X 30' Garage. Bill Weber made a motion to approve the variance as submitted, with the condition that the Easement wording is included on the map that will be filed at Livingston County. Motion to approve. M/2/C (B. Weber//R. Bergin) Carried: 4-0.

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Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:21 pm. M/2/C (Bill Weber/D. Major) Motion carried: 4-0

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Respectfully submitted,  
Alison Houk, Recording Secretary