

LIVONIA JOINT ZONING BOARD OF APPEALS

MEETING MINUTES- July 6, 2015

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

Excused- J. Campbell-Town Attorney, G. Cole, B. Weber

AGENDA: (1) Accept and approve the meeting minutes of June 15, 2015

(2) *Patrick and Kathryn Thompson*

Area variance requested to demolish the existing cottage and construct a 30'x42' cottage in its place. *3550 Camp Run Dr., Livonia, New York*

(3) *Peter and Kristine Vasquez*

Conditional Use Permit requested to use the three season accessory building as an accessory dwelling unit. An area variance is also requested for the accessory dwelling unit. *4480 East Lake Rd., Livonia, New York*

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

M/2/C (R. Bergin /M. Sharman) to approve the June 15, 2015 Livonia Joint Zoning Board of Appeals meeting minutes as submitted.

Motion carried 3-0

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 July 6, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Patrick and Kathryn Thompson for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested to demolish the existing cottage and construct a 30'x42' cottage in its place which will violate the requirements according to Section 150-32G (2) which states the side setback requirements. The property is located at 3550 Camp Run Dr., Lakeville, 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

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **Patrick and Kathryn Thompson** to come forward to explain their request, for the record. Kathryn started by saying they own an old cottage with no insulation or furnace. They are proposing to demolish that cottage and rebuild in its' place, an A- frame house that will have two handicap accessible bedrooms on the first floor for her elderly father as well as she and Patrick in the future. Kathryn indicated that she has great difficulty climbing stairs due to joint issues.

Patrick noted that their neighbor who would be affected by the proposed 8' side setback is here in attendance showing support for the proposal.

Kathryn said they have met with a structural engineer because their existing cottage is falling apart and is a potential danger.

Patrick said they need to rebuild because three of their grandchildren are living locally to Livonia and their intention is to stay here long term but they have trouble accessing the second story of the current cottage.

M. Sharman asked if they have had their architect try to have the proposed cottage draw plans that are compliant with the side setback.

Kathryn said yes, their architect is Mark Muller and he said the bedroom and current layout is a tight fit as-is with the handicap accessibility. There is no reasonable way to accommodate the needed side setback in that one southwest corner.

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

Paul Schultz (3554 Camp Run Dr.) said he is the Thompson's neighbor and he is satisfied with the proposal.

Observing no further 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 / R. Bergin) to accept the application as submitted

Motion carried: 3 -0

Recording Secretary J. Brown read aloud the second legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday July 6, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Peterson Vazquez for an area variance pursuant to Section 150-17C as well as a conditional use permit 150-31 D (1) of the Zoning Code Of Livonia. The area variance is requested to restore the accessory structure to a three season accessory dwelling unit. The proposal will violate the requirements 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 proposal will also violate the requirements according to Section 150-31G (2) which states the side setback requirement, and Section 150-70A (2) which states no nonconforming building shall be enlarged, extended or increased under any

circumstances and a Conditional Use Permit according to Section 150-31D (1) is requested to use the structure as accessory dwelling. The property is located at 4480 East Lake Rd., 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

M. Sharman- yes

R. Bergin- yes

Chair Nilsson invited **Peter and Kristine Vasquez's attorney, Tim Boldt** to come forward and explain the request.

Attorney Boldt explained the Vasquez's bought the property in 2013 and he thinks the accessory building was built around the 1930's. When they purchased the property, the accessory building was structurally sound albeit dilapidated.

Chair Nilsson mentioned the previously granted variance of raising the roof of the main cottage. Chair Nilsson said when he visited the property, he did not feel that the building looked like it could be satisfactorily fixed.

Attorney Boldt indicated that the estimate for the work needed to repair the structure would be about \$5,000- \$8,000 and would be approximately 480 sq. ft. with one bedroom and one bathroom. CEO A. Backus later clarified that on their building/ zoning application, they had indicated it would be around \$8,000- \$10,000.

R. Bergin asked if there were any owners recently other than the Vasquez's. Kristine Vasquez replied no.

M. Sharman asked Attorney Boldt who the driveway and parking area is deeded to. Attorney Boldt replied that it is deeded to Mr. and Mrs. Vasquez with an easement to the neighbor.

Chair Nilsson opened the meeting to the gallery for public comment, and to begin, read aloud an email from Doug Stein (4483 East Lake Rd.):

Tonight is the zoning meeting to discuss the Peterson Vasquez property. I am the neighbor at 4483 East Lake Rd. I would like the board to emphasize the need for him to keep all rubbish, garbage, and building materials contained and removed on a regular basis. Any damage to other property and shared driveway will need to be addressed ASAP. Lawn will need to be mowed weekly. All of the neighbors would like to see this property improved. Thank you.

Charles Beecher (4479 East Lake Road) addressed the board and passed out a handout to the board members. He started out by questioning if there is sufficient parking and said he felt the application did not address the structural deficiencies or utility accommodations. He said there is no professional estimates or supporting paperwork. He felt that the proposed setbacks are grossly inadequate and the proposal as a whole, changes the character of the neighborhood. He said he also felt that since there is no primary dwelling at this time so how can they have an accessory dwelling unit.

Joan Beecher (4479 East Lake Road) addressed the board and said that she owns the cottage to the north of the Vasquez's. She showed the board members some pictures and said she has been in regular contact with the Zoning department since the Spring about the "deplorable property conditions". She also

questioned how anyone could say this building is structurally safe as there are holes in the roof among other problems. She indicated she is irritated with the lack of communication from Vasquez and felt the need to take pictures. She said the front of the yard is very wet so you cannot really park on there. She said the proposed access building is just not livable space and is opposed to the proposed side setback as well.

Kristine Vasquez asked for a copy of all of the pictures Joan Beecher brought to the meeting. A. Backus said he would arrange getting them to her.

Nancy Arrigo (4485 East Lake Road) said she agrees with all of Mrs. Beechers comments and added there were skunks living there last year. She said she feels the Vasquez's need to better maintain the property.

Ray Phillipson (4477 East Lake Road) addressed the board as the former owner of the property in question. He said back in the early 1970's the accessory building was a rental property. The porch was falling down and sunken in. He said he felt the building in question was a legal building lot in the Town of Livonia. He also said he felt the property itself could hold a structure of 1500-2000 sq. ft.

Kristine Vasquez said their intent is to increase the value of the property, not to annoy their neighbors. They are trying very hard to keep the messes down as best they can. She said there is a new roof and they have had an architect say it's structurally sound.

R. Bergin asked Kristine why they won't complete the primary residence first. Kristine replied they are trying to complete the two projects almost simultaneously and they plan to have the outside of the main cottage completed by the end of the summer so they can begin the inside.

A. Backus said he would like to clarify and correct some of the statements made earlier. He said the architect is not saying that the building is structurally adequate, but rather saying what can be done to make it structurally sound. He said that it is his opinion also that it is not structurally sound. A. Backus read aloud from Livonia Town Code Section 150-70 B:

-
Discontinuance. In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one year, such nonconforming use shall not be reestablished, and all future uses shall be in conformity with the provisions of this chapter. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of one year is hereby construed and considered to be an abandonment of such nonconforming use regardless of any reservation of an intent not to abandon the same or of an intent to resume active operations

Attorney Boldt offered to table this meeting for a month to put together a feasibility study for traffic and address other concerns the board may have.

Chair Nilsson said he is still not convinced that a better situation wouldn't be to just demolish and rebuild more centrally on the lot.

Chair Nilsson said the Zoning Board would not mind putting this off until the next meeting in August.

CEO A. Backus asked for clarification on what we need to prepare for the next meeting. It was indicated that they would need to prepare a parking plan for their proposed use.

R. Bergin said parking is just a small portion of the bigger issue. Another issue is the setback on the north side.

Kevin Masterson (3817 Cluny Point) said he hasn't heard any discussion about the conditional use permit and asked if the applicant know the criteria for a conditional use permit.

Attorney Boldt said they will address the conditional use permit concerns and the next meeting.

Ray Phillipson said the county recently re-did storm drainage to alleviate drainage concerns.

Chair Nilsson said the Vasquez's have agreed to table the meeting until August at which time, they will address parking, and further address the setback rational.

Chair Nilsson said this is a new use- the building hasn't been used as an accessory dwelling unit in too many decades for the grandfathering to still apply.

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

Chair Nilsson asked if there were any further concerns and hearing and seeing none, reiterated that this discussion will be tabled until the next ZBA meeting in August.

Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:15 pm.

M/2/C (R. Bergin / M. Sharman)

Motion carried: 3-0

Respectfully submitted,

Jeanne Brown

Recording Secretary