

LIVONIA JOINT ZONING BOARD OF APPEALS
March 18th, 2024 DRAFT

Present: Chairman M. Sharman, R. Bergin, D. Major, J. Prato, M. Thompson, CEO Adam Backus, Zoning Compliance Assistant Julie Holtje, Attorney J. Campbell.

- AGENDA:** *(1) Accept and approve the meeting minutes of March 4th, 24.*
- (2) Michael Pudetti – 3581 Shoreline Drive, Livonia, NY*
- (3) Craig Stratton – 5098 Hartson Point, Livonia, NY*
- (4) Andrew Mattle – 45 Spring Street, Livonia, NY*

Chairman Mike Sharman brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from March 4th, 2024. The Board agreed they had, and a motion was made to approve the minutes. M/2/C (J. Prato/M. Thompson) Carried: 5-0.

(2) Michael Pudetti – 3581 Shoreline Drive, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **March 18th, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Michael Pudetti** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 20' X 24' Garage addition, which will violate the side and rear Setback requirements according to Sections 150-71 & 150-31G (2 & 3). The proposal also violates 150-31F Lot Coverage. This property is located at **3581 Shoreline Drive, 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.

ZCA J. Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Michael Pudetti to come forward for the proposed 20' X 24' Garage Addition and read:

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 5).

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This application was determined to be a Type II action, and SEQR was not required per (# 17) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Mr. Pudetti distributed a drawing of a proposed stormwater management plan and explained that he would like to add a small addition and have one of his sheds returned to the property for storage purposes until the addition is done. Last time he came for a 24'x36' addition and was denied, tonight he is proposing a 20'x 24' addition. The lot coverages are 29.5% existing and 36.6% proposed final.

Discussion:

- The sheds were removed, and the blacktop has been broken up.
- Setbacks proposed: The garage rear setback is 6.5', and the side setback is 3.5'
- Lot coverage discussion, the request is 11.6% over what the district allows (25%).
- The Board reviewed the variance granted in 2012 for the additions and lot coverage of 32% +/-.
- There was a detailed discussion on stormwater and the drainage system that Mr. Pudetti has installed to take the drainage from uphill.

Chairman Mike Sharman opened the Public Hearing.

- Debra Ancefsky, 5933 Holmes Hill Road – They own the property behind the Pudetti's. They originally came up to the Building & Zoning Department because they were not happy with the asphalt that was put in up to their property line. It has stopped the drainage from flowing and it now backs up onto surrounding properties. It was not about the sheds to the lake. D. Ancefsky talked about the community and the history of working together on drainage problems. For 43 years there has been a water problem that has been addressed in many different ways. The neighbors worked together to put in drain tile in all the way from East Lake Road They believe that changes in the Pudetti property have had adverse effects to the flow of this drainage. Ditches and drain tile ran down between the properties and came to the back of Pudetti's and across to north of his property, then across the road where it would go to the lake.
- Note: Mr. Pudetti stated that he has never seen nor disturbed any drainage tile when digging to make his improvements.
- Chairman M. Sharman clarified that the Board understands that there is a drainage issue but the application before the ZBA is for lot coverage and setbacks in relationship to a proposed garage. Mr. Pudetti has presented a drainage remedy with his application. Discussion will stay on the zoning issues of lot coverage and setbacks.
- Mrs. Pudetti clarified the pronunciation of her name and expressed her feelings regarding the treatment of the neighbors. She reviewed all the things that they have done on the property.
- Mr. Pudetti stated his intention to do what is needed to take care of the drainage in this application.
- Steven Ancefsky, 5933 Holmes Hill Road. He gave the history of the paving of the driveway up to his property line and how the sheds were put in. The blacktop has been chopped up but has not been removed. The water backs up and floods basements. When the driveway and shrubs were put in, it affected the drainage pattern. The water floods his front yard, and it was never that way before the blacktop and sheds. He does not think additional variances should be granted for lot coverage. Setbacks were clarified. Having a three-car garage should not be considered a necessity. He is concerned the garage will make the water worse. The water is bad everywhere in the neighborhood.
- A. Backus summarized that a previous variance was granted for lot coverage and now Mr. Pudetti is asking for more lot coverage relief and setback relief. Water is coming onto Mr. Pudetti, he is taking on water from multiple neighbors, not discharging to them. Stormwater would be

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managed in this application and is not necessarily relevant to the granting of the variance for setbacks and lot coverage, other than that increased lot coverage generally results in increased runoff. The runoff that is the problem in this application is coming from the neighborhood uphill of Mr. Pudetti. Mr. Pudetti is proposing to remedy this in his application.

- Amanda Smythe, 6043 Ely Ave. –she has videos of the drains on M. Pudetti’s property; the water bubbles and shoots out when clogged. This water comes back to them. She has water up to her shins and has had the fire dept. at her house 3 times. Mr. Pudetti confirmed that this information is accurate and that this is what happens when his drains get clogged. A. Smythe’s husband is one of the people who comes and helps keep it cleaned out.
- Ted Sotir, 5924 Big Tree Road. He understands that the State Fire Code requires a 5’ setback; is that correct, and does that apply? CEO A. Backus explained the Code and the necessity to fire rate the wall if the setback is less than 5’.
- D. Ancefsky brought up deed restrictions. Can the Board grant a variance that disregards a deed restriction?
- Atty. J. Campbell responded that the Board is not bound by deed restrictions that apply to lots within a given subdivision. If a variance is granted a variance and a structure is built in violation of the deed restriction, the benefited parties can take action against that, but it does not involve the Town.
- Discussion about staying on topic with the numbers, this is not a hardship case.

With no further comments, Chairman Mike Sharman closed the Public Hearing.

Chairman Mike Sharman 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? Yes –the situation with the neighborhood may be undesirable.
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? No, he needs a variance for the benefit sought.
3. Is the variance request substantial? Yes – already over Lot Coverage. The setbacks are significant, and a nonconforming property is not supposed to be made more nonconforming.
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Yes - Based on the water problems, extra lot coverage could have an adverse effect.
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Variances for the proposed 20’ X 24’ Garage Addition. Rosemary Bergin made a motion to deny the application due to the Lot Coverage already being over. Motion to disapprove/deny. M/2/C (R. Bergin/M. Thompson) Carried: 5-0

Discussion regarding returning a shed to the site, as the original variance granted 32%+/- . With the current lot coverage at 29.5%, one shed would not violate the spirit of the 32% +/- that a prior Board felt was acceptable back in 2012.

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(3) Craig Stratton – 5098 Hartson Point, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **March 18, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Craig Stratton** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed first-floor bathroom addition, which will violate the side Setback requirements according to Sections 150-31G (2). and 150-71 non-conforming lots. This property is located at **5098 Hartson Point, 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.

ZCA J. Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Craig Stratton to come forward for the proposed Bathroom Addition.

Mr. Stratton explained that his home is currently 5’1” from the property line. They don’t want to change that setback, but to continue it with the bathroom addition. It is minimal but would provide a full bath on the first floor, as stairs are becoming harder to navigate.

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 3).

This application was determined to be a Type II action, and SEQR was not required per (# 16) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairman Mike Sharman opened and closed the Public Hearing with no one in attendance wishing to speak.

Chairman Mike Sharman 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 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 or impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

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Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed bathroom Addition. Joe Prato made a motion to approve the application as submitted. Motion to approve. M/2/C (J. Prato/R. Bergin) Carried: 5-0

(4) Andrew Mattle – 45 Spring Street, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **March 18, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Andrew Mattle** for an area variance pursuant to Section 155-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 24' X 24' detached Garage, which will violate the side & rear Setback requirements according to Sections 155-31G (2 & 3) and 155-71 non-conforming lots. This property is located at **45 Spring 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.

ZCA J. Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
J. Prato	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Andrew Mattle to come forward for the proposed 24' X 24' detached Garage.

Andy Mattle explained they would like a detached garage to match the renovated house.

D. Major asked the applicant what prevents him from moving the garage over to meet the setback? A.

Mattle explained that they measured it out on the ground, and aesthetics seemed to make this location the best and most practical.

The garage will be used exclusively for storage of cars, lawnmowers, etc.

Chairman Mike Sharman opened the Public Hearing.

Discussion:

- about moving the garage over, but the neighbor's fence and privacy from the Church property make this a better location.
- Ted Sotir, 5924 Big Tree Road, asked about the location of the driveway with respect to the garage door. CEO A. Backus: A 16' door will allow a 4' wall, and with the 6' setback to the garage, this will allow the driveway to maintain the required 10' setback to the property line.

With no further questions, Chairman M. Sharman closed the public hearing.

This application was determined not to require Livingston County Planning Board review per Section 239-m and 239-n of Article 12 of the General Municipal Law agreement (# 4).

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This application was determined to be a Type II action, and SEQR was not required per (# 12) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairman Mike Sharman 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 sought by the applicant be achieved by some feasible method other than a variance? Yes – The driveway could be moved to the south.
3. Is the variance substantial? No
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed detached Garage. Doug Major made a motion to approve the application as submitted. Motion to approve. M/2/C (D. Major/R. Bergin) Carried: 5-0

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:17 p.m. M/2/C (J. Prato/M. Sharman). Motion carried: 5-0

Respectfully submitted,
Julie Holtje