

LIVONIA JOINT ZONING BOARD OF APPEALS

August 7th, 2023

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

Excused:

- AGENDA:**
- (1) Accept and approve the meeting minutes of July 17th, 2023*
 - (2) Brett Porter – 4142 East Lake Road, Livonia, NY*
 - (3) John & Jennifer Pontillo – 3495 Pebble Beach, Livonia, NY*
 - (4) Dolores Cicero – 6679 Big Tree Road, Livonia, NY*
 - (5) Peter Francis – 4303-4306 East Lake Road, Livonia, NY*
 - (6) Christopher Cowell – 5976 Big Tree Road, 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 July 17, 2023 meeting minutes. The Board agreed they had, and a motion was made to approve. M/2/C (D. Major/R. Bergin)
Carried: 5-0.

(2) Brett Porter – 4142 East Lake Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **August 7, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Brett Porter** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed Addition which will violate the front Setback requirements according to Sections 150-31G (1). The proposed structure also violates the maximum lot coverage requirement of 25%, according to Section 150-31F. This property is located at **4142 East Lake Road, 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.

Chairman Mike Sharman polled the Board for site visits:

Chair M. Sharman: Yes
R. Bergin: Yes
D. Major: Yes

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J. Prato Yes
M. Thompson Yes

Chairman Mike Sharman asked Brett Porter to come forward for the proposed Addition. Brett said that he is proposing an Addition on the north side of the property. The Addition is a little over 2000 Sq. Ft. and includes bedrooms upstairs and another living room downstairs with an additional bathroom. He is also requesting a fence for both sides of the property. Attorney James Campbell noted that the Fence does not require a Variance; it is just a permit. CEO Adam Backus noted that the applicant has a conforming Lot which is rare for a lake parcel. He is encumbered by the lack of depth on the parcel. Brett stated that the Variance is needed because of the required 50' front setback from the road. A 30' front Setback is granted for nonconforming lots. He is requesting to be approximately 5' more than that requirement. It would be a 25' Setback from the road instead of the 30' for nonconforming lots. He is trying to get the elevation correct, and it is easier to obtain that the closer he can come to the road. This will allow him to have a sidewalk instead of steps down to the front door. With the climate we live in, steps can be very difficult to navigate during the winter months. Joe Prato asked for clarification on the drawings and the bump out. Brett stated that was from the old plans. The Survey Map now shows the porch going across the whole front of the house. Brett noted that there was a bump out on the north side for a fireplace. Rosemary said that in terms of the fence on the north side, she wondered if he had obtained a letter from his neighbor. Brett commented that he did not.

Chairman Mike Sharman opened the Public Hearing. He stated that if anyone would like to make a comment, state their name and address for the record and address any comments to the Board.

Pat & Lisa O'Connor of 4136 East Lake stated that their family has owned the property for 48 years. They are enjoying the Conesus Lake views, culture, and their neighborhood. The culture of the Lake does not include obstructing Fences as outlined in Code 150-56. It is not a suburban neighborhood. They respect each other's views, which is why they live there and pay the taxes they do. In addition, Brett has been under construction at that location for five years now because he does his own work. He is very meticulous and does very good work. He is a little concerned and frustrated with the length of time this project might take. He is objecting to three of the four Variances he is requesting. He does not have any objections to the front Setback. He objects to a rear Lakeside Setback, exceeding the 25% Lot Coverage, and very much objects to any fence that goes beyond his structure. The 4' Fence he is proposing is 3' taller than his land. This would mean it would be a 7' fence on the side of his property which would completely block his view. He objects to Variance one and two because Brett's Lot is one of the very few remaining undeveloped lots on the Lake. He was allowed to add a large Addition on the south side, and now he is asking again to build another large Addition on the north side. The Setback Codes were established to limit structural density and esthetic and visual impacts along the Lakeshore. The height and lakeside rear Setback of the bedroom Addition will seriously impair their view of the Lake. He and his wife assert that the requested Variances will negatively affect the value of their property. They feel that the values have been established and respected by residents of the Lake and have been appreciated by visitors to the lake for over 60 years.

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Therefore, the request for Variances for items 2 & 3 should be denied. The Code is eminently clear regarding lakeshore fences. No fence, walls, or other structural screening elements. No fence erected on the lakeshore parcel shall unduly impair views of the lake from adjacent and other side lots. Because of the elevation difference, it severely impacts. They strenuously object to the proposal and Variance request as it will seriously impair lake views on their south side. If there had been a fence all the way to the shoreline, as proposed, they wouldn't have been able to help the recent downing victim by initiating CPR, where time is of the essence, it would have taken much longer to get to the victim and probably wouldn't have even seen the event due to the fence. They have discussed with Brett the option of having a fence that does not extend beyond the west end of their home. This would not obstruct their view, and they would be willing to agree to that. Also, the fence starts at the right of way; this would impact site distance when they are backing out of their driveway and make an unsafe condition. The letter provided by O'Connor's is on file in the Building & Zoning office. Doug Major asked if Mr. O'Connor's house had a two-story deck. Rosemary asked if the deck was on the lakeside. Mr. O'Connor stated that it is a patio that is located on the lakeside.

Brett stated that the only thing that requires a Variance on the lakeside is one corner of the deck. He can cut the corner off from the deck, and it will be well within 30' of the lake. The house itself is 45.4' off from the lake. Since his Lot line is not straight, the closest point, the corner of the house, would be 33.4'. He could change that easily if it makes peace in the neighborhood. That is 28.6' on the survey map, 18" off from that corner of the deck. The deck is open underneath. Rosemary asked what Brett could reduce the Addition to. Brett said he would reduce it back to the 30'. CEO Adam Backus stated that he thought the objection was relative to the fence, not the deck. Brett said that the neighbors were opposed to both the front Setback and the fence. Chairman Mike Sharman noted that the neighbor's concerns were for both the fence and the Addition. Brett said that the survey map states the Lot is 24000 Sq. Ft., if you take 25% of that, it is 6000 Sq. Ft. With the House, Addition, Garage, and decks that were there up until this point, he only had 3300 Sq. Ft. Technically, he thought he could put a 2700 Sq. Ft. Addition and still stay within the 25% of Lot Coverage. As it turns out, it only goes from the highway right of way, which brought him down to 1999 Sq. Ft. His Lot Coverage now goes from 25% to 26.9%, which is 385 Sq. Ft. Mary Ann stated that the new drawing appears to show an additional deck extending. Brett explained that was the additional deck coming to the roadway, which is included in the size. Brett reviewed the current survey map with the Board. Doug stated that encroaching further beyond the Zoning Codes on a parcel on East Lake Road is something that he hopes can be avoided. His request is not to put the porch on the front. He asked if the front door would stay where it was. Brett stated that he was planning to move the front door. As you come into the house, there are low ceilings, so he was hoping to create more of a formal entrance. Doug said that he has difficulty adding another 5' on the side facing East Lake Road. Brett said that his request for 25' is still well under what all the other properties are in that area. Doug said that the difference is that all the other properties are existing and not being built. Joe said that Brett could take some of the footage from one or both decks and clip one corner of the deck. Then it would only be requesting the front Variance. Brett said that the decks really tie everything together. He could go back and look at reducing some of the front porch deck. Mary Ann noted that there would be ample room to the north to build. Brett said it is 40' between the lot lines, and he was trying to keep everything as compact as he could. Mary Ann noted that it

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would change what Doug was concerned about, being closer to East Lake Road. Brett said he could try to cut it back and stay 30' from the road. He felt his ask was better-than what is currently on East Lake Road. Chairman Mike Sharman noted that Brett has a much larger lot than most of the people on the lake. Brett asked if the 2% was a big ask compared to other Variance requests. Chairman Mike Sharman stated that everyone's circumstances are different. If the applicant would like to amend the application and return back with an application where the structure is pushed back along with everything else in that vicinity, the Board will table the application. CEO Adam Backus said that he wondered what kind of Variance the Board could ever grant if 2.8% Lot Coverage were too much and that no further out than the existing garage, which is twice as far back as anyone else on the lake. If these are issues, we are never going to grant another Variance. ZCA Julie Holtje noted that the hardship here is the depth of the lot. He conforms only because he has an extra wide lot. The depth of the lot makes it a hardship to comply with both front and rear setbacks. Brett also wanted to leave a view of the lake as people drove by instead of sprawling his structure. Brett noted that it is a big give-and-take that he is trying to be a good neighbor, but at some point, you would still like to have what you want and make what you have work.

Mary Ann asked about the roadside fence. Chairman Mike Sharman said the big concern on the fence is vehicle safety. He asked how close to the right of way it was being placed. Brett said he was looking for guidance and asked where a typical fence is placed. Chairman Mike Sharman said that it really depends on the road. Brett said he has no problem bringing the fence back to the front of the neighbor's house so that it won't impede the site distance. Rosemary noted that it would make a difference what type of fence it would be. Brett noted that he was planning to use a picket-style fence at the lakeside instead of a stockade. Chairman Mike Sharman noted that a 6' fence is permitted. The applicant is requesting a 4' solid fence. Brett said that it would be solid until about 3-4' by the corner of the neighbor's house and then be a picket style so as not to obstruct the neighbor's view. Chairman Mike Sharman noted that the fence location would be at the approval of the Building & Zoning Department for safety concerns with the neighbor's driveway.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Fence. Mary Ann made a motion to approve the Fence with the approval of placement with the Building & Zoning Department. Motion to approve. M/2/C (M. Thompson/R. Bergin) Carried: 5-0.

Chairman Mike Sharman asked the Board if there were any further questions. Rosemary wanted clarification that the application stands as submitted without any modifications. Chairman Mike Sharman felt that the front of the house construction is the biggest issue currently, noting that the applicant has more space in the front (from the road right of way to the garage) than most properties in that area. Brett said that if he could, he would try to make adjustments. The ask would be to stay at 30.9. Brett said that if that were the only thing that was allowed, he would go with that and cut the corner of the deck off to make it 30' from the lake. Chairman Mike Sharman asked the applicant if he wanted to try to re-work his application. Brett said that he would try; it was more of the front layout with the front deck coming into the new addition. The

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whole thing was about to have that extend past and still have some type of a porch there. Chairman Mike Sharman asked if the Board could leave the application open and have the applicant return on August 21. Brett agreed that he would return at the next meeting with a revised application.

This application was submitted to the Livingston County Planning Board for their review. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

This application was determined to be a Type II action, and SEQR was not required per (# 11) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

(3) John & Jennifer Pontillo – 3495 Pebble Beach, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, **August 7, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **John & Jennifer Pontillo** for a for an area variance pursuant to Section 150-17C and a Conditional Use Permit pursuant to Section 150-17 B of the Zoning Code of Livonia. An area variance is requested for a proposed Home Occupation in the Garage, which will violate the front setback requirements according to Section 150-31G (1). The proposed structure also violates the maximum lot coverage requirement of 25%, according to Section 150-31F. A Conditional Use Permit is requested for the Home Occupation per Section 150-31 D (9). This property is located at **3495 Pebble Beach Road**, Livonia, New York, Tax Parcel # 65.71-2-2.1, 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.

Chairman Mike Sharman polled the Board for site visits:

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

CEO Adam Backus stated that what was being requested was an Area Variance for a front Setback and Lot Coverage. The other aspect is that because it is in an accessory structure, not attached to the house, it requires a Conditional Use Permit. The Zoning Board has two roles in this application. The first is asking for relief from the Setback and Lot Coverage, and the second is making conditions on any approval of the application for a Conditional Use Permit. A Home Occupation is a permitted use, and if it's attached to the home, it is permitted without a Conditional Use Permit. If it is detached, it requires a Conditional Use Permit. We are here tonight to discuss what the applicant requests: a home occupation in an accessory structure, front

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Setback, and Lot Coverage. He recommends that the time for comments be limited. Chairman Mike Sharman read the regulations relating to a Home Occupation.

ZCA Julie Holtje noted that there were letters received from the neighbors, and they were all forwarded to the Board members for their review and will be part of the record, but they will not be read aloud tonight. Chairman Mike Sharman requested that anyone who would like to speak during the Public Hearing make sure their name is on the sign-up sheet.

Chairman Mike Sharman asked John & Jennifer Pontillo and their Architect, David Carly, to come forward for the proposed Home Occupation. David stated that when he submitted the application, he used approximate figures for the Area Variance. He has since gone through it again and estimated the Lot at 19,000 Sq. Ft. They have an abstract showing their actual acreage, just under half an acre. This gives the applicant 21.4% of Lot Coverage which includes exterior steps, porches, decks, and walkways, including the addition that is being proposed. Methods and discrepancies in the calculation of lot coverage were discussed. Julie said there would be no issue with the Lot Coverage if they removed the shed. David said that he was aware of the recommendation to the Planning Board to push the proposed garage further back. Currently, the proposal is at 24'; the Planning Board said let's make it 35' because that would accommodate a loading zone for vehicles. A loading zone in this situation is not necessary for the home occupation because anything that is coming in or out is coming in through their personal vehicles, just as if they were going to the grocery store for their personal needs. There will not be a delivery truck or a need for one. Chairman Mike Sharman stated that the trailer is not going to be stored on the premises. David said that the Pizza oven trailer will be stored in the garage. Their supplies for the home occupation will be brought in through their vehicle through the garage. From a design standpoint, holding the Setback at 24' with still another 9' to the pavement. That would allow them to park a vehicle and not be within the right of way. He wanted to create a nice entry and breezeway, and pushing the building back further would cut off tremendous views of the lake. Placing the proposed garage where they are asking almost lines it up perfectly with the neighbor's garage.

Chairman Mike Sharman asked the Board if there were any further questions. Rosemary stated that their application stated just frozen desserts and foodstuff. It didn't mention anything about a 14' pizza trailer that is currently being modified. When she visited the property and spoke with the applicants, she didn't know they would be doing a catering business. She thought they would be purely selling their goods online. Now they would like to be doing weddings and corporate events. That is something that the Partyman, who is located in Livingston County, does. He has an off-site property where he conducts his business and has all of his equipment. She asked if the applicant would consider having their business in an off-site location instead of a home occupation. The Pontillo's said no. The scale that the Partyman does is nowhere near what they intend to do. Rosemary asked if they would just be operating their business on the weekends. Jennifer said that she has a full-time job, and Mr. Pontillo is semi-retired. Rosemary said that is what catering does. They pretty much work on weekends. John said the business would be Friday through Sunday. Rosemary asked if they plan to store the pizza trailer in the new garage. John stated that was correct. Rosemary said that the picture she saw shows a high stack on the pizza oven. John said that can be removed. Rosemary said that if they had the pizza trailer at an

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event, it would need to cool down at their property and would take some time for it to cool, which would require it to be outside at their property. John said that he could see the concern. If they were to do an event that would eat at 4 p.m., they would be done serving by 5 p.m. He would no longer fire the oven and not add any further wood to it. By 7 p.m., there would absolutely be no fire within a half hour; it would be coals. If he drives the trailer back, it would be at about 150 degrees at that point. At that point, he could take out all of the coal and ash and put it in a steel barrel. He can take the stack off, cap it, and put the steel door on the front. If there is a problem, he could leave it out for about another hour, and then it would be cooled. Rosemary mentioned that he said that is what they had at their restaurant, and that is not your home in a residential area. Doug asked the Pontillos to describe exactly what their business was going to be. John said that first, he would like to address something that was printed on the "I love Conesus Lake" Facebook page. It was misinformation and lies. First, this is not a pizzeria, no one is coming to their home, and there are no hours of operation. There will be no signs or large, noisy equipment that will cause any vibrations. There are no smells because there will be no hood-mounted fans like you see at restaurants. There will not be any delivery trucks coming to the home; the business and size of the business will not warrant that. All the items needed would be picked up in Rochester at Palmer Food Service or Restaurant Depot by themselves. They will come home and back the truck into the garage, shut the door, and unload the items. No one will see or hear anything. There will not be any dumpsters; all the trash will go into the same-sized totes they currently use from Casella Waste. If there is a need for an additional tote, he has already contracted that with Casella Waste. All totes will be behind a gate. No one will ever know what goes on in the back side of the garage. No sounds smells, and no one coming to the home. If he books an event, he will be going to the home or business where the event will take place. This will allow him to figure out the layout for the food and tent and determine how he will get the trailer on the site. It makes no sense for anyone to be coming to his home, and they will not be coming to their home. This is a home-based business, not a commercial business. It is not changing the residential stature of their property. It has no negative effect on the neighborhood; no one will know. Safety was also brought up. If no one is coming to the home, the trailer is in the garage, and the garage is constructed where they would be asking for it to be, the back bumper of his truck will be 14' further back away from the road. A lot of people have been concerned about the safety of Pebble Beach Road, and they have every right to be concerned about the safety on Pebble Beach Road. The safety concerns on this road can only be addressed if someone puts in sidewalks. Without sidewalks, you would still be walking on the road. You have to be cautious when you are walking on any road. Whether his truck is parked in his driveway or he is on vacation, it's not going to change anything at all. Someone stated that it was going to be an online Pizzeria. There is no ordering online or delivery. They are not taking any pizza orders where people are coming to the home; this is strictly off-site events only. Jennifer stated that Rosemary mentioned Partyman Catering, who is a phenomenal caterer. His base price is \$35 a plate, and their intent is to offer a reasonable price to people who want to get married in their backyard and not have to spend a lot of money. She doesn't want any employees. It will be only her and her husband, and they can service a niche market, especially in Livingston County, where not everyone has the money for the Partyman. Joe said that, basically, they are asking for a place to prep. John said yes, just prep. Jennifer said that with a commercial caterer, you would need to have the equipment, and you would be inspected by the health department. To meet the health department inspection, everything needs to be to Code.

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John noted that everything will be up to the Code. He is 62 and only looking to do this for another 5-8 years. At that point, the garage area would be turned into a place for his friends and family to come over for dinner, watch TV open the back door, and look out at the outlet. Just friends and family, not customers. They are not running a pizzeria. John also wanted to address the Setback. He looks out his kitchen window and sees the markers that have been put out where the corner of the new garage will be. If it's setback where the Code requires, he will not see the lake. It will tie up a lot of his backyard, and that is what people move on to the lake for, to be able to see the lake and enjoy their backyard. What their Architect has proposed would allow them to look at the back of the proposed garage, and he would still see the outlet and potentially have enough room for a firepit area and seating area. If it goes back further, he will lose all his view of the lake, and he doesn't want to lose their view of the lake. He hopes that that could be worked out even with the discrepancy in the Lot Coverage calculations. Keep in mind that if his Architects figures are incorrect, 1% of Lot Coverage is not noticeable. Some people have brought up the big orange storage trailer on their lawn. That will all be gone once the garage is built, and that trailer will be gone. The landscape trailer would be in the backyard, leaving nothing in the front yard. Then he could landscape the front yard and put in some black top and accent lighting. He has an air conditioning unit in the front yard that they would like to move around the north side of the house, where it will be behind a gate, along with a standby generator in the future. Again, out of the view of people walking and driving down the road. It is their intention to hide all this stuff behind the gates. They did have a stack of firewood in the front, but it has since been moved around to the side yard and out of site. Everyone is concerned about the aesthetics of the neighborhood, but no one ever says anything about the overgrowth coming out of the DEC parking lot. Jennifer noted that there was another practical request regarding the Setback. They have about 14 trees in their yard that need to come down because they are ash trees. They do have two gorgeous maple trees that they would like to preserve. They have had a lot of issues with the trees from the DEC area and a tree in the front falling on their house during a storm. They would like to keep the roof of the garage as far away from the two big maple trees as possible. The Pontillo's don't feel that the ask is a big ask. It's a home-based occupation. This is the best move forward for them and for those who are concerned about the safety issues in the area. It will get everything off and away from the road. Doug Major said that there had been a smoker trailer; is that different from the Pizza oven trailer? John stated yes, that is massive, and they are going to have that all cleaned up. They are not going into the barbeque business, and their intentions are to clean it up and rent it out. Jennifer noted that it was left to her when her father passed away. He would love to find a place somewhere off their property where it would be secure. They are always looking for a place that is close to Lakeville that is not at his house, where he can get to it and clean it if need be and take it somewhere where someone wants to rent it for the week or weekend. They have done a barbecue service many years ago at fairs and festivals, never at that property. It's a lot of work that requires a 24-hour smoking process. It is very demanding on your body, and it's not something that he is going to go back into. Chairman Mike Sharman asked if they had considered a storage unit for the smoker. John said if they could find a place, they would. They have storage at Stanley Storage, but the units are not long enough to pull inside and have it locked. The smoker is 24' long, and most storage units are 20' long. Doug asked Jennifer about the business plan that indicates that pick-up would occur once a day if needed. Jennifer said that it is only if they were to expand in the online business, which could be a potential. If it were frozen desserts, UPS would stop by to

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pick them up. Usually, there is a delivery schedule that doesn't happen five days a week. Shipping foodstuff would only happen 3-4 days a week, and you would have a contract with them. Depending on your volume would determine your pickup times. It could be one day or three times a week. Doug stated that statement was about a UPS truck, not a person stopping by to pick it up. Jennifer said that was correct. Chairman Mike Sharman confirmed that no one would be coming to the home. Jennifer stated that was correct. When they go on-site to discuss the job's specifics, they will bring any items that someone may want to sample before the event. They have been in business in the area for twelve years, so customers are familiar with their work. Chairman Mike Sharman asked if they would ever have any employees. John said that if there was ever a time that they needed any employees, there would be a meeting with them at the event. No employees are needed at home. Mary Ann asked for clarification on the garage. She stated that the garage is going to be for equipment and not backing your truck up and unloading the groceries. John said the garage will be 24' X 50'. The trailer will be stored in the garage. Jennifer said they would back the truck inside, hook up to the pizza trailer, load the truck, and pull out from there if they were going to an event. Mary Ann said that half the garage will be accessible for pulling in and unloading. John said that was correct and that it would be on the left side because that is where the service door would be. Rosemary asked where their vehicles would be parked. John said they would be in front of the garage with one inside the garage. Rosemary asked if they were going to store the restaurant equipment in the garage. John commented no that the equipment would be in the back part of the addition, considered the kitchen/prep area. Rosemary asked what that consisted of. John said it would be the reach-in coolers, sinks, refrigerators, and stove. They do not have tables, chairs, or tents. They do not do any cleanup after the events.

Chairman Mike Sharman opened the Public Hearing. For the record, he asked anyone who wished to speak to state their name and address. He went through the list of people who signed in, asking who wanted to speak at this time. Each person was allowed three minutes to make any comments.

Sherry Fraser of 3707 Pebble Beach stated that she submitted a letter that she hoped the Board had a chance to read. She lives on Pebble Beach Road, and as far as she knew, Pebble Beach Road was supposed to be a residential neighborhood. This proposal is not a residential proposal but part of a commercial operation on a residential property. As she looked at the Variance of where the garage would go, the Pontillos were comparing it to all the old garages that were grandfathered in, which are set back from the road because they don't hold cars anymore, so they park on the street. She walks by every day, and the applicants park on the street now. She watches kids and baby strollers go by, it's not a safe place, and this proposal will make it a less safe place. How many times a day will the two of them be coming in and out? Why do we want to commercialize Pebble Beach Road? There are plenty of empty spaces in Lakeville and in Livonia. Why not open their business on a commercial street where it's already allowed? She didn't buy a piece of property on Pebble Beach Road to have it turned into a commercial street.

CEO Adam Backus read aloud the definition of a Home Occupation.

§ 150-66 Home occupation.

A home occupation is any occupation or profession, excluding retail sales to customers or motor vehicle repairs on the premises.

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Adam noted that Home Occupation is permitted use in a residential district. Let's stick to the Home Occupation definition. The applicant made it clear that there would be no retail sales. Sherry asked, what are they doing there then? Adam stated that it shouldn't matter; it's their Home Occupation. They are doing what they want in their own home, just like you can do in your own home. Sherry said then that would mean that she could open her own Pizzeria.—Adam said no, were you not listening? They are not opening a Pizzeria. It's a Home Occupation in their own home. There are no retail sales, no exhaust, and no pizza cooking on site. Sherry asked why they needed a garage then. Adam asked if she had a garage. Sherry said she doesn't have a garage. Adam noted that no one here would stand in your way if you wanted to have one.

There was a discussion about the grandfathering of existing garages and new garages on Pebble Beach Road. Chairman Mike Sharman stated that she was speaking about pre-existing non-conforming properties. In that case, the footprint can be used to improve the structure.

Sue Crombach of 3648 Pebble Beach stated that she agrees with Sherry Fraser. There are many vacant properties in the vicinity to open a commercial business. Wouldn't that be a much better space for what they intend to do?

Joanne Straub of 3559 Pebble Beach stated that she didn't have any additional questions. Obviously, there are concerns that were addressed with what Sherry Fraser stated. The fact that they thought it was going to be a commercial business, which they didn't want in Pebble Beach. Going forward, she doesn't want to have any type of commercial business on Pebble Beach Road.

Peter Dougherty of 3523 Pebble Beach Road. Safety and parking are big issues in this area. Where John and Jennifer are staying, it all sounds rosy. They are going to take care of this and that. They haven't taken care of anything for the past three and a half years. The weeds and the smoker have been out there for three and a half years. With all the restrictions, who is going to follow up on all those items? Chairman Mike Sharman stated that CEO Adam Backus is the Code Enforcement Officer. CEO Adam Backus noted that he is sure that if the Pontillos aren't following the conditions, he will hear about it, and they will be brought back to the Board for review. Peter said he felt that they should know what the conditions are to be. Adam stated that they would be given a Conditional Use Permit that would explain all the rules and conditions of the permit. Peter noted that an application was approved for someone to put on an Addition for additional bedrooms, which turned into a rental. Peter stated that it was an awfully big garage and he would call immediately if he saw something outside.

Adam noted that he thought there were a few people in the room tonight who had a boat or boat trailer parked in their front yard, which is a Code violation. Chairman Mike Sharman stated that the neighbors are usually the best people to ensure the permit conditions are followed. The Board is not in the policing business. The person responsible would be CEO Adam Backus or, if it were serious enough, the Sheriff's Department.

John Pontillo stated that if the Home Occupation is granted. He is not going to hide from anyone. If someone has a concern or questions, please come see him. He has no problem

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showing anyone what is in the garage or at the back. He is not going to change and do anything different than what would be approved here tonight. If someone has a concern, they don't need to notify CEO Adam Backus; they can go ahead and call me. If I am your neighbor and you have a problem or concern, knock on the door; he will gladly talk to you.

Debbie Drawe located at 3641 Pebble Beach Road. She thanked the Zoning Board for their time in reviewing Pontillo's application. After speaking with John, she had a better understanding of the application and hopes that they will do what they say they are going to do. She referred to the Area Variance criteria and felt the Board should look at that seriously and decide if this project should be approved. Even though they are allowed to have a home occupation, the neighbors aren't in favor and should consider petitioning the Town Board to make changes to the Zoning Code regarding districts for Home Occupations. Chairman Mike Sharman noted that was a good point. If they want something changed, you might want to bring it to the Town Board.

Frank Berardi of 3605 Pebble Beach Road. They have been on Pebble Beach for 31 years and feel it's the gem of the lake. There is no other street on the lake like Pebble Beach. He knows that the Pontillos have great intentions, but it's all for them. It's not for his retirement or his future and his lake. If they want to put the building back another 30', then that is a different story. He asked how far it was going to be from the neighbor's house. He hopes that their neighbors are present and that they should be the ones complaining. That is going to be very close to the Lot lines. David Carly, the Architect, noted that there is no Variance sought for the south side setback. The fence is on Pontillo's property. CEO Adam Backus stated that there is 15' between the proposed garage and the property line, and the fence can be on the property line. The fence is not in violation. Frank stated Pebble Beach is a gem and the last place we need something like this.

Barbie Starwitz, who did not provide her address, stated that everyone is here to look at the legal aspect, not their opinion. Some neighbors you like what they do, and others you don't like what they do. That's not why we are here; we are here for the legal aspect. Are they going to improve the property? Yes. What did we do for covid? People worked from home. This is a catering business that is going to be established. Currently, there is a need for this service, especially for funerals. This would be an outlet for them. If you look at the assessment for their property, you will see an old house in the picture. Haven't they already improved the property? Yes, 100%. We are looking at the laws, and people are complaining about a trailer being parked on the property. What about if you owned a camper or a boat and trailer? Nobody is complaining about that. Everyone has their personal uses for their property. We are here tonight to abide by the laws. Under the CUP permit, a home occupation in a dwelling is an approved use. If they are in violation, you call Code Enforcement. We should be embracing local food and businesses. We are all supposed to be working together. The Code states that they are allowed to have two employees. They are choosing not to. Legally, they can do what they are asking according to the Code, but people still oppose it.

Susan Aros of 3318 Rochester Road stated that she wasn't sure where the Setback was from the street, but if you load the trailer and the truck is outside the garage, is there enough room for the truck to be out of the street? David Carly stated that the Setback is 50'; they are asking for a

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Variance to be 24 1/2' from the right of way, which would be almost an additional 10' to the edge of the pavement. It would be about 34' from the edge of the pavement. Her only question was whether the truck is impeding the roadway when loading from the garage, and it doesn't appear that it will. John said that the trailer would be in the garage; he would back the truck up to it to hook it up and then pull it out to leave. The trailer will be already loaded and will not block any traffic.

Chairman Mike Sharman noted that the Board received letters from some of the neighbors, which were from Tom Willis and Vicki Jagadowski, Amy and Matt DiFranco, John Wright, Andy and Sarah Doerflinger, Richard and Elaine Doerflinger, Steve Bonacci, Cheryl Long, Sherry Fraser. The letters are on a part of the record and on file in the Building & Zoning office.

Sandy Fraser of 3703 Pebble Beach stated she is somewhat opposed to the size of the garage. She believes that the Variance from the road Setback should be denied. There is a lake view from the property on the north side of the garage. She doesn't think the garage should be so close to the road. ZCA Julie Holtje noted that all Setbacks are measured from the right of way. David noted that the garage will be 5' further away from the road than the front of the house. Julie stated that the house is at a 19.5' setback, and the garage is proposed at a 24' setback.

Ray Case of 3501 Pebble Beach asked for clarification regarding trailers. There was mention of three trailers. The new Pizza trailer, the landscape trailer, and the barbeque trailer. John said that the landscape trailer could be put in the backyard. Ray asked if the property line was measured to where the current deck is now. He wasn't sure how a trailer was going to be able to be taken around the back. Doug asked for clarification about the landscape trailer. John said it was a small trailer that you pull behind your car. It will be kept in the backyard. Doug asked how they were going to get to the backyard. John said that there would be a grassy area, not a driveway from the south side of the garage to the property line to the fence, and park it in the back corner so nobody would see it. Joe Prato noted that it sounded like a utility trailer. John said yes, it's not a landscape trailer; it's a small utility trailer.

Joe Pellman of 3647 Pebble Beach asked if the business would require the installation of a commercial kitchen. Jennifer said that the definition of a commercial kitchen would require fire regulations. They would inspect the gas and water coming into the building. There has to be fire extinguishers for the Fire Code. To get the certification to be a caterer, there are requirements that have to be met by the County. Joe asked if that should be Zoned commercial and not residential. Jennifer stated no, you could have a home-based kitchen and be able to cater off-site. John noted that their property will still be Zoned residential even with the home-based business.

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 (# 13).

This application was determined to be a Type II action, and SEQR was not required per (# 9 & 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:

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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? Yes
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? Yes – Chairman Mike Sharman stated that the Board would like a one-year review if granted. Attorney James Campbell noted that the one-year review would be a condition for the Conditional Use Permit, not the Variance.
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Area Variance for the proposed garage. Rosemary stated there is a very big back yard and there is no reason why it can't be pushed further back. Doug Major made a motion to approve the application with a 35' Setback instead of 25'. Motion to approve. M/2/C (D. Major/J. Prato) Carried: 4-1. R. Bergin - Nay

Chairman Mike Sharman asked the Board to go through the Conditional Use Permit criteria:

- (1) Will the proposed building or use be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this chapter, and, where applicable, Chapter [125](#), Subdivision of Land? Yes No
- (2) Will the proposed building or hours of operation or use not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting public health, safety, and general welfare? Yes No
- (3) Will the proposed building or use be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations? Yes No
- (4) Will the proposed building or use be adequately served by essential public facilities and services?
 Yes No
- (5) Will the proposed building or use comply with all additional standards imposed on it by the particular provision of this chapter authorizing such use? Yes No
- (6) Have all steps possible been taken to minimize any adverse effects of the proposed building or use in the immediate vicinity through building design, site design, landscaping, and screening? Yes No TBD
- (7) If appropriate, a performance bond or other suitable financial guarantee has been provided to assure compliance with the conditions of the conditional use permit. Yes No N/A

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Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the Home Occupation. Joe Prato made a motion to approve the Conditional Use Permit with the condition that the Barbecue trailer is to be moved off-site before the Certificate Occupancy is issued. The applicant will return in one year for Zoning Board review. Motion to approve. M/2/C (J. Prato/M. Thompson) Carried: 3-2. D. Major & R. Bergin – Nay

Jennifer Pontillo requested to read a letter regarding a Board member site visit.

(4) Dolores Cicero – 6679 Big Tree Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, August 7th, 2023, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Dolores Cicero for modification to a previously granted Use variance pursuant to Section 150-17C of the Zoning Code of Livonia. This property is located at 6679 Big Tree Road, Livonia, New York, Tax Parcel # 75.-1-18.144, 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.

Chairman Mike Sharman 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 Dolores Cicero to come forward for the modification to the previously granted Use variance. Dolores stated that there was a divorce, and she got the Wedding Barn business. When she came to discuss owning that business, it was stated that she needed to have a buffer of additional property. The Building & Zoning Department said that five additional acres were needed to make a total of eight acres to be considered a farm. Chris Cicero will continue to farm the land. Nothing is going to change, and it will look the same. Now, she will own five additional acres of the forty-one-acre parcel, for a total of 8 acres. CEO Adam Backus stated that it was recommended that she bring an application for a modification to the existing USE Variance Joe Prato asked, regarding the conditions on the original Use Variance, if it considers the whole acreage. CEO Adam Backus stated that it did and gave the history of the iconic barn. Because the original decision from the Board involved the whole farm, it made sense for the Zoning Board to review a revision that fit the farm definition. Attorney James Campbell noted that it would make the USE Variance viable since it is part of an active farm operation. The idea with this current application is to make sure that the property relief that is sought has the minimum acreage necessary to continue as a viable farm based on the definition

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in the Code. It's continuing the legitimacy of the USE Variance. ZCA Julie Holtje noted that it would be removing the remaining agricultural lands from that Variance. The USE Variance will only apply to the eight acres that include the Wedding Barn. Jim noted that the eight acres could not be further subdivided because we wouldn't want it to be removed from the farm category. The remainder of the farmland owned by Chris Cicero could be subdivided in the future. The restriction would only apply to the eight-acre parcel.

Chairman Mike Sharman asked the Board if there were any further questions.

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

This application was submitted to the Livingston County Planning Board for their review. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

Attorney James Campbell stated that we are not undoing the past USE Variance. This is to modify it and apply it to this property which totals eight acres, and not the remainder of the parcel owned by Chris Cicero.

Chairman Mike Sharman and the Board reviewed the SEQR Short Environmental Assessment Form.

Chairman Mike Sharman asked for a Motion to adopt the official findings of part II of the Short Environmental Assessment Form. Motion to adopt findings: Motion to approve: M/2/C (M. Sharman/D. Major) Carried 5-0

Chairman Mike Sharman and the Board reviewed the Short Environmental Assessment Form. No moderate to large impacts were identified. A Negative Determination of Significance was determined. Motion to approve: M/2/C (M. Sharman/D. Major) Carried 5-0

Chairman Mike Sharman asked the Board for a motion to amend the existing Use variance to include only the eight acres that include the Wedding Barn, removing the Use variance from the remainder of the parcel it was originally granted on. Doug Major made a motion to approve the amendment to the existing Use Permit as submitted. Motion to approve. M/2/C (D. Major/M. Thompson) Carried: 5-0.

(5) Peter Francis – 4302-4306 East Lake Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **August 7, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Peter Francis** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed covered Patio/Porch, which will violate the side Setback requirements

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according to Sections 150-31G (2), & 150-71. The proposed structure also violates the maximum lot coverage requirement of 25%, according to Section 150-31F. This property is located at 4302-4306 East Lake Road, 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.

Chairman Mike Sharman 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 Chuck Smith from Design Works Architecture, representing Peter Francis, to come forward for the proposed cover Patio/Porch. Chuck stated that Peter is in Poland, and his parents, Peter & Ann Francis, are present to support the application. Chuck stated that on July 1st, as people gathered for the July 3 festivities, he visited the site and spoke with Peter Francis. Folks that stay in this little cottage, which is being replaced by the Accessory Dwelling previously granted, asked if they could have a porch like what is currently there. Chuck has designed a small porch off from the Accessory Dwelling and provided the renderings for the Board. It's a little porch that shelters the entry door and gives the folks some shade to sit and look at the lake. That causes a problem with the Setbacks. The Setback required is 9', and the proposed porch would be 2' 2" within the Setback, which would be 6' 8". They are requesting a 2' 2" Variance for the side Setback. Rosemary asked if they could push the building back that far. Chuck said they could push the whole complex north. They do have a large tree that they would like to save. Rosemary stated that she thought this applicant was here before the ZBA not too long ago. Chuck stated that they were here on May 1, 2023. Chuck stated that there is a tree on the north side of the garage that they would like to try and save. However, they could probably maneuver working around it by making the garage or porch slightly smaller. Chuck noted that the neighbors have no objections but are here tonight to speak. The second piece of the Variance is for the Lot Coverage. They were going by the deed for the area of the Lot. They were previously granted a Variance for 31 % Lot Coverage. Rosemary asked how much additional they were requesting. Chuck noted it would be an additional 2.9% more. Chuck stated that if they already have 31%, they won't ask for anymore and would reduce the size of something. Chuck and Julie reviewed the Lot Coverage calculations with the Board. Julie recalculated the Lot Coverage, and it came out to be 30.5%. 31% Lot Coverage was previously approved. Chuck stated that he would redesign the proposal to reduce the size.

Chairman Mike Sharman asked the Board if there were any further questions.

Chairman Mike Sharman opened the Public Hearing.

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Charles Francis, located at 4302 East Lake Road, stated he is located directly to the south and stated that currently, there is an existing structure with a concrete Patio that extends further, almost to their property line. It seems to him that what is proposed would be much better and further away from the property line. He doesn't have a problem with the original design and thought it would look much better. Chuck noted that the Setback requirements don't apply to the Patio.

With no further comments, the Public Hearing was closed.

This application was previously submitted to the Livingston County Planning Board for their review for the May 1, 2023, ZBA meeting. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

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.

The applicant's representative, Chuck Smith of Design Works Architecture, formally withdrew this application.

(5) Christopher Cowell – 5936 Big Tree Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **August 7, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Christopher Cowell** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 12' X 32' Shed which will violate the side setback requirements according to Sections 150-31G (2) and 150-71 non-conforming lots. This property is located at **5976 Big Tree Road, 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.

Chairman Mike Sharman 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 Christopher and Effie Cowell to come forward for the proposed Shed. Chris stated that they are proposing to erect a shed that will be delivered by a local contractor. It will be located on the northwest side Lot. They are proposing to have it 5' from

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the side property line instead of the required 9'. That would give them 9 ½' to allow for a standard-size vehicle access for maintenance. Utility lines are underground in that area, and they don't want to interfere with those. They will also be looking into replacing their water line because it is only a 1/2" service to the house. This will become their primary residence about this time next year. They will be using the shed for storage. Chairman Mike Sharman asked if they had a basement in the house. Chris stated that they don't have a basement. Chairman asked if the shed would run parallel to the garage. Chris said it would, only it would be longer. Chris noted that a portion of the sidewalk would have to be removed. Doug asked if the 5' was the edge of the gravel. Chris said that it would be about 2' additional in from the edge of the gravel. Doug said that at the site visit, there was a black car parked in the gravel area. Effie stated where the car doors would be and where the shed would start. Doug asked if they had had any conversations with their neighbors about the shed. Chris said that they did, and they have no objections. They weren't overjoyed, but it was acceptable to them. Effie stated that there will be a little porch on the end of the shed lakeside to be aesthetically pleasing. Chris noted that it will also provide them with a little privacy from the neighbor's sitting area. Doug asked where the entry to the garage was. Chris said he pulled straight in from Big Tree Road.

Chairman Mike Sharman asked the Board if there were any further questions.

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

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).

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? No
3. Is the variance substantial? Yes – relatively.
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 proposed Area Variance for the proposed 12' X 32' Shed. Rosemary Bergin made a motion to

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approve the application as submitted. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 5-0

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 10:40 p.m. M/2/C (J. Prato/M. Thompson). Motion carried: 5-0

Respectfully submitted,
Alison Houk, Recording Secretary