

*Livonia Joint Zoning Board of Appeals November
16, 2015*

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

Excused: Bill Weber

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

(2) Tom and Helen Cicero – Site Plan - 4341 Shelly Road, Livonia, NY.

Request for a Conditional Use Permit for the operation of a road-side produce stand and an area variance for the placement of the produce stand which will violate the front setback requirement.

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

- 1) Chair P. Nilsson asked the Board if they had reviewed the Meeting Minutes for November 2, 2015. All agreed they had.

M/2/C (R. Bergin/M. Sharman) to approve the Livonia Joint Zoning Board of Appeals Meeting Minutes for November 2, 2015 as submitted. Motion carried: 4-0

2) Tom and Helen Cicero – 4341 Shelly Road 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 November 16, 2015 at 7:00 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of Thomas and Helen Cicero for a Conditional Use Permit pursuant to Section 150-17B and an Area Variance pursuant to Section 150-17C of the Zoning Ordinance of the Town of Livonia. The Conditional Use Permit is requested for the operation of a road-side produce stand according to Section 150-31 D (10) and subject to the requirements of Article VII, Section 150-63 of the Town of Livonia Zoning Codes. The Area Variance is requested for the placement of a 10' x 12' accessory building to be used for the produce stand if a Conditional Use Permit is granted, because it will violate the front setback requirement according to Section 150-31 G (1) of the Town of Livonia Zoning Code. The property in question is located at 4341 Shelly Road, Livonia, New York and is zoned Neighborhood Residential (NR). All interested parties will be heard at this time.

CEO Adam Backus poled the Board for site visits:

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

Chair P. Nilsson asked Helen Cicero to come forward and address the Board and explain to the Board what she is purposing to do. Mrs. Cicero explained that they have sold their home located at 4330 Shelly

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Road, but they kept the farmland. They want to move the existing produce stand from their old address (4330 Shelly Road) to their son's property at 4341 Shelly Road. This location is more open and the access will be safer. If they moved the stand to their farmland there could be more of a traffic hazard and congestion. They would like to continue selling their produce from the new location (4341 Shelly Road).

Chair P. Nilsson asked Mrs. Cicero to verify that they are requesting a conditional use permit and a variance. Helen stated that the variance is for the front setback. Chair P. Nilsson asked if this property is owned by them, Helen and Tom Cicero. Helen stated that the property is owned by their son, Matt. She explained that Matt has the fruit trees and he also grows vegetables that are sold at the produce stand. Chair P. Nilsson stated there is a restriction where you are unable to purchase your produce from other sources and sell them at your produce stand. Mrs. Cicero stated that she is aware of that and also noted that their brother grows the grapes and they do sell the grapes at the stand.

Chair P. Nilsson asked what the front setback is and Helen stated that the setback is 20 feet from the road. Chair P. Nilsson asked CEO A. Backus for his input and Adam stated that the front setback requirement is 50 feet, but they want to set the produce stand 20 feet back from the road. G. Cole asked about the parking, is the setback adequate to get the vehicles off the road. Mrs. Cicero stated that they will be putting down gravel and the parking will be adequate. G. Cole asked approximately how many parking spaces will there be, she noted that she is unable to make that determination from the diagram given to her. Helen stated that there is room for three vehicles, maybe four. R. Bergin asked if the parking will be U-shaped or will they have to back out. Helen stated that there is room for vehicles to pull in, back around and drive out. CEO A. Backus stated that most people will probably pull off the road onto the gravel pad and then pull back out. M. Sharman asked how far is the produce stand from the road at the old location (4330 Shelly Road). Helen stated about the same distance, 20 feet. CEO A. Backus stated that maybe that stand is closer to the road. M. Sharman asked if that is from the side of the road. CEO A. Backus responded from the highway right-of-way. Adam brought attention to a print that was included in the packet sent to the Board. R. Bergin stated that in traveling north toward the village she noted some shrubs and pine trees that block the view of the produce stand from oncoming traffic. These shrubs hinder the view of traffic pulling out of the produce stand. R. Bergin asked if there is any chance that Helen's son would be willing to remove those trees and shrubs or trim them up higher to eliminate the hazard of not being able to have a clear view of the produce stand. Helen stated that she was not sure. R. Bergin stated her concern about drivers going north being unable to see other drivers pulling out from the produce stand. R. Bergin also stated that you are unaware that there is a produce stand there until you pass the pine trees. Helen stated she will check into it and she stated that they pull out of there all the time and has never noticed the trees blocking the view of traffic. On a print CEO A. Backus showed Helen what R. Bergin is referring to. Everyone agreed that this should be looked into and R. Bergin stated that she has traveled this route several times to be sure of what she is talking about. There is a dangerous spot just as you go around the curve. Chair P. Nilsson ask if the Highway Department will have a problem with this location. CEO A. Backus stated that the Highway Department has checked it out and there is no problem with putting down gravel and traffic pulling out onto the highway. Helen stated that they will check into the site distance for pulling out from the stand. Helen noted that they do not want drivers backing out onto the road, it is way too dangerous. M. Sharman stated that maybe trimming the shrubs and trees are the answer. Mike stated he really liked that they staked out where the stand will be placed. R. Bergin stated again that coming from the north from the village, visibility is good, but coming from the south toward the village, you are unaware of the produce stand until you pass the pine trees and shrubs. Helen stated they will check it out, they want entering and exiting the stand to be safe. G. Cole asked where the sign will be for the produce stand. Helen stated that they usually have an A frame sign, but a sign with Cicero Farms will be on top of the stand.

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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.

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? Yes
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 the chapter and other town/village laws, ordinances and regulations? Yes

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 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? Yes

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G. Cole asked Helen Cicero if there will be electric at this stand and Helen stated yes. CEO A. Backus noted that as far as lighting is concerned the produced stand is not open after dark. Helen stated that is correct, but they need the electric to keep the eggs cold.

CEO A. Backus stated that this will now go back to the Planning Board and he will share with the Boards the questions the ZBA Board has regarding traffic visibility and traffic ingress and egress to the produce stand. Helen stated she will take a look at the situation tomorrow during the day light.

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

Chair P. Nilsson asked the Board if they wanted to vote on the Conditional Use Permit and Variance together or separately. The Board agreed to vote on them separately. He asked for approval of the Conditional Use Permit.

M/2/C (G. Cole/M. Sharman) to approve the Conditional Use Permit. Motion carried: 4 to 0

Chair P. Nilsson asked for approval of the request for a variance for front setback.

M/2/C (R. Bergin/M. Sharman) to approve the variance with the condition that the Cicero's check the site distance for drivers entering and leaving the produce stand.

Motion carried: 4 to 0

Chair Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:20 pm.

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

Motion carried: 4 to 0

Respectfully submitted,

Betty Miles
Recording Secretary