

*Livonia Joint Zoning Board of Appeals
December 7, 2015*

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

AGENDA: ***(1) Accept and approve the meeting minutes of November 16, 2015***

(2) Neil and Jackie Abbott – 4263 East Lake Road, Livonia, NY

Request for area variances for proposed accessory dwelling to an existing house and for reduction of the principal dwelling unit and for front setback requirement.

(3) Carmen Peters – 5262 East Lake Road, Livonia, NY

Request for an area variances for a reduction in the front and side setback requirements and variance requested for the expansion of a nonconforming building.

Chair P. Nilsson opened the meeting at 7:05p.m.

- 1) Chair P. Nilsson asked the Board if they had reviewed the Meeting Minutes for November 16, 2015. All agreed they had.

M/2/C (M. Sharman/R. Bergin) to approve the Livonia Joint Zoning Board of Appeals Meeting Minutes for November 16, 2015 as submitted.

Motion carried: 5-0

2) Neil and Jackie Abbott – 4263 East Lake Road, Livonia, NY

Secretary B. Miles read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday December 7, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Neil and Jackie Abbott for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. An area variance is requested for a proposed accessory dwelling to an existing house which will violate the requirements according to Section 150-60D which states the area for an accessory dwelling unit shall not exceed 40% of the area of the principal dwelling unit. An area variance is also requested for a reduction in the front setback requirements for 150-32G (1) which states the minimum front setback is 75 feet. Section 150-32D (1) states conditional use permit requirements for such use. This property is located at 4263 East Lake Road, Livonia, New York and is zoned Agricultural Residential Conservation 3 (ARC3). 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.

Poled the Board for site visits:

R. Bergin: Yes
M. Sharman: Yes
P. Nilsson: Yes
G. Cole: Yes
B. Weber: Yes

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Chair P. Nilsson asked the person who was representing Pat and Jackie Abbott to come forward and state the work they are proposing to do at 4263 East Lake Road. Charlie Johnson, architect for the Abbotts, came forward, introduced himself and explained that Mr. and Mrs. Abbott want to build an accessory dwelling over the top of the existing garage. Mr. Johnson explained that the Abbott's want to create an in-law suite for their granddaughter. The Abbotts are getting up in years and want their granddaughter close to them and a possible caregiver in the future as time goes on. This project requires a conditional use permit and also this accessory dwelling will exceed 40% of the principal dwelling. The existing home is approximately 1200 sq. ft. He explained that if they were stay under the 40% guideline, the accessory dwelling would be approximately 488 sq. ft., which is very small for a one bedroom for their granddaughter. They have planned the accessory apartment for 754 sq. ft. plus or minus. There will be a stairway built for access to this apartment, which takes up some of the 750 sq. ft. Charlie stated that at 750 sq. ft. this accessory apartment is at 62% of the principal dwelling. He stated that the 62% seems rather significant, but it is not when you consider the reasonable size of an apartment. It is not significant based on how this is designed to blend with the existing home. Mr. Johnson stated that the existing home is built less the 75 feet front setback, which is kind of a pre-existing setback. He stated that they tried to stay as far back as possible and build the accessory apartment to blend with the existing house. The Abbotts are requesting a conditional use permit and relief from the front setback. This in-law suite does not change the character to the neighborhood and is asking the Board to grant the variance.

Chair P. Nilsson stated that he agreed that the 750 sq. ft. in-law apartment is adequate and he asked that by building this accessory apartment the Abbotts will be continuing to live in this house. Mr. Johnson stated yes they planning on staying in this house, they go to Florida in the winter and the granddaughter will be living there all year. Chair Nilsson asked if there are any questions from the Board. B. Weber informed the Board that he is an adjoining property owner, but he feels he can be objective; he is not going to recues himself from voting. B. Weber stated that the plans show a future elevator and how does this elevator access the apartment. Mr. Johnson stated that the elevator will not access the apartment. He explained that Mr. Abbot has leg issues and Mrs. Abbott is concerned that as time goes on Mr. Abbott will not be able to climb the stairs to access the house. If and when is occurs they will drive into the garage and get into the elevator and this will take them up to the main floor so they can enter the house through the rear entrance. B. Weber asked if the space for the elevator included in the 750 sq. ft. in these plans. Mr. Johnson indicated yes it is part of the 750 sq. ft.

Chair P. Nilsson asked the Board if there are any further questions.

Chair P. Nilsson opened the meeting up to the public, if anyone has any comments and/or question, please state your name and address. No response. Chair P. Nilsson closed the public hearing portion of the meeting.

Chair P. Nilsson asked if there was any further discussion or comments, he closed the public hearing.

Chair P. Nilsson 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 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

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3. Is the variance substantial? Yes
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chair P. Nilsson asked the Board to go through the criteria for the Conditional Use Permit.

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 a 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? No
6. Does the conditional use permit in all other respects conform to the applicable regulations of the chapter and other town/village laws, ordinances and regulations? Yes

Chair P. Nilsson asked if there is any further discussion from the Board.

Chair P. Nilsson asked the Board to entertain a motion to approve the Conditional Use Permit and Variances for front setback requirement and the 40% reduction the principal dwelling. M/2/C (R. Bergin/B. Weber) made motion to approve this application as submitted. Motion carried: 5 to 0

3) *Carmen Peters – 5262 East Lake Road, Livonia, NY*

Secretary B. Miles read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday December 7, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Carmen Peters for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. An area variance is also requested for a reduction in the front setback which violates Section 150-31G (1) which states the minimum front setback is 30 feet. An area variance is requested for a reduction on the North side setback which violates Section 150-31G (2) which states the minimum side setback is 9 feet. An area variance is requested for the expansion of a non-conforming uses and building which violates Section 150-70A (2) which states that no nonconforming building shall be enlarged, extended or increased. This property is located at 5262 East Lake Road, Livonia, New York

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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.

Poled the Board for site visits:

R. Bergin: Yes
M. Sharman: Yes
P. Nilsson: Yes
G. Cole: Yes
B. Weber: Yes

Chair P. Nilsson asked the person who was representing Carmen Peters to come forward to state the work they are proposing to do at 5262 East Lake Road. Charles Johnson is also representing Carmen Peters. Mr. Johnson explained that Ms. Peters recently purchased this house and after living in it for some time has found that the area is a little tight. The existing house is 22' x 27' and is really a little small and similar to a two car garage. This kitchen is very small; she can turn around and have access to everything in kitchen. She wishes to have a small addition, approximately 112 sq. ft., built onto her existing house. Her lot size is kind of pre-existing non-conforming. The addition will come out approximately 3 feet from the existing porch and extend the full width of the house. The house is positioned part way to the house of the north and to the house to the south in terms the setbacks from the road. When planning the addition he planned the solid part of the addition to bump up against the northern neighbor and then keep an open porch and keep the area as open as possible. This house sets lower from the road so with this addition it will violate the front setback. Mrs. Peters went to the neighbors on both sides of her and talked with them about her plans and neither neighbor had any objections. G. Cole stated that when she did a site visit she had seen Ms. Peter's neighbors. Mr. Johnson stated that the small addition will not have any impact on the neighborhood and asks the Board to grant this variance.

Chair P. Nilsson asked the Board if there are any further questions.

Chair P. Nilsson opened the meeting up to the public, if anyone has any comments and/or question, please state your name and address. No response. Chair P. Nilsson closed the public hearing portion of the meeting.

Chair P. Nilsson 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 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? Yes
4. Will the proposed variance have an adverse effect of impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

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Mr. Johnson stated that Ms. Peters called him today, wanting to change the width of the addition from 14 feet to 16 feet. That will make the porch 6 feet wide instead of 8 feet and the addition will be 16 feet wide instead of 14 feet. Chair P. Nilsson asked if that will change the exterior size. Mr. Johnson stated that the footprint will remain the same; the porch will be 2 feet smaller than what was shown of the original preliminary prints. He just wanted the Board to be aware of the change. M. Sharman asked if the addition will be shifted to the south. Mr. Johnson approached the Board with the print to show them the change that will be made. CEO A. Backus stated that it looks like it will be more living space and less porch, the change has no impact on what their plans are.

M/2/C (G. Cole/ R. Bergin) to approve this application with the correction that the addition will be 16 feet wide rather than 14 feet, which will make the porch 2 feet smaller, making the porch 6 feet wide instead of 8 feet.

Motion carried: 5 to 0

Mr. McQuilkin from down on the lake addressed the Board. He felt everyone is doing a great job as far as the condition of the lake and wanted to complement everyone.

M. Sharman brought up the fact that he had been by the Cicero Produce Stand and he feels that the parking area for the stand is much smaller than he had envisioned. CEO A. Backus stated he was up by there the other day and he agreed. Adam will look into and address the issue.

Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:55 pm.

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

Motion carried: 5 to 0

Respectfully submitted,

Betty Miles
Recording Secretary