

## LIVONIA JOINT ZONING BOARD OF APPEALS

### MEETING MINUTES- June 1, 2015

Present: Chair P. Nilsson, M. Sharman, G. Cole, B. Weber, R. Bergin  
Code Enforcement Officer A. Backus, Recording Secretary J. Brown

Excused- J. Campbell-Town Attorney

AGENDA: (1) Accept and approve the meeting minutes of May 18, 2015

(2) ***Doug Stein***

Area variance requested for a roof structure addition over an existing patio.  
**4483 East Lake Road, Livonia, New York**

(3) ***Jim Lynn***

*For the construction of a deck.*  
**12 Summers St., Livonia, New York**

(4) ***Marinus Hamer***

*A Conditional use permit for an accessory dwelling unit and an area variance for the size of the accessory dwelling unit.*  
**4762 East Lake Rd.**

(5) ***William Havas***

*An area variance for 28' x28' Pole Barn.*  
**3826 Cluny Point, Livonia, New York**

Chair P. Nilsson opened the meeting at 7:00p.m.

M/2/C (M. Sharman/ G. Cole) to approve the May 18, 2015 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried 5-0

Recording Secretary J. Brown read aloud the legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday June 1, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Doug Stein for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested for a roof structure addition over an existing patio. The proposed addition will violate the requirements according to Section 150-31G (1) & (2) which state the minimum front and side setback requirements and 150-70A (2) which states that no nonconforming building shall be enlarged, extended or increased. The property is located at 4483 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (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.

Board members were polled for a site visit:

Chair Nilsson- yes

B. Weber- yes

G. Cole- yes

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **Doug Stein's** contractor, Larry VanOrman to come forward to explain his request. Larry explained that Doug would like to have an extension of his roof, with no walls, just for shade purposed to extend over his existing patio. Larry said the south side neighbors are satisfied with the proposal.

R. Bergin asked if Mr. Stein's intent is not to enclose the walls. Larry said that is correct, it is just a roof.

Chair Nilsson asked Larry what material the patio is made of? Larry said that it is stamped concrete.

M. Sharman stated that the proposed roof should not extend closer to the road than the existing patio.

Chair Nilsson opened the meeting to the gallery for public comment.

Observing no comment from the public, he closed the public hearing portion of the meeting.

Chair Nilsson asked the board members to review the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood or will a deterrent 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? NO
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

Chair Nilsson asked if there were any further concerns and hearing and seeing none, called for a motion on the application.

Motion: (M. Sharman/ B. Weber) to accept the application for the variance conditioned upon the roof not extending beyond the current footprint of the patio and not enclosing it.

Motion carried: 5 -0

Recording Secretary J. Brown read aloud the legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday June 1, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Jim Lynn for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested for the construction of a deck which will violate the rear

requirements according to Section 150-31G (3). The property is located at 12 Summers Street, Livonia, New York and is zoned Neighborhood Residential (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.

Board members were polled for a site visit:

Chair Nilsson- yes

B. Weber- yes

G. Cole- yes

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **Jim Lynn's** contractor, Jim Albright to come forward and explain the request. Jim passed out three sheets of information to the board. Among the papers was letters of support of the proposal from neighboring residents that A. Backus had not yet been shown. Jim explained that in 1992, the pool (that has since been demolished) was granted a permit. Jim said that he feels there is discrepancy since the pool was granted without needing a variance.

M. Sharman stated that what happened in 1992 is not applicable to today's current codes.

A. Backus explained that Jim Lynn is seeking about an 8 ft. variance.

B. Weber asked if the proposed deck will always remain a deck and not be enclosed. Jim Albright indicated that the Lynn's already have a three season room and there would be no need to enclose the proposed deck.

Chair Nilsson opened the meeting to the gallery for public comment.

Observing no comment from the public, he closed the public hearing portion of the meeting.

Chair Nilsson asked the board members to review 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? NO
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

Chair Nilsson asked if there were any further concerns and hearing and seeing none, called for a motion on the application.

Motion: (M. Sharman/ G. Cole) to accept the application for the variance provided that it stays a deck and is not enclosed.

Motion carried: 5 -0

Recording Secretary J. Brown read aloud the legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday June 1, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Marinus Hamer for a conditional use permit pursuant to Section 150-17C of the Zoning Code Of Livonia. A conditional use permit is requested for an accessory building pursuant to the Zoning Code of Livonia, Section 150-31D and an area variance according to Section 150-60D which states that the area for an accessory dwelling shall not exceed 40% of the area of the principal dwelling unit. The property is located at 4762 East Lake Road, Livonia, New York and is zoned Neighborhood Residential (NR) 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.

Board members were polled for a site visit:

Chair Nilsson- yes

B. Weber- yes

G. Cole- yes

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **Marinus Hamer's** contractor, Scott Marshall to come forward and explain the request. Scott explained that Marinus is looking to finish off the second story of the existing garage and construct a studio apartment. The second story is 896 sq. ft., but they want to finish about 600 sq. ft.

Chair Nilsson said that since the total living space is over 2,000 sq. ft., they might not need the variance from Section 150-60D.

CEO A. Backus said that 40% would be 680 sq. ft., so since only finishing off 600 sq. ft., no area variance is needed. They will only need a Conditional Use Permit for the accessory dwelling unit.

Chair Nilsson asked if this will be a rental.

Scott said no, Marinus' son will live there.

Chair Nilsson opened the meeting to the gallery for public comment.

Observing no comment from the public, he closed the public hearing portion of the meeting.

Chair Nilsson asked the board members to review the Conditional Use Permit criteria:

1. Will the establishment, maintenance or operation of the conditional use be detrimental to or endanger the public health, safety, comfort, morals or general welfare? NO
2. Will the conditional use be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the zoning district of concern? Will the conditional use diminish or impair property values in the immediate vicinity? NO
3. Will the establishment of the conditional use impede normal and orderly development and improvement of other property in the immediate vicinity for uses permitted by right in the district of concern? NO
4. Will adequate measures be taken to provide ingress and egress in manner which minimizes pedestrian and vehicular traffic congestion in the public ways? NO
5. Do adequate utilities, access roads, drainage and other facilities necessary to the operation of the conditional use exist, or are they to be provided? YES

6. Does the conditional use permit in all other respects conform to the applicable regulations of this chapter and other town/ village laws, ordinances and regulations? YES

Chair Nilsson asked if there were any further concerns and hearing and seeing none, called for a motion on the application.

Motion: (M. Sharman/ B. Weber) to accept the application for the conditional use permit as long as the finished space is no more than 600 sq. ft.

Motion carried: 5 -0

Recording Secretary J. Brown read aloud the legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday June 1, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of William Havas for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested to construct a 28'x28' pole barn and the proposal will violate the requirements according to Section 150-33G (1) which states the minimum front set back requirement. The property is located at 3826 Cluny Pt., Geneseo, New York and is zoned Agricultural Residential Conservation 3 (ARC-3) 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.

Board members were polled for a site visit:

Chair Nilsson- yes

B. Weber- yes

G. Cole- yes

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **William Havas** to come forward and explain his request. R. Bergin said that she will recuse herself from discussion and vote.

William said he would like to construct a 28'x28' pole barn.

Chair Nilsson said the board has reviewed the Planning Board feedback from their last meeting and proceeded to point out the requirements/ points of concern indicated by the Planning Board:

1. Drainage and erosion control
2. Driveway location
3. Creation of a non-conforming situation
4. That the Zoning Board place conditions on the approval such as it being a single story storage use only.

Chair Nilsson opened the meeting to the gallery for public comment.

William McQuilkin (3829 Cluny Pt.) said he feels a 28'x28' roof will create a lot of dispersed water and how will they deal with all of the water. He suggests considering crushed stone for the driveway because without, dirt could just run into the road.

Havas responded that he changed his driveway proposal to what he thought was required by the board and he is fine with a driveway anywhere made from any materials required and he is open to recommendation.

Patricia Bedard (3809 Cluny Pt.) said her concern is that this proposal will change the character of the neighborhood and Havas has so much land that it is not necessary to grant this variance.

Eric Randall (3835 Grayshores Rd.) said his concern is the watershed and the introduction or hardscape on a steep slope. He asked if there is a way to have retention areas to catch the runoff as to not damage the neighboring properties.

Molly Korndoerfer (3813 Cluny Pt.) said her issue is with safety and she is opposed to the proposal.

Observing no further comment from the public, he closed the public hearing portion of the meeting.

B. Weber said he feels that this is an extreme request since there is over 4 acres available, it is excessive to ask for an 18' and 30' setback variance.

M. Sharman asked if the drainage study has been done for this proposal. William Havas replied no.

M. Sharman said he understands that Havas will comply with whatever the board recommends but he thinks that adding a 28'x28' impervious surface would be detrimental.

Havas asked the board members if there is a distance that would be acceptable to the board.

Chair Nilsson said, while he is not an engineer, he knows the further back the impervious surface, the more chance the water has to absorb into the ground.

Chair Nilsson asked the board members to review 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
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? YES
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? YES
5. Is the alleged difficulty self-created? YES

Chair Nilsson asked if there were any further concerns and hearing and seeing none, called for a motion on the application.

Motion: (B. Weber/ G. Cole) to deny the application for the variance as submitted

Motion carried: 4 -0

**Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:30pm.**

M/2/C (B. Weber/ G. Cole)

Motion carried: 5-0

Respectfully submitted,

Jeanne Brown

Recording Secretary

