

LIVONIA JOINT ZONING BOARD OF APPEALS

APRIL 17, 2017

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

AGENDA: (1) *Accept and approve the meeting minutes of April 3, 2017*

(2) *Hank Conn & Skye Sawyer – 16 Washington Street, Livonia, NY*

Chair P. Nilsson brought the meeting to order at 7:02 p.m...

(1) *Meeting minutes* for April 3, 2017. Chair P. Nilsson asked for a motion to approve.
M/2/C (M. Sharman/R. Bergin) Carried: 5-0

(2) *Hank Conn & Skye Sawyer – 16 Washington Street, Livonia, New York*

CEO A. Backus read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday April 17, 2017 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Hank Conn for a Use & Area variance pursuant to Section 155-17C of the Zoning Code Of Livonia.

This Use variance is requested for a proposed Home3 Occupation involving a book store, which would be in violation of permitted uses, per Section 155-66 (retail sales). The Area Variance is requested for relief from the limitation of 40% of the habitable space used for the Home Occupation, per Section 155-66 D (5). The property is located at 16 Washington Street, 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.

CEO A. Backus polled the Board for site visits:

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

Chair P. Nilsson asked Hank Conn and Skye Sawyer and Realtor, Lisa Wybron of AB Cole representing the seller, Chad Panipinto to come forward and address the Board to explain what they are proposing to do. Hank explained that they are proposing to use the lower level of the Church as their primary residence, which is currently permitted as a single family home. They

LIVONIA JOINT ZONING BOARD OF APPEALS

APRIL 17, 2017

would like to use the Sanctuary for a used book store and to sell a few antiques that complement some of the book categories. They currently have an accepted purchase offer on the property, contingent on obtaining a Use Variance for a used Bookstore. Since the property is zoned Neighborhood Residential, a Use Variance is required for retail sales. Realtor L. Wybron stated that the property has been listed for five years. There have been some price reductions but there hasn't been a lot of interest in the property, especially as a primary residence since there is no yard. Owner C. Panipinto has tried to preserve and maintain the property. CEO A. Backus stated that the Church moved from this location because the property wasn't big enough to accommodate the congregation. Since then, the lower level of the Church was converted to a single family residence. Previously, the home/property located next door, 14 Washington St., was combined with the Church property and was the Parsonage. That arrangement was suitable for traffic flow and had no adverse impact because the two uses were directly related. After the Church was abandoned, the Parsonage was subdivided, creating a shared driveway and is now occupied by a family with young children. This current arrangement is now much less conducive to an assembly type use, such as a Church, which could circulate one to two hundred people, multiple times per week. A used Bookstore would have a very minimal impact to the residential neighborhood. There would be minimal traffic, which would park across the street in the parking lot that comes with this property. They are permitted to have a home occupation, the Use Variance is required for the Bookstore retail sales. Attorney J. Campbell wanted to emphasize that if the property was to be purchased by a religious organization, there would be very little that Town could do to regulate or restrict the use of it. This is different than the typical Use Variance. It is one aspect of a Home Occupation, they are not trying to convert the permitted use status of the entire property into Commercial or a non-residential use. The primary reason they are here is for the retail sales as part of the Home Occupation, which is otherwise a permitted use and doesn't require them to come before the Zoning Board. Chair P. Nilsson stated that in this situation they are asking to expand for this particular purpose, the definition of a Home Occupation. G. Cole asked Realtor, L. Wybron if she was present to represent the buyer. She stated that she represents both the buyer & seller. She has been the Real Estate Agent for approximately the past five years and she is here to help answer any questions regarding the history or the marketing of the property. G. Cole asked for clarification on the price history of the property. L. Wybron stated that the property was originally listed for \$199,900.00 in 2012. There was a price reduction in 2013 that lowered the price to 179,900.00 and in 2014 it was lowered to \$164,900 which is what it is listed for presently. R. Bergin asked if this would be site specific to antiques and used books. S. Sawyer stated that primary use is for the Used Books and some antiques that would be accessories to fill in the large space. H. Conn stated, for example if you have a Geography section, you could have a Globe or something that would pertain to that subject. R. Bergin asked if they would be expanding beyond that. S. Sawyer stated that possibly down the road they may offer coffee & pastries for customers who want to come and read in the sitting areas. The idea is to provide a nice quiet space for people to come and read and browse the bookshelves. They have no future plans of offering anything besides books & antiques. G. Cole asked if they have ever run this type of business in the past or have business experience. H. Conn stated that he has been a Computer Software Engineer for the past ten years and has operated his own business as a contractor. S. Sawyer has worked in retail and presently works at a children's educational toy store. H. Conn would continue his work with Computer Software and S. Sawyer would operate the Book Store.

LIVONIA JOINT ZONING BOARD OF APPEALS

APRIL 17, 2017

Chair P. Nilsson opened the Public Hearing portion of the meeting and asked that if anyone would like to speak that that state their name and address.

Brian Dudley of 14 Washington Street, which is the old Parsonage and shares the shared driveway. He wanted clarification of opening up the Church's parking lot to customers and showed concerns over the placement of the handicap access. S. Sawyer stated that customers will be using the parking lot across the street and would be coming in the front door of the Church. The only people who would be accessing the shared driveway would be them or anyone who needed handicap access ramp to the side door, which would be very minimal. There will be a sign indicating parking across the street, so customers will be directed there and not to the shared driveway. B. Dudley stated that it sounds like a really nice idea and he hopes they are successful and continue to stay. His main concern is with traffic and the safety of his children.

Jonathan Bimber of 15 Washington Street stated that he lives across the street and he likes the idea of the Bookstore and supports the idea.

Chris Coniglio of 41 Washington Street supports the idea and wishes them luck. She wanted clarification as to what would happen with the Variance for this building if they decide to move on. Would someone else be able to do something more commercial than what is granted tonight? She was also concerned about parking for the new Library down the street. She hopes that this Church parking lot will not be used by Library customers, she does not want additional traffic by her house. C. Sawyer stated that the parking across the street will only be used for their bookstore customers as it goes with the property. Attorney J. Campbell stated that if someone else wanted to run a Bookstore with ancillary Antique Sales, that would be just shifting of ownership and personnel. Anything beyond that would require them to come back to this Board for approval.

With no further questions from the public, Chair P. Nilsson closed the Public Hearing portion of the meeting.

B. Weber asked Attorney J. Campbell if the Board could grant them what they want without granting a Use Variance, could it be considered a modification to a Home occupation. The Use Variance is a modification of the existing restrictions for permitted uses within a zoning district. To change the notion of what Home Occupation means, would require a legislative act from the Village Board to change the code. The Use Variance is the Zoning Board's jurisdiction and allows you in specific situations to make a change for a particular application. B. Weber stated that in the Code of Home Occupation, a Hair Salon is listed as permitted use. There would also be ancillary retail sales offered at the Salon, such as a bottle of shampoo which is permitted. H. Conn stated that they would be able to do small repairs of books such as removing stickers and repairing minor damage. They also have a scanner which would allow them to digitize old books. M. Sharman shared the same concerns regarding granting the Use Variance. He stated that he felt that the Bookstore was a great idea and would complement the Library and Village. Chair P. Nilsson confirmed that they stated they would be refurbishing some of the old books and turning them into salable condition. B. Weber asked if conditions could be applied to this Variance. Attorney J. Campbell stated that although it's not ideal, it is possible. M. Sharman had concerns regarding meeting the Use Variance criteria of hardship. He stated that the price of

LIVONIA JOINT ZONING BOARD OF APPEALS

APRIL 17, 2017

the property has not been continuously lowered to try to sell the property. Realtor L. Wybron stated that this has been a very difficult property to sell as a single family residence. C. Panipinto has never received an offer for the property, as a residential dwelling. CEO A. Backus stated that the structural layout and size of the building, along with the zoning, use, and configuration of this property, greatly restricts the marketability. H. Conn stated that there has not been any interest to purchase the property to use just as residential. The only interest was a Brewery, Apartments and another religious organization and someone who wanted to have a home business. G. Cole asked why the owner of the property was not present. CEO A. Backus stated that he spoke to C. Panipinto that day and felt it would be appropriate to have his agent represent him at the meeting, as his work schedule posed some challenges. B. Weber asked CEO A. Backus if this needed to go before the Planning Board for review. CEO A. Backus stated that they already went to the Planning Board for a conceptual meeting and they recommend it to the Zoning Board of Appeals with no objections and looked favorably on the concept. B. Weber stated that if the Zoning Board did look favorably and grant the Use Variance, they could set conditions such as hours of operation.

Chair P. Nilsson asked the Board if there was any further questions. Being none 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

Chair P. Nilsson asked the Board to go through the Use Variance criteria:

1. Are you, as the applicant, deprived of all economic use or benefit from the property if used for any of the allowed uses in the district? Yes

G. Cole stated that she was uncomfortable with this as the price has not been reduced in three years. Attorney J. Campbell asked Realtor L. Wybron if there have been any written offers on the property for residential use at any price. She stated there have not been offers received on the property. The Board had discussions regarding the current offer price of (\$xxx,xxx.) and potential hours of operation.

2. Is the property being affected by unique or highly uncommon circumstances? Yes
3. Will the variance, if granted, alter the essential character of the neighborhood? No

LIVONIA JOINT ZONING BOARD OF APPEALS
APRIL 17, 2017

4. Is the hardship self-created? No

Chair P. Nilsson asked the Board for a motion to approve Use Variance involving the sale of used books, ancillary sales of antiques and café type refreshments during the hours of 9am to 6pm, Monday through Saturday, September through April and 9am to 8pm, Monday through Saturday, May through August. M/2/C (R. Bergin/P. Nilsson) Carried: 5-0

Chair P. Nilsson asked the Board for a motion to approve the Area Variance as presented M/2/C (M. Sharman/G. Cole) Carried 5-0

The property is classified as a residential use, for which home occupations are permitted, however, retail sales are prohibited. Due to the unique nature of the abandoned Church building; its limited potential uses and inherent economic hardship, the Board granted the variances associated with the otherwise permitted home occupation use.

Chair P. Nilsson asked if there was any further discussion by the Board.

Chair P. Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:15 pm. M/2/C (R. Bergin/B. Weber) Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary