

LIVONIA JOINT ZONING BOARD OF APPEALS
October 17, 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 October 3, 2022***
- (2) Jamie Wheatcraft – 4244 East Lake Road, Livonia, NY***
- (3) Bridgette Heap – 63 Big Tree Street, Livonia, NY***

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 October 3, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (R. Bergin/M. Sharman) Carried: 3-0.

(2) Jamie Wheatcraft, 4244 East Lake Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **October 17, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Jamie Wheatcraft** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia.

This area variance is requested for a proposed 26’x26’ replacement garage, which will violate Section 150-70 A (2), which prohibits the expansion of a non-conforming building and 150-71 non-conforming lots. The proposed structure violates the maximum lot coverage requirement of 25%, according to Section 150-31F. The existing lot coverage is 31.5%, and the proposed lot coverage is 33.4%. This property is located at **4244 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.

ZCA Julie Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	No
B. Weber:	Yes

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Chairman Mike Sharman asked Jamie Wheatcraft to come forward for the proposed area Variance for the 26' X 26' replacement Garage. Bill Weber noted that he is located across the street from the applicant and asked the Board if anyone had any objections to him participating in the Public Hearing. The Board agreed that Bill should participate in the meeting. Jamie stated that during the storm in June, they were hit directly by a neighboring tree that demolished a good portion of the existing garage. The garage is 24.5' wide, north to south, and 20.3' east to west.

The lower level of the existing garage was a concrete slab and piers with wood framing. During the demolition, the walls collapsed, resulting in the total demolition of the two-story structure. They are proposing to rebuild a larger structure of 26' X 26' which will violate the expansion of a non-conforming building and maximum lot coverage. It will be an additional 6' on the west side and an additional 1 ½' north, parallel with East Lake Road. It will be a two-story Garage with concrete walls, steel decking, and concrete floor with all the requirements to meet the current Code. They propose to rotate the direction of the ridge. It will be a standard gabled roof, but they would like to change it from parallel to perpendicular to the road, which may help with neighboring views. Chairman Mike Sharman asked regarding the northern expansion, the wall running east and west on the north side, doesn't the gas line run through that area? Jamie stated that it does, but it is 4'-5' away. A new utility pole was just installed. The existing pole was right on the corner of the garage, and when the garage collapsed, it pushed the pole outward, which was a safety concern. Their contractor, Livingston Associates, was involved and reached out to National Grid for electricity. National Grid came out and replaced the pole, and it is adjacent to the gas line. They will not be going beyond that point. There is a 6' X 4-5' concrete landing, and the new pole is set outside of that landing. It is now a nice clear path down to the sidewalk. The wall of the new garage will not affect the area of the gas line. Chairman Mike Sharman asked if they plan to keep the line parallel to east lake Road. Jamie stated that was correct. Jamie noted that the front of the wall would remain the same as would the south wall. Rosemary Bergin asked for clarification on what the 2' expansion was for. Jamie stated that it would be 1 ½', and that would be to align the existing foundation up with the retaining wall. Doug Major asked if the east side of the garage, closest to East Lake Road, would be parallel with East Lake Road. Jamie stated that was correct. CEO Adam Backus noted that making the garage a little deeper will allow vehicles to park in the garage and alleviate congestion alongside East Lake Road.

Chairman Mike Sharman closed the Public Hearing with no one present to speak from the public.

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

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 SEQOR was not required per # 2, #12 & #16 of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

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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
3. Is the variance substantial? Yes – Because it is a non-conforming situation.
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? No

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Area Variance for the 26' X 26' replacement Garage. Bill Weber made a motion to approve the application as submitted. Motion to approve. M/2/C (B. Weber/R. Bergin) Carried: 5-0.

(3) Bridgette Heap, 63 Big Tree Street, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **October 17, 2022**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Judy DeVries** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed extended driveway, apron, and parking area, which will violate Article XV Access Management, Section 155-131C. (1). This property is located at **63 Big Tree Steet**, Livonia, New York, and is zoned CC Core Commercial District. 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.

ZCA Julie Holtje 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 Bridgette Heap and Judith DeVries to come forward for the proposed area Variance for the driveway, apron & parking area extension. Bridgette stated that:

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she is requesting a Variance to allow them to pave the gravel and grass area at 63 Big Tree Street. This area has been used for parking for over twenty years. There is a gravel apron that they would like to pave. These areas have been used by the Masons, the attorney, and the students & teachers of the DoJo that are in the building-for years. They understand that according to the Code, the apron should not be that close to the intersection for safety reasons. They checked with the Livingston County Sheriff's office to ensure that using that space for parking was not causing accidents and confirmed that over the past four years, there had been no safety concerns related to using the grass patch area for parking. Not allowing access to that parking area decreases safety for drivers and pedestrians. They have photo evidence to show that traffic congestion increases at the corner if they are not allowed to park in that area accessible by the gravel apron. Children and students attending the classes will end up walking into the street to reach their parent's vehicles when being picked up or dropped off. They have considered alternative parking options. However, no other space around the building can be used for parking without significantly impacting the surrounding properties around the building. They direct guests to use the public parking area behind the Community Bank for larger events. However, this option does not help facilitate parents using the building regularly for dropping off and picking up children, especially during the colder months. They understand that Codes are useful to help ensure general standards for safety & functionality. Still, they also understand that not all Codes fit all situations, which is why Variances are considered. They appreciate the Board taking the time to consider their request and are thankful to all the local community members supporting their efforts to save the old Masonic Lodge and make it a community fixture once again. Bridgette wanted to respond to Highway Forman, Chris Hoffman's letter dated October 4th, and noted it was just received this afternoon. First, she was not sure by the comment that the new owner was aware of the parking situation before purchasing the building. Bridgette noted that they were told by the sellers that there was space for eight cars, and the Town should have the listing that shows this information. Also, the Village website states that parking & sidewalks don't need a permit. Maybe there was a little confusion about whether that was addressing commercial buildings or residential homes. They were under the impression that they were allowed to pave that space that had been used for parking for years, and if the Town had been concerned with the usage of that space, they should have addressed that with the Masons years ago. As far as they were concerned, they thought they were grandfathered in because they were not changing the use of the space. By paving it, they are improving the property's aesthetics and preventing further damage to the property. They also believe that the lack of accidents in that area, which the Sheriff's office has confirmed, helps to demonstrate that parking in this space is not unduly affecting traffic on the highway. Drivers turning onto Big Tree Street from Commercial Street already need to slow down to watch for others who may be backing out of their driveways. Their situation does not change that. Those turning from Big Tree Street onto Commercial Street must stop at the stop sign, so slowing down for cars pulling out of their parking lot doesn't change anyone's traffic patterns. Bridgette wanted to remind everyone that they are not requesting to increase the number of parking spaces; they are only requesting to pave what was already being used as existing parking. They also understand that there is a high volume of vehicles going up and down Big Tree Street, which is why they have established the evidence that not allowing them to park on the grass area by the gravel apron will increase congestion on that road because now more cars will be pulling off to the side to pick up kids. They are asking the Board to consider those situations that they have explained and seeing how

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this has already been happening for years, and they are asking to pave the parking area. Judith DeVries stated that having purchased the property, they looked at the parking lot, which was all graveled. The apron area between the sidewalk and the street was all graveled. It is currently being used in the same manner for ten-fifteen years, and it is not something new. When they contracted with the paving company to pave it, they were paving exactly what exists with the request to add a little bit more to accommodate another parking space. This make it so that, when coming out of the building, you would not be walking onto grass, mud, and slush during the winter; you would be walking on pavement. They didn't come forward with their plans because they felt they were conforming to what was already there, including the apron. They have spoken with the neighbors and those who have used the building over the past ten-fifteen years, and it's always been used this way. They also have a children's storybook Theater with parents pulling up to pick up and drop off. Parents are not going to let the kids out from the street unless they must. By having less space, they now must pull up and let the kids out while blocking traffic so they can come across the parking area into the doorway. Having them pull into a space to let the children out would be safer. They need the extra space for the safety of the children to be considered; they cannot do with only four spaces. In addition to the storybook Theater, they also have a Karate studio, with many parents coming. Kids disembark to go to their classes for an hour and then leave and are picked up. They want the parents to be able to pull in and wait for the child, not wait on the street. They feel they are not asking for anything that was not already there. If it had ever been addressed with the Masons, they were unaware of seeing anything in any paperwork they received. The paving will also allow the area to be plowed easier in winter, and they are trying to improve the area. They hired the paving company at the end of August, but the project stopped. They are also working with some grant money from Livingston County, and that submission needs to be in before the end of the year. This was money to improve the building. They were trying to get this done as soon as possible because the paving company said they couldn't pave past November 1st.

Rosemary Bergin asked if their proposal would be for people to pull into the parking spot and then back onto Big Tree Road. Judith stated that was correct and that there was no other way. Rosemary Bergin asked if in the past, people pulled into the grassy area and then backed out? Bridgette stated that was correct, and they would not be parallel to the building. She said they are trying to avoid people pulling up on the road and blocking traffic to let their children out. They would pull in and get off the road by paving the area. Bill Weber asked how much area they increased with stone. Bridgette stated that was noted in the application, 22', which was the grass area. Bill Weber asked where that was located. Bridgette said it was between the grass area and where the old sidewalk to the door was located. The apron was already gravel and existed before they came. They graveled the grass area that people had been parking in. Joe Prato asked for clarification on where the gravel was. Bridgette referred to the site map showing that the area up to the sidewalk was gravel. Bill Weber asked again what part the applicant installed. Bridgette stated that they removed the grass area from the sidewalk and installed gravel.

Chairman Mike Sharman opened the Public Hearing and asked anyone wishing to speak to state their name and address for the record.

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Brian Eaton of 6220 Cleary Road stated that his kids go to the Dojo for Karate, and they have been there for five to seven years and have always parked in the grassy area. In the winter and when it's muddy, he has seen cars shoot out from there. It's much better now that it is stoned, but it would be much safer if it's paved and able to pull in and out from the parking area.

Neil DeVries of 16 Center Street, Geneseo, stated that his wife had purchased the building. He appreciates all the discussion and the history of the property. The statement regarding everyone who considered purchasing the property was informed that the parking is four spaces. He would like to understand that comment. If they were notified, he was not aware of it. ZCA Julie Holtje stated that the amount of parking spaces is up to the applicant to provide to the Town in a Site Plan application that would be reviewed and evaluated for Code compliance and safety. For all the inquiries that were received regarding this property, it was stated that parking at this property is an issue, and it's obvious from looking at the site. Mr. DeVries indicated that they understood that before buying the property. They bought it with the understanding that they intended to improve the Town and the building. His wife mentioned a grant and contributing personal funds towards this building.

Part of what they assume wrongfully, but reasonably, by how the property was marketed was that there were eight parking spaces. Bridgette, his daughter, made the application and tried to explain their concerns. He understands that the Code is Code and that Variances are there for a reason. Is there a way we can work together to make this work and use the property? When they decided to invest in Livonia, part of the equation was that there was limited space, but there was some space. There is precedence and history. They are asking to help them make this building usable for the good of the community.

Aaron Heap of 4753 Lattimer Road, Groveland, stated that the Town indicates they were aware of the parking at some point. He asked if it was considered public parking at the building. He felt they were not made aware of the parking at the building before purchasing and that the Town was being dishonest. ZCA Julie Holtje stated that until an application is received for a property, there wouldn't have been any discussions regarding the site plan. When the walkthrough was done before purchasing, she was sure that the lack of parking was mentioned, as it had been common practice to share the public parking maps in an information package shared with all interested parties that approached their Department. CEO Adam Backus stated that the Town was not being dishonest and didn't appreciate that comment. Bill Weber agreed; that it was a poor choice of words. Aaron agreed & apologized for the comment. Adam stated that public parking was brought up because there are very few spaces for the building. Obviously, that is why public parking was brought up because you don't have very many spaces, so you were made aware. Bridgette stated that the difference is that they are aware the parking is limited by looking at it. Aaron said they were told they were made aware of the entire parking situation. CEO Adam Backus said no! Aaron stated he wanted to clarify that they were aware of the public parking lot behind the bank. They were not told anything else except for the Real Estate listing of the parking at the building itself. Chairman Mike Sharman wanted to delineate between the information received. He stated that the applicant had received information on the listing, which the Village cannot have any control over- none. Whatever was on the listing, you took your realtor's word for it; of whatever they determined to be accurate or how much space they thought

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you could fit a car on. Aaron agreed. Chairman Mike Sharman felt we are having this discussion because the Building & Zoning office goes out of its way to help people. I think your project sounded highly desirable to many people and still does. The parking situation is in relevance to the road and your location is in a dangerous spot. You can believe the D.O.T and the Village Highway or not, but these are the facts that they came back to us with after being referred to them. They mentioned public parking because they want you to be here, but they want you to park safely and for the children to be safe. There has been no misleading anyone in this case. Aaron noted again that it was a poor choice of words. Aaron stated that he just wanted to clarify that they were not made aware of any parking issues at the building and thought there were eight spaces. Chairman Mike Sharman referenced the business of Margaret Linsner. She doesn't have any parking spaces; it is automatic that it will be public parking. The Village doesn't have meters, and he doesn't think she could even park eight cars in the block in front of her business.

Rosemary Bergin commented that in terms of what was heard from the real estate agent, it is up to you to take the ball and start learning about what is required. She also wanted to address Mr. DeVries's comment about helping figure this out. We would love to see that building be a success and have you as property owners be very successful. We, as a Board, have to make the decision to grant or not grant the Variance. We can't figure out what is the next best solution. You, as the applicant need to figure that out and return to the Board if this doesn't get approved. Bridgette wanted to clarify that it's a poor situation. The real estate agent's expectation was that since the Masons had eight parking spaces, that is what they passed on to prospective buyers. She understands that there is limited parking around the Village. What they are dealing with is that they do have space and the extra grass area that has already been used and asking to pave it. They are not asking to change something. She understands the concerns of the D.O.T and others for the safety of the cars pulling in and out close to the intersection. That is why they did look up the traffic reports to see, and there is no substantial evidence that parking in this area will cause more accidents or is a hazard for those pulling in and out. However, there is a more significant concern for the kids on the road. She understands the safety concerns, which is why Codes are enforced for those reasons. They are asking to consider that there is space there, and they want to make sure they are looking out for the safety of the pedestrians and the cars, which is what they are asking for.

Neal DeVries wanted clarification regarding the number of parking spaces. Chairman Mike Sharman noted that the Board is not specifying the number of spaces. They are reviewing the parking that is on the east side of the sidewalk. Neal asked how many spaces could be paved as they are on a timeline and get as much work done as much as possible. How can we accommodate loading and unloading? Are six or seven spaces acceptable to pave? Chairman Mike Sharman stated that the Planning Board would determine with the assistance of the Building & Zoning office how much of the area could be paved for parking. There are many instances where parents drop their children off for events such as dance classes, karate, and theater. The parents park the car in a public lot, walk their children in, and then return to their vehicle.

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Neal asked if the Board would be in favor and asked how to go about requesting a sign coming down Big Tree or Commercial Street stating “Children Unloading.” Chairman Mike Sharman indicated that it would be similar to a school crosswalk sign, which is reasonable. Bill Weber asked CEO Adam Backus, from his position, what is the parking that has been there over the past ten years. Adam stated that it is hard to consider grass as a parking space. Bill clarified that the gravel that was there over the past several years, whether approved or not, developed over the years. If this application is denied tonight, what happens with the graveled strip? CEO Adam Backus stated that the grass would be restored to where it originally was. ZCA Julie Holtje said that from where the old concrete sidewalk used to be going to the door, where it was all gravel, as shown on the survey map, and not in the right of way. Bill asked, if what is there now (the apron in the right of way) is blacktopped. Julie confirmed that was correct. Bill stated that the blacktopped area between the road and the sidewalk leads to some parking area towards the building. What happens to that area? Is it considered pre-existing? CEO Adam Backus noted that the area is pre-existing and stays. Julie stated that this existing area needs a plan, to show adequate and safe access to the building. Parking needs to be delineated. Bill asked if the gravel between the curb and the public sidewalk was there or if the applicant had put that in. Aaron stated that it was there when they purchased it. Julie said that the applicant had it dug out, and layers of gravel were added and compacted. Bill noted that the parking that exists there now would remain no matter what the decision is tonight. CEO Adam Backus confirmed that was correct. Chairman Mike Sharman asked how many legal spaces could be in the area. Julie stated that she did a quick sketch and they could fit three vehicles. That would be preserving adequate space to keep the entrance clear for pedestrians & kids going in and out. She added that it is ultimately the applicant’s responsibility to show a compliant parking layout. Doug Major said, for clarification, the area east of the removed sidewalk that leads into the building, is that considered pre-existing, even though it was never institutionalized officially by the Village, a Board, or the D.O.T.? If we were to grant a Variance for that area to be paved, it would institutionalize it as a permanent use for parking, as opposed to people parking there for years without anyone’s approval. CEO Adam Backus commented that was correct, and is concerned about liability if someone does get into an accident. ZCA Julie Holtje stated that Code 155-131 (C) states that driveways for corner parcels with frontage along a collector street shall be no closer than 220’ from the intersection. If we held 220’, that would be past his property. The Code continues: “If no alternative access exists, partial (right-in/ right-out) access that does not create safety or operation problems may be allowed if located a minimum of 110’ from the nearest edge of the existing or proposed pavement”. CEO Adam Backus noted that the intent of that Code section was for development or improvements. A survey map was shown to the Board with the 110’ located approximately in the center of the existing paved driveway apron.

Chairman Mike Sharman noted that he lives diagonally across the street. If the applicant prefers that he not to vote, he can accept that. It used to be a Masonic Temple that was very active, and they used to have many things going on there. When it was busy, the road was used for parking. There were no lines indicating it was a no-parking area. When it was a Post Office, many cars pulled in and out and parked on the street; back then, you could park on the road. People didn’t park much in the grassy area because they parked on the road. It may have created traffic issues, but that’s how it always was.

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Chairman Mike Sharman wanted to make the following information public and a part of the record.

The Village of Livonia reviewed the application at their September 14, 2022, meeting and made the following comments: “The new owner wishes to widen the apron and increase the blacktop parking area. Vehicles backing out of this parking area and the proximity to the intersection of Route 15 could result in an unsafe traffic situation. A Motion is recommended not to turn the whole yard into a parking area.” “The Village Board makes a recommendation to the Zoning Board that they deny the proposed applicants request to increase the parking area at 63 Big Tree, passed 4-0,” Bridgette commented that they are not asking to increase the area; it has been used this way for years. They are not asking to change the use of the area.

The letter dated October 4, 2022, from Highway Foreman Chris Hoffman. The letter states that the property was recently sold, and the new owner was made aware of the parking situation before they purchased it. Judith stated that parking was not noted when she purchased the property. ZCA Julie Holtje stated that when she & CEO Adam Backus performed the walk-through inspection prior to the purchase, one of the documents provided was the public parking areas. Everyone contacting the Building and Zoning Department interested in that property was sent the same information package, including the public parking areas. Judith asked if it was sent in the mail. ZCA Julie Holtje stated that she believes it was provided when we met. Judith stated that she didn't recall receiving the information and had an inspection done of the building and knew how it looked with the gravel, and it had been used that way for many years. Why would they have even questioned the parking area? The Realtor listing stated that there were eight parking spots. Bridgette noted that she wanted to know what was said because giving them information on public parking spaces doesn't change the fact that they are going into this with the understanding that there are a certain number of spaces that have been used or allowed to be used. ZCA Julie Holtje noted that you couldn't take “allowed to be used” from a Real Estate Ad. Judith stated that no one came and said they could only put three cars there. CEO Adam Backus asked Judith if, before she purchased the property, she knew that everyone had parked in the grass for the last twenty-five years; you didn't assume they parked in the driveway? Judith stated that, obviously, they parked in the gravel area. CEO Adam Backus asked if she knew that before purchasing the property. Judith stated that she observed with her eyes the use of the area and that parking was on the grass. CEO Adam Backus stated that he distinctly remembers discussing obtaining an Easement from Jim Kemp to get to the public parking lot. The fact that someone parks in the grass doesn't make it an approved parking spot. Bridgette stated they didn't see it that way; they had spoken to people like Jim Kemp, the Real Estate agent. He said the Masons have been using the area for parking for many years. The attorney in the building for over ten years stated that they have used and seen others using it. They also spoke with the other tenants. They have not seen it being used for twenty years but obtain information from people using the building. CEO Adam Backus stated that if someone pulled in and parked on the grass, we wouldn't say anything unless there was a complaint. There is a difference between what may have (informally) been happening over the years and asking to establish a parking area that close to the intersection. Bridgette commented that she understood that, but it has been used that way for twenty years, and the Town hasn't said anything about it. They don't want to argue semantics, which comes down to this. They have dozens of children using this building daily for

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afternoon classes. She understands safety concerns. Cars driving on Commercial Street are supposed to be driving 30 MPH. When they turn onto Big Tree Street, they slow down to turn. The expectation is that they are watching out for anyone pulling out of a driveway or walking down the street; that is good driving. If a car is backing out of the parking lot at 5 MPH or less and collides with a car going 20 MPH or less, the damages are not as significant as there would be if a child is walking into the street to get to a parent's car. They have children using the building, and her concern is for them when they leave or come to the building. They want to ensure they are giving them the best option possible for arriving or leaving safely. She would much rather have the children in a car that gets hit than walk in the street because they are trying to get to a car. CEO Adam Backus asked if she felt that the NYS D.O. T's recommendations for proximity to the intersection has nothing to do with safety? Bridgette stated she does believe it involves safety. CEO Adam Backus stated that the D.O.T states that it's not safe to park closer to the intersection. Bridgette stated that she understands that there are Codes, but not everything fits within the realm of Codes. Yes, it would be safer if no one was backing out of the parking lot, but it would be safer if no one were backing out of the driveways on that street. At some point, we must realize that we must live here and function together and want our children to be safe. We are asking not just to consider the recommendation from the D.O.T but what it's like for the people who must use the building daily and consider the children's safety. CEO Adam Backus stated that you might be gaining one spot on the other side of the sidewalk. Bridgette noted that two cars had been pulling into that area. CEO Adam Backus said that the sidewalk is gone, and now there is no delineated access to the door. Bridgette said that there was access to the door. There is a beautiful new cement pad at the door. CEO Adam Backus stated that there doesn't appear to be much room between the sidewalk and the line. Let's say that the one car that pulls in stays there out of twenty-five cars; what did we accomplish? You still can't drop your child off with a car parked there. So, is there one spot that will be gained? Bridgette stated that most parents drop off, leave, and return when the class is finished. Yes, there are a couple of parents who stay. They have asked those parents who stay to park in the public parking area behind Community Bank. This area is to accommodate those parents who would be dropping their children off. CEO Adam Backus stated that there is a difference between what people have done in the past and endorsing or condoning a situation that the Code does not recommend, nor does the Village and the NYS D.O.T. Judith stated that every Variance is against a Code. Judith said parents would have to park in the street to drop off, and the cars would be backed up. Bill Weber is aware that Judith owns the building and asked if she (Bridgette) was the operator of the business as well. Bridgette stated yes that she operates Storybook Theater. Bill asked that when they purchased the building, was it the intention to have that business in there? Bridgette said it was. Judith stated that the building is 9000 Sq. Ft., there must be some businesses in there. There have to be some people coming and going. Bill stated that they purchased the building anticipating multiple cars coming and going, dropping off children. Did you see that the parking area was a problem when you purchased the building? To Adam's point, there may have been cars parked on the grass for twenty years. Bill used to work for the Town and knows people did not park there all the time. Someone may have pulled up to unload something and then parked in the public lot; it wasn't used regularly. Otherwise, there would have been a problem, and there would have been a Code change; he doesn't feel that it happened all the time. Bridgette stated that the people who used the building provided that information. Bill stated that the people in this office are the ones who enforce the Code and the ones that should have been talked to. For

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whatever reason, the requirement and intentions of the building were not understood prior to purchasing. Bridgette stated that they did think about the parking, but since the Masons used the eight spaces for many years, it was a logical conclusion that there was an area for parking which has been used that way for many years. Bill stated, for a fact, that when the Masons were there, there was no parking between the sidewalk and the building. ZCA Julie Holtje noted that she had a discussion with a member of the Planning Board who had a long history with the Masons and said they always knew it was illegal to park there. They would occasionally, but they knew it was illegal. Judith stated that what was upsetting was the increased area to park, which was previously grass, and turned into a parking area. You are okay with the parking everywhere else. Julie stated that there was a sidewalk to one of the doors that has since been removed. Children would be going to the Karate studio and the storybook Theater. It is important and will be an issue to discuss with the Planning Board regarding a dedicated access that is safely delineated to the doors for the children going in and out. That space needs to be kept separate from the area where cars are pulling in and out. Bridgette stated that is something that they can discuss; there are seven different entrances in and out of the building. Having the two doors near the parking space should not be a concern. ZCA Julie Holtje noted that the parking space requirement is 10' X 20'. With the concrete pads added, you only have 15' – 16' before you hit the sidewalk, which is in the right of way. It appears that some vehicles may be extended into the sidewalk and right of way. Joe Prato stated that previously they had approximately 40', so enough parking for four cars. One of the cars would extend out to the sidewalk and right of way due to the entrance area. Neil DeVries stated that the real estate agent, Jim Kemp's driveway, is in the same situation but is less than 110' from the corner. CEO Adam Backus stated that it is pre-existing, and if he asked to expand his driveway, we would be saying the same thing. This is a pre-existing non-conforming situation as opposed to creating or endorsing furtherance of the non-conforming situation. Bill Weber noted that Jim Kemp's driveway had been there for eighty years prior to the Code. Judith DeVries stated that the reference was that they were aware of other driveways in the vicinity that were under the 110' for a corner.

Chairman Mike Sharman asked if this application was referred to the Livingston County Planning Board for their review. ZCA Julie Holtje stated Livingston County Planning made the following statement:

The Livingston County Planning Department has reviewed this application and, in consultation with the Village of Livonia County Planning Board representative, determined that it has no significant Countywide or inter-municipal impact in regard to existing County plans, programs, and activities. Therefore, approval or disapproval of this application is a matter of local option. Please be aware that a determination of "No Significant Countywide Impact" should not be interpreted as either approval or disapproval by the County Planning Board.

The New York State D.O.T comments regarding this application are as follows: Big Tree Street is not a state route, so the D.O.T would not have permitting jurisdiction over this location. However, given the proximity to Route 15 / Commercial Street, they would encourage the Village to disallow the expansion of the driveway. The driveway appears wider than necessary, with additional gravel outside the paved section that allows more width for entering and exiting. They agreed that backing out of the entrance closer to the intersection could be a safety concern.

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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 # 37 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? Yes, in terms of safety.
2. Can the benefit 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 or impact on the physical or environmental conditions in the neighborhood? Yes, in terms of Safety
5. Is the alleged difficulty self-created? Yes – expanding the current parking.

Doug Major stated that currently, the Board doesn't endorse the part to the east. Bill Weber said CEO Adam Backus believes it is a pre-existing situation.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Area Variance for the driveway, apron & parking area extension. Bill Weber made a motion to disapprove the application for several reasons, but primarily from the comments the Board has received from the three other agencies and their own reviews. Motion to disapprove. M/2/C (B. Weber/J. Prato) Carried: 4-1, abstained M. Sharman.

Neil DeVries asked Chairman Mike Sharman what he would suggest they do at this point. Chairman Mike Sharman suggested exploring public parking. You will need to establish some substantial parking with the Karate studio and Theater. There is parking behind Community Bank and limited parking at the Livonia Town Hall (while the Town Hall is closed). There is parking across from the Livonia Inn.

Judith Devries wanted clarification regarding the paving. She wanted to know if they were allowed to pave the existing graveled area, not the grass area. Chairman Mike Sharman stated that parking to the east of the entrance is pre-existing and can be paved. Bill Weber said the sidewalk from the building to the public sidewalk to the east could be paved. Not between the curb and the sidewalk that is gravel now.

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Rosemary Bergin & Doug Major encouraged the applicant to proceed with signage stating, “Drop off only,” and other directive signs such as “Parking available behind Bank,” etc. CEO Adam Backus noted that the applicant would need to petition the Town Board for the signage request (if within the right of way).

Chairman Mike Sharman & Bill Weber requested that the applicant sketch out their proposed area to be paved and submit that to the Building & Zoning office for approval prior to doing any paving. ZCA Julie Holtje noted that they don’t want to encourage any parking in the apron area, and that area is not to be paved. Aaron Heap asked if they would have to remove the gravel in the apron area. Julie noted that she did make an effort to stop the excavation of the apron. The gravel will need to be removed.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:42 pm. M/2/C (J. Prato/D. Major) Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary