

LIVONIA JOINT ZONING BOARD OF APPEALS

MEETING MINUTES- May 4, 2015

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

Excused- J. Campbell-Town Attorney

AGENDA: (1) Accept and approve the meeting minutes of March 2, 2015

(2) *William Havas*

Area variance requested to construct a 28'x28' pole barn at *3826 Cluny Pt., Geneseo, New York*

(3) *Brian Suter/ Barry Carestio*

Area variance requested to divide off five separate parcels of land to be combined with five existing parcels to the north *4712 East Lake Rd., Livonia, New York*

(4) *Mark Muller/ Liesegang*

Area variance is requested to demolish the existing cottage and construct a new single family residence at *4550 East Lake Rd., Livonia, New York*

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

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

Motion carried 5-0

Chair Nilsson began by announcing that the first item on the agenda, William Havas' proposal, the newspaper neglected to publish the legal ad that was sent to them. Therefore, while this meeting cannot count for the public hearing, and we will need to re-advertise for another one, Chair Nilsson encouraged anyone that came to give comment for the record to stay and do so.

Recording secretary J. Brown read aloud the first legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday May 4, 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.

Code Enforcement Officer A. Backus asked to have the board members polled on a site visit:
Chair Nilsson- no

M. Sharman- yes
G. Cole- yes
B. Weber- yes
R. Bergin- yes

Chair Nilsson invited **William Havas** to come forward and explain his request. William explained the entire property up for discussion this evening is about 4.5 acres in size and currently he has a barn that is situated 85' from the property line that fronts along Grayshores Rd. William indicated that if he was to put his proposed new barn at the required setback of 75' there would not be enough room between the structures. He said that he is also asking for a 30' setback in front (along Cluny Pt.) due to the grade of the hill. It is not practical to drive on in the winter. He also stated that he was not previously aware that corner lots require 75' of frontage on both road fronts. William explained that his proposed driveway will be just grass and not gravel or black top.

William said that 15 years ago, that lot was zoned Neighborhood Residential (NR) and it has since been changed to Agricultural Residential Conservation-3 (ARC-3) District.

B. Weber asked if this was approved, will there be enough acreage left in the remaining lot to satisfy the requirements of the ARC-3 District.

William replied that yes, it would be over 3 acres and will have 250' of road frontage.

CEO A. Backus explained that this proposal is a lot line adjustment and William intends to do a parcel combination with his lake front parcel. A. Backus further explained his reasoning for having William come before the board for this area variance. He said that a lot line adjustment of this nature by itself would be completed using an exemption from formal subdivision procedure, but because William has indicated that he plans to construct a pole barn on the adjusted parcel, he advised William to apply for the area variance for the pole barn first.

G. Cole asked A. Backus about the proposed driveway location and if he felt that it was a dangerous proposal.

A. Backus said that he will refer to the design criteria of the Town of Livonia for future discussion regarding the driveway proposal. A. Backus mentioned that drainage/ erosion concerns were prominent during the main subdivision of this land years ago and the Planning Board had William address their concerns.

Chair Nilsson said that there was a restriction put on the land by the Planning Board, which indicated that the land not be further subdivided. A. Backus said that he feels the Livonia Joint Planning Board will need to weigh in before the Zoning Board can make a final decision.

R. Bergin said she feels that this proposal should go before the Planning Board.

M. Sharman said the Zoning Board could make their approval contingent upon Planning Board and Highway department approval.

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

Molly Korndoerfer (3813 Cluny Pt.) said that she has concerns about the proposed driveway location and said that she wants to make sure the Planning Board weighs in. CEO A. Backus replied that as he stated, he will be referring to the Livonia Design Criteria for future discussion of the driveway.

Bill McQuilkin (3829 Cluny Pt.) said his property would be impacted most by the lack of drainage. He is interested in the drainage plans as well as the plan to control erosion. He stated that he would also like to

be notified of future public hearings regarding this property. A. Backus explained that personal notification is not common practice, but we will attempt to notify him going forward, as a courtesy.

Patty Bedard (3809 Cluny Pt.) said that she is glad that the board has since zoned this property as ARC-3 rather than NR. She stated that when William Havas constructed the existing building 10 years ago, there was horrible run-off into the lake and so much sediment drained into the lake. She stated that also she is not in favor of the variance being granted as there is no true hardship. She said that he has enough land at his disposal and safety is a concern of hers, particularly where that driveway is. She asked the board to please address safety and drainage concerns.

Chair Nilsson said that area variances don't require hardship, whereas a use variance must illustrate hardship caused by conforming to the code.

Kevin Masterson (3817 Cluny Pt.) stated that his concern is that technically this building could be construed as an accessory dwelling unit. He stated that the Zoning Board may want to place a condition that the building may not be allowed to be used as an accessory dwelling unit. He also added that there is an existing driveway culvert and the proposal does not include a new culvert on Cluny Pt. and it might be advisable to use the existing driveway situation rather than disturb land.

M. Sharman made a point that William Havas may not live there forever and while Havas may use it occasionally, a future occupant may use it every day, thus changing the impact on the area.

G. Cole asked for a summary and A. Backus explained that he will get William Havas on the Planning Board agenda for feedback to then come back to the Zoning Board again for a public hearing.

Paul Korndoerfer (3813 Cluny Pt.) asked if this parcel is separated, is there any way to restrict driveways and development on the remaining 3.5 acre parcel that has the existing structure. Havas said that the existing driveway is just seasonal and a future driveway will need to be implemented in perhaps an S-shape.

Chair Nilsson stated that he is going to end the public discussion for tonight and reconvene at the public hearing to be scheduled. Chair Nilsson announced that this item will be postponed and adjourned until the next meeting.

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 May 4, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Brian Suter for an area variance pursuant to Section 150-17C of the Zoning Code Of Livonia. The area variance is requested to divide off five (5) separate parcels of land to be combined with five (5) existing parcels to the north, to provide road frontage on East Lake Road for each parcel. The proposal will violate the requirements according to Section 150-31E which states the minimum area and width requirements. The property is located at 4712 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.

Code Enforcement Officer A. Backus asked to have the board members polled on a site visit:

Chair Nilsson- yes

M. Sharman- yes

G. Cole- yes

B. Weber- yes

R. Bergin- yes

Chair Nilsson invited Barry Carestio to come forward on behalf of Brian Suter, and explain his request to the board. Barry explained that Brian inherited the property and the existing parcel situation has been around for a long time and then Barry showed the board the parcel configuration on a survey map. Barry explained the proposal is to divide off five separate parcels of land to be combined with five existing parcels to the north to provide road frontage on East Lake Road for each parcel.

R. Bergin asked if all of the land owners have agreed to the deal of the sales.

Barry said yes, and read the terms of the agreement as written by Suter's attorney.

Barry said that this is an unusual case because we are not really subdividing, but rather completing a lot line adjustment.

Chair Nilsson asked if the Highway Department has approved this.

CEO A. Backus said yes, they are on board, and had specified that each party will need to fill out a driveway permit.

B. Weber said that he feels it is a good idea, but wondered if the board would want to consider shared driveways. A. Backus stated no, that is not a desired outcome per some interested parties.

Chair Nilsson opened the meeting to the gallery for public comment

James Thompsett (owner of Lot 3A on the survey map) said that he is the existing owner of the Right of Way and wants to know if the ROW will be dissolved. Barry replied yes, the proposal is to get rid of the ROW.

Mary Williamee (4706 E. Lake Rd.) said that she is one of the five property owner who this applies to and the big reason for wanting to do this is for safety as these homes are transitioned to year-round homes.

CEO A. Backus asked the board if approval is contingent on everyone being on board with the agreement. The response was yes.

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? 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? NO

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 for the variance as submitted

Motion carried: 5 -0

Recording secretary J. Brown read aloud the third legal notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday May 4, 2015 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Mark Muller 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 then construct a new single family residence. The proposal will violate the requirements according to Section 150-31F which states that lot coverage shall not exceed 25% of the sq. footage of the property. The proposal will also violate the requirements according to Section 150-31G (1) which states the front setback requirement and 150-31G (3) which states the minimum rear setback requirement. The property is located at 4550 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.

Code Enforcement Officer A. Backus asked to have the board members polled on a site visit:

Chair Nilsson- yes

M. Sharman- yes

G. Cole- yes

B. Weber- yes

R. Bergin- yes

Chair Nilsson invited **Mark Muller** to come forward to explain his request. He is accompanied by Ken Liesegang's fiancé as Ken is out of town on business. Mark Muller passed out elevation drawings to the board members and explained why they are proposing to demolish the old cottage and garage as well as why they are looking to place the new structure where they are proposing.

B. Weber asked what the lot coverage percentage is proposed to be. CEO A. Backus replied that it is 26.7%

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

Bob Freudigman (4556 East Lake Rd.) said that there is a very dangerous turn in the road and only cares about the future garage placement and has no issue with the proposed setbacks. He said that he only wants to make sure that the garage is demolished in a timely fashion.

Mark Muller replied that the demolition of the old cottage and garage will happen before construction of the new buildings will begin.

Jim Casey (4546 East Lake Rd.) expressed his displeasure with the side setback (though he acknowledged that the 9' side setback requirement is being satisfied with this proposal) and also expressed displeasure with the notification procedure for the hearing.

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: (R. Bergin/ B. Weber) to accept the application for the variance as submitted
Motion carried: 5 -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