

LIVONIA JOINT ZONING BOARD OF APPEALS
December 5, 2022

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

Excused: CEO A. Backus, D. Major, Attorney J. Campbell.

AGENDA: *(1) Accept and approve the meeting minutes of November 21, 2022*

(2) Jakob Stevens – 7033 Big Tree Road, Livonia, NY

(3) David & Sarah Cameron – 3799 Cluny Point, Lakeville, NY

Chairman Mike Sharman brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

Chairman Mike Sharman announced the retirement of Bill Weber from the Zoning Board of Appeals. Bill has served the Town for many years in the Building & Zoning Department and as a member of the ZBA Board. He will be greatly missed.

(2) Jakob Stevens – 7033 Big Tree Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **Dec 5, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Jakob Stevens** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a 30' X 96' existing Greenhouse, which violates the front Setback requirements according to Sections 150-32G (1). A reduced front setback is also requested for future greenhouses. This property is located at **7033 Big Tree Road, Livonia**, New York, and is a Zoned Agricultural Residential Conservation 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: Yes

D. Major: Excused

J. Prato Yes

B. Weber: Yes

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Chairman Mike Sharman asked Jake Stevens to come forward for the existing greenhouse and proposed new greenhouses. Jake stated that the greenhouse structures that they are building utilize the existing ground/grade. They are requesting the Variance because they are currently in the process of placing the farming property into a Conservancy for forever farmland. Part of this project is reducing the amount of developable or homestead acres for future development. It allows certain square footage for building will not be directly used as farmland anymore. He is requesting relief from the front setback to allow the placement of the buildings closer to the road and not waste one of their most precious resources, which is farmland. Placing the greenhouses closer to the road where the land is more level will make it easier, and they can continue growing crops in the back section of the property, utilizing all the farmland that is available. Jake stated that he has been working closely with the Building & Zoning office. When he referred to the Code to put the greenhouse up, he was referring to the incorrect Zoning district. Chairman Mike Sharman asked what the current plan was. Jake stated that to be able to add two more greenhouses and a wash/pack building. It would be used for fresh produce that would be grown on the land that they sell at their farm stand and farmer's markets they attend. Chairman Mike Sharman asked if they would be following the same setback line for future greenhouses. Jake referred to the property map to show where the future greenhouses will be placed. He said that there would be another greenhouse next to the one that is currently there and two more towards the field entrance directly west. The wash/pack building will be closer to the field entrance. Chairman Mike Sharman asked if he anticipated any retail sales at this location. Jake stated that there would be no retail sales at this location at this time. They talked about adding a seasonal farm stand there because that is where half of the produce will be grown. Chairman Mike Sharman stated that a seasonal farm stand may be considered retail sales. Jake noted that he spoke to ZCA Julie Holtje about that, and they would be contacting Building & Zoning when they were ready to proceed so proper parking could be determined. ZCA Julie Holtje stated that it would be considered retail sales for any future seasonal farm stand. Julie also noted that they would need to come before the Planning Board for Site Plan approval once they are ready to proceed with the seasonal retail sales farm stand. Parking for the farm stand would be addressed with the Planning Board. Chairman Mike Sharman asked what type of parking will be needed because they are getting close to the road and noted that site distance isn't too bad in that area. Jake stated they hadn't determined that yet. Chairman Mike Sharman noted that they are asking for setback relief for future buildings. Jake commented that was correct.

Bill Weber stated that there are currently two greenhouses. A third greenhouse, according to your plans, will be set to the north. Jake confirmed that was correct. He is looking for relief from the setback restrictions to the west for future greenhouses. Bill stated that there would be three additional greenhouses. Jake said there would be two more in line with the two that are closest to the road. Bill asked where the wash/pack building was going to be. Jake stated it would be to the west of those new greenhouses. Rosemary asked if that was where she noticed the flags on the property. Jake stated that the flagged area was where they have a wheat test area plot. ZCA Julie Holtje clarified that Jake measured 75' when he staked out the first greenhouse to the center line of the road. The buildings now appear to be at a 50' setback to the right of way. 75' is required. Bill Weber asked for clarification on where the future greenhouses were going to be. Jake referred to the map and described where the wash/pack building and the new greenhouse's locations. Bill asked where vehicles would pull in and out and park for the

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seasonal farm stand. Jake stated that the farm stand application is in the future, and he would proceed to the Planning Board for approval when they are ready to proceed with that. Jake explained that the driveway for the farm stand would be west of the wash/pack building. There would be parking in front of that. Chairman Mike Sharman asked what would prohibit putting the greenhouses all in a line. Jake stated that there is a very large drop-off in that area. Chairman Mike Sharman asked if it is required for the greenhouses to be 30 apart. Jake stated that it is built per Code through National Conservation Resource Service. They are 30' apart to allow for proper drainage and runoff and follow conservation practices. ZCA Julie Holtje noted that the Agricultural Buildings are exempt from the Building Code. Chairman Mike Sharman asked who the landowner was. Jake stated that he purchased the land from Pam Bishop three years ago and noted that his proposal is also supported by the neighbor, Bill Gray. Bill Weber stated that the applicant is asking for the proposed greenhouses to be in line with the existing greenhouse. Jake commented that was correct. Bill asked if there was a reason the new greenhouses couldn't be setback further. Jake said that they could. They are trying to utilize as much farmland as possible. Trying to use the 75' setback will create a lot of wasted space. Chairman Mike Sharman said that we are a farming community. There was further discussion regarding moving the greenhouses further back. Jake said he would be open to that. They were trying to keep everything going in a straight line. Chairman Mike Sharman requested that the applicant works with the Building and Zoning office to confirm placement, moving the greenhouses back further. ZCA Julie Holtje clarified that there was some conflicting information regarding how far the first greenhouse is from the center of the road. One drawing states 75', and another shows 65'. Jake stated that the latest documentation was the correct version. It is 65' to the center line. Julie noted that would be a 40' setback to the right of way. Bill clarified that the Variance would be 40' from the property line setback. Bill asked who was verifying the measurements. Julie stated that it is the owner's responsibility. If there is a doubt, she will refer to the map and pace it to ensure it is accurate. Bill stated that let's say we as a Board are okay with the 40', a year from now there are changes and it is then determined that it is 35'. He would rather have someone say what it actually is today. Jake stated that the 65' was not a guess; it was measured by two people to determine the correct measurement. Bill noted that those two people were not surveyors. Jake confirmed that was correct. Bill stated that he wanted to have accurate information when he makes a decision. Chairman Mike Sharman stated that the applicant is now stating that it is 65' 2" to the center of the road. Julie noted that gives a 40' setback. Bill stated that is determined from the center line of the road. Jake stated it was. Bill felt that is why we need a survey to determine exactly what the measurement is. Chairman Mike Sharman recommends that the applicant provide a survey.

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

Kevin Masterson of 3817 Cluny Point inquired if the applicant needed electric service there at this location. Jake stated that they don't currently have electricity, but it is needed. They are working with National Grid to set up a service.

Murray Wingate of 6621 Big Tree Road stated that he drives by there often and feels that the 40' setback is a reasonable request. Trying to utilize as much agricultural land as possible is very

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important. We are losing agricultural land to everyone across the country, and he would like to see as much saved as possible.

With no further comments, Chairman Mike Sharman closed the Public Hearing.

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

Rosemary Bergin asked for clarification if the applicant is requesting 40'. Bill commented that the applicant is alleging that the existing building is 40' from the front property line. ZCA Julie Holtje stated that the applicant measured from the corner to the center line, and Big Tree Road consistently stays true to the center line. If you subtract 24.75', which would be half of the width of the road, you will get a 40.25' setback. Chairman Mike Sharman asked if Jake had contacted a Land Surveyor for future reference. Jake stated that he had not. It is mostly buildings that do not require Building Code since they are considered agricultural. He also noted that Surveyors are very expensive. Initially, he was referring to the incorrect Zoning Code to determine the property setback. Bill asked how many acres the applicant owned. Jake stated that on this farm, there are 275 acres, which were determined by NYS, to consist of 79% prime farmland. Part of the Conservancy program is trying to keep the building footprint as small as possible. ZCA Julie Holtje asked if Big Tree Road was one of the parcels identified that could be developed. Jake noted that none of the parcels could be. All the parcels per NYS and the Conservancy have a program. Each must have some established homestead. They are not eligible to build any new homesteads, but they would be able to expand agricultural buildings. Julie asked if this parcel was in one of those areas and what the limited acreage is. Jake said it was 5 acres and noted he is working with a very restricted amount of land to accommodate the proposed greenhouses and future accessory structures.

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 # 4 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 – We are a farming community, and he is working with a limited amount of land.
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

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5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to postpone the vote until the first scheduled meeting in January 2023. This will allow the applicant time to obtain the exact measurements/Survey map of the proposed greenhouses. Rosemary Bergin made a motion to approve the postponement. Motion to approve. M/2/C (R. Bergin/J. Prato Carried: 4-0.

(3) David & Sarah Cameron – 3799 Cluny Point, Lakeville, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, December 5, 2022, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Sarah Cameron for a for an area variance pursuant to Section 150-17C and a Conditional Use Permit pursuant to Section 150-17 B of the Zoning Code of Livonia. An area variance is requested for a proposed 24' X 24' Addition over the existing Garage, which will violate the side setback requirements according to Sections 150-31G (2). An area variance is also requested for the Accessory Dwelling (Addition), as it exceeds 40% of the area of the principal Dwelling unit according to Section 150-60 D. A Conditional Use Permit is requested for an accessory dwelling unit in the proposed Garage Addition per Section 150-31 D (1).

This property is located at 3799 Pebble Beach Road, Livonia, New York, Tax Parcel # 74.46-1-1, 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:	Excused
J. Prato	Yes
B. Weber:	Yes

Chairman Mike Sharman asked David Cameron and James Brasley, Architect, to come forward for the proposed Area Variance and Conditional Use Permit. James stated that the applicants had owned the home for approximately six years. The house is located on the lakeside, and the garage is on the opposite side of the street. When they have their children and grandchildren out for the weekends and holidays, there is not enough room in the 1258 Sq. Ft. home. They need another bedroom. The existing house is tight to both side property lines. The detached garage across the street needs a new roof, and it makes the most sense to build the new Addition over the garage, which would turn that into an Accessory Dwelling unit. They are requesting a Conditional Use Permit for the Accessory Dwelling, and it is an oversize Accessory unit that will be 576 Sq. Ft., where 503 Sq. Ft. is currently permitted according to the 40% Code. Also, the location of the existing garage doesn't meet the current setbacks. Currently, it is approximately

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9' on the south side and 14' on the north side. Because the garage is not square to the lot, and the deck on the garage sticks out, they are asking for relief for an 8' side setback, an oversized Accessory Dwelling unit, and a Conditional Use Permit for the Accessory Dwelling unit. The plan is for this to strictly be used by their family with no commercial use or renting it out. It is not a large apartment. The Addition will be a large living room, kitchen, one bedroom, one bathroom, and a closet that will total 576 Sq. Ft. The existing garage is 24' X 24', which is 576 Sq. Ft. It really doesn't make sense to build the living space above any smaller than that. He plans to bring the walls up, and it would be more expensive to go any smaller because beams would need to be placed in the garage in order to meet the Code. They believe that they meet all other criteria for the Conditional Use Permit. It will be in harmony with the neighborhood. It will still be a residential use and constructed over the existing garage. There will be plenty of off-street parking in the garage driveway, and there will be no impact to the street. It won't dominate the immediate vicinity or interfere with any development of nearby properties. The garage is currently setback 45' from the Cluny Point right of way. There will be little to no visual impact. All public utilities are available to service this new dwelling unit. Therefore he feels they meet the criteria for the Conditional Use Permit. The rear of the garage is built into a hill which is only about 4' above grade. There is no other place to build because the area near the garage slopes upward. This is the best place for the Addition and will have the least impact on the neighborhood. Since they are only asking for about 15% more than what is permitted, they don't feel the Variance request is substantial. It currently doesn't meet the side setback requirements, and they are only asking to increase the top section of the garage. They are not changing the building footprint or impervious services, so there is no impact on the physical or environmental conditions. Is the alleged difficulty self-created, yes, because they are asking to build on top of a building that currently doesn't meet the requirements?

Bill Weber asked if this was all one tax parcel. ZCA Julie Holtje stated that it was and noted that the existing garage does meet the setbacks. It is 9.1', it's a non-conforming lot since it is only 50' wide, which is the reason for the reduced setbacks. Minimum side setbacks are 9'. Because it is at a slight angle, the deck will be at 8'. Chairman Mike Sharman confirmed that the side setback Variance is being requested for 1.1'.

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

Robert & Anne Swantz stated that they own 3797 Cluny Point directly adjacent and have been there for nine years. They are in support of the project and are familiar with David Cameron's business, which has done many renovations for them over the years and has always done a very high-quality job. They believe this project would be aesthetically pleasing to the neighborhood.

David Cameron stated that he had submitted a letter from Doug Major, located at 3801 Cluny Point, adjacent to the Cameron's. In the letter, Doug stated that he had reviewed their proposal and that he supports the project and believes that it will fit well within the neighborhood. The Cameron's do a great job of maintaining their property and is confident they will manage the construction project to minimize any drainage problems and believe the finished garage will be of high quality.

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

Chairman Mike Sharman asked David Cameron if this would strictly be used for family use only and not an Air B & B. David commented, definitely not for rent.

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? Yes
3. Is the variance substantial? No
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 proposed Area Variance for the Accessory Dwelling unit over the existing Garage. Rosemary Bergin made a motion to approve the Area Variance as submitted. Motion to approve. M/2/C (B. Weber/R. Bergin) Carried: 4-0.

Chairman Mike Sharman asked the Board to go through the Conditional Use Permit criteria:

- (1)** Will the proposed building or use will be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this chapter, and, where applicable, Chapter [125](#), Subdivision of Land?
X Yes _____ No _____
- (2)** Will the proposed building or hours of operation or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare? _____ Yes _____ No _____ N/A _____

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- (3)** Will the proposed building or use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations? X Yes _____ No
- (4)** Will the proposed building or use will be adequately served by essential public facilities and services?
X Yes _____ No Electric, water & sewage tank.
- (5)** Will the proposed building or use comply with all additional standards imposed on it by the particular provision of this chapter authorizing such use? X Yes _____ No
- (6)** Have all steps possible been taken to minimize any adverse effects of the proposed building or use in the immediate vicinity through building design, site design, landscaping, and screening? X Yes _____ No
- (7)** If appropriate, a performance bond or other suitable financial guarantee has been provided to assure compliance with the conditions of the conditional use permit. _____ Yes _____ No X N/A

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the Accessory Dwelling unit over the existing Garage. Rosemary Bergin made a motion to approve the Conditional Use Permit as submitted. Motion to approve. M/2/C (J. Prato/R. Bergin) Carried: 4-0.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:55 pm. M/2/C (B. Weber/R. Bergin) Motion carried: 4-0

Respectfully submitted,
Alison Houk, Recording Secretary