

**LIVONIA JOINT ZONING BOARD OF APPEALS
JANUARY 4, 2021**

Present: Chairman M. Sharman, R. Bergin, K. Coon, B. Weber, CEO A. Backus, Zoning Compliance Assistant Julie Holtje

Excused: Attorney J. Campbell, Recording Secretary A. Houk.

AGENDA: *(1) Accept and approve the meeting minutes of December 7th, 2020*

(2) Brian Heywood – 4102 East Lake 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 December 7th, 2020. The Board agreed they had and a motion was made to approve. M/2/C (M. Sharman/B. Weber) Carried: 4-0.

(2) Brian Heywood – 4102 East Lake Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday **January 4, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Brian Heywood** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 67' X 30' two-tiered Lakeside Deck which will violate the side (3.7' instead of 9'), and rear (4' instead of 18') setback requirements according to Sections 150-31G (2 & 3), and 150-71. The proposed structure also violates the maximum lot coverage requirement of 25%, according to Section 150-31F. The existing lot coverage is 20.7%, and the proposed lot coverage is 34.7%. This property is located at **4102 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.

CEO Adam Backus polled the Board for site visits:

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Chair M. Sharman: Yes
R. Bergin: Yes
K. Koon: No
B. Weber: Yes

Chairman Mike Sharman asked Justin Britton, Contractor representing Brian Heywood to come forward and address the Board for a proposed two-tiered Lakeside Deck. The Heywood's have a desire to have a larger outdoor space. Justin stated that they are proposing to replace what is currently there, and add a lower level. It will be a step down from the current structure to an 8' X 44' deck that will span across the back of the house, on the lakeside.

Bill Weber asked for clarification. Justin Britton stated that if you look at the house from the lake, the portion on the right is 20' wide. That section will be part of the lower level and will carry along the back, left side of the house where the existing structure is located. In total, it will be 44'. The lower level will be the entire width of the house. Bill Weber stated that it will extend past the house another 4' to the north according to the plans. Justin Britton stated that if you are viewing the structure from the lake, on the far-left side, the 4' is actually a walkway down from the driveway. That area is currently hard scaped and they plan to transition that area. Once it gets to the actual grade of the porch, they will have a platform so that you can step down to the existing deck. It is currently not a clearly defined safe walkway to the deck. Bill Weber confirmed that the 4' will be part of the deck. Rosemary Bergin asked for clarification on the deck dimension. Justin Britton stated that it will be 8' X 44'. CEO Adam Backus stated plus the 8' X 4' return where the existing porch is located. Chairman Mike Sharman asked if that was a 4' space between the northwest deck corner and the lake. Justin Britton confirmed that was correct. Chairman Mike Sharman asked if there was a way, he could cut 4' off? Justin Britton stated that you could, but due to the current conditions he was not inclined to, due to a safety standpoint. Chairman Mike Sharman stated that the lake is very close. If there was ever a fire it would be very difficult to get fire equipment through that area. Justin Britton stated that his concern is for the safety of the Heywood's as they walk down the hard scaped elevation area to get down to the deck. The area becomes uneven and is hard to get on the deck without the 4' landing. Justin Britton asked if it would be a consideration to keep the 4' on the upper level so they could transition from the sidewalk onto the upper level. They could subtract the 4' on the lower level to bring it back to a total of 40'. Bill Weber clarified that the applicant would be removing the 8' X 4' corner off the north west side. This would still provide them access and give a little more relief on that side. Justin Britton confirmed he would remove that section from the proposal.

Rosemary Bergin asked if there was a right of way for another property located there. CEO Adam Backus stated that area on the south side was an ownership strip for the Ross property across the street.

Rosemary Bergin asked if the applicant had provided any letters from the neighbors. Zoning Compliance Assistant Julie Holtje stated that they were included with the application. Chairman Mike Sharman stated that one letter was from the maintenance person from the property to the

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north, not the actual property owner. The owner was not aware of the proposal. CEO Adam Backus stated that the proposal is 16' away from that north property line.

CEO Adam Backus stated that there is quite a bit of vegetation towards the north. CEO Adam Backus stated that sheds were to be removed with the last Variance, but because this shed is a 10' X 12' shed, no permit was triggered, and it is only required to be 4' from the property line. The applicant wanted to expand on the shed, which triggered a bigger issue. These issues include the fact that a Hot Tub was installed without a permit and this needs to be resolved. The second issue is that if they want to extend the shed roof section out, the shed will then need to comply with the required 9-foot setbacks. When you look at the big picture, there is hardly any green space left. The proposal tonight is scaled back much smaller than the original deck proposed.

Chairman Mike Sharman asked how far off the lot line is the shed? Zoning Compliance Assistant Julie Holtje stated that it was approximately 4' - 5' from the property line. Rosemary Bergin asked if the shed was included in the Lot Coverage calculation? CEO Adam Backus confirm that it was. Chairman Mike Sharman confirmed that the Lot Coverage was reduced to 26.9%.

With no one wishing to comment from the public, 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 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
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, 140 Sq. Ft. replacement of existing Deck/Porch and the addition of a 384 Sq. Ft. deck approximately 8' X 44'. Motion to approve subject to removing the 4' X 8'

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section on the north west corner of the deck. The Variance is also subject to the Hot Tub permit resolution with CEO Adam Backus. M/2/C (B. Weber/R. Bergin) Carried: 4-0

The Board members had a brief meeting with applicants, Joseph Prato, Douglas Major and Tanya Sweazy. The Board discussed and reviewed the applicant's qualifications and are recommending to the Town Board that Joseph Prato and Douglas Major be appointed as Zoning Board of Appeals members.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:22 pm. M/2/C (K. Coon/R. Bergin) Motion carried: 4-0

Respectfully submitted,
Alison Houk, Recording Secretary