

# LIVONIA JOINT ZONING BOARD OF APPEALS

May 1, 2023

Present: Chairman M. Sharman, R. Bergin, J. Prato, M. Thompson, Zoning Compliance Assistant Julie Holtje, Recording Secretary A. Houk

Excused: D. Major, CEO A. Backus, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of April 3, 2023*
  - (2) Peter Francis – 4302-4306 East Lake Road, Livonia, NY*
  - (3) Matthew Lally – 1 Sunset Drive, 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 April 3, 2023. The Board agreed they had, and a motion was made to approve. M/2/C (M. Thompson/R. Bergin) Carried: 4-0.

*(2) 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, **May 1, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Peter Francis** 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. A Conditional Use Permit is requested for an Accessory Dwelling per Section 150-31 D (1). An area variance is requested for the proposed primary residence, which will violate the side setback requirements according to Sections 150-31G (2) and 150-71 non-conforming lots. The proposed structures also violate the Lot Coverage (exceeds 25%) per Section 150-31 (F). This property is located at **4302-4306 East Lake Road**, Livonia, New York, Tax Parcel # 74.72-1-22, 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:	Excused

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J. Prato                      Yes  
M. Thompson                Yes

Chairman Mike Sharman asked Chuck Smith of Design Works Architecture, P.C., representing the Francis's, to come forward for the proposed Accessory Dwelling in an attached Garage. Chuck stated that this property has an interesting story that he would like to share. Peter Francis is a fourth generation moving onto this property. It started out with Peter's great-grandparents, who purchased this property in 1920. They had three children, which were given each 100' of land. The middle parcel is what we are discussing today. The other parcel is owned by Peter's dad, Charlie, who currently has a house there. It was renovated in 1999. The daughter of the original owners sold her parcel, which was on the north side of Peter, which was the middle piece in the 1950s. Peter purchased the property from the two other children. The family member and his three children owned the middle parcel. Two of them used the property, and the other child was located out west. Peter purchased his parcel from the other two, who were his aunts & uncles. Peter's great-grandfather previously built three cottages on this property.

Peter would like to build a new house on the parcel now. The property is heavily wooded and has some big oak trees. The immediate thought was to build on the three existing footprints of the existing houses. There is one on the north, which is 4' 4" from the property line, and there is another cottage just south of that. The third cottage is on the south side, closer to the road. They are going to take the two cottages on the north side and combine them to make a main house for Peter and his family. It will also be designed to host his aunt and uncle, who will be coming to visit. There will also be an accessory building which will have an accessory dwelling with an attached garage next to the road. They are proposing to move the house 5' away from the north property line so it meets the State Building Code. They plan to place a garage 32' away from the front (street) property line, which is in line with all the other garages in that area. There is a house to the north that is at 30', and Peter's dad's garage is at 32'. To move the garage further west down the hillside would be difficult because it is a steep hill. As they move towards the Lake, it drops off further, and they would have to have a lot of fill to have a driveway into the garage. If the garage is back 30', cars can safely park in front of the garage and still have plenty of separation from the traffic. The two Variances requested are the street side for the garage and the north side Variance for the new house that will be replacing the existing house. There is currently a little house on the north side located up the street that is within 5'. With respect to the neighbors, if they build there, there could be no building to the north. Building the home where they are proposing will also save six major oak trees.

Chuck wanted to discuss the Lot Coverage. He felt that they are under 25%. ZCA Julie Holtje asked if he included the decks. Chuck stated that he did include the one deck and the original porch. They did not count the patio. He determined that the Lot Coverage was 23.7%. If there is still an issue, they are willing to shrink something down to avoid the Lot Coverage Variance.

Rosemary Bergin asked Julie what her Lot Coverage calculations were. Julie stated that her calculations show 26%. She calculated 4665 Sq. Ft. There was further discussion with the Board regarding the Lot Coverage calculations. According to ZCA Julie Holtje's calculations,

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the applicant was over the Lot Coverage by 1%. Rosemary Bergin asked if there were Elevation drawings. Chuck stated that they hadn't designed the building yet; they were waiting for approval from the Variances first. It would be a two-story home with a basement. ZCA Julie Holtje asked if this will be a full-time residence for the Francis's. Chuck stated that he felt that they would retire to this property eventually, but not immediately. Julie noted that per our Zoning, Accessory Dwellings must be owner-occupied in one or the other building; they both can't be rented.

Chairman Mike Sharman opened the Public Hearing.

Russ & Wendy Marchese of 4294 East Lake asked if the three houses that are currently there now will be coming down. Chuck confirmed that they would be coming down. Russ also asked if the garage would have an apartment. Chuck stated that the garage would have a bonus area of living space on the second floor. Chairman Mike Sharman asked if they plan on having water and sewer. Chuck noted that it was connected to an accessory building that has water & sewer. Their plans are just to have an area for sleeping; there will not be a kitchen. Chairman Mike Sharman asked if it would be a rental. Chuck stated that it would not be a rental. Russ asked for clarification on the square footage. Chuck explained the layout and stated that it would be 2455 Sq. Ft., there will be some space above and below that will be occupied.

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

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

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 # 12 of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

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 have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare?  Yes  No
- (3) Will the proposed building or use will 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

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- (4) Will the proposed building or use will be adequately served by essential public facilities and services?  
 Yes  No    Electric, water & sewage tank.
- (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
- (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

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the Accessory Dwelling in the attached Garage. Rosemary Bergin made a motion to approve the Conditional Use Permit as submitted. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 4-0.

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 – an improvement in the area.
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance?    Yes – It could be moved over further.
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 proposed Area Variance for the proposed Accessory Dwelling in the attached Garage. Rosemary Bergin made a motion to approve the application as submitted. Motion to approve. M/2/C (J. Prato/M. Thompson) Carried: 4-0.

**(3) *Matthew Lally – 1 Sunset Drive, Livonia, NY***

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **May 1, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Matthew Lally** for an area variance pursuant to Section 155-17C of the Zoning Code of Livonia. This area variance is

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requested for a proposed 11' X 16' Shed which will violate the front and rear Setback requirements according to Sections 155-31G (1 & 2). This property is located at 1 Sunset Drive, Livonia, New York, and is a 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:	Excused
J. Prato	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Matthew Lally to come forward for the proposed 11' X 16' Shed. Matthew stated that he would like to place a shed on the side yard of his property. It will have a 12' X 17' gravel base. It was the best spot on the property for the shed. They could have put it in the backyard, but it is very shallow, and it would be very tight back there since they have a fence installed. They tried to have it just big enough to hold their tools, yard equipment, and some stuff to clear out the garage. It's a strange-shaped Lot, and they tried to work with the area they had available. Chairman Mike Sharman asked why the shed wouldn't be moved closer to the garage. Matthew stated that as you get closer to the garage, the grading starts to fall off, and he would have to add a lot more gravel. They considered having a lean-to instead, but they couldn't find one that was the right size or looked pleasing for that area. Chairman Mike Sharman asked if the Church was notified. Matthew stated that he did not contact the Church regarding the shed, but they had no objections when they installed the fence. He spoke with the person who mows the lawn for the Church, and he didn't have any problems with the fence or the proposed shed. He did speak with his neighbors and made sure the area was staked out to show the area of the shed. Chairman Mike Sharman stated that Board appreciated that.

Chairman Mike Sharman opened the Public Hearing. With no one wishing to speak, the Public Hearing was closed.

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

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 # 16 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? Yes - It could be pushed in further.
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 11' X 16' shed. Rosemary Bergin made a motion to approve the application as submitted. Motion to approve. M/2/C (R. Bergin/M. Thompson) Carried: 4-0.

ZCA Julie Holtje and the Board had a brief discussion regarding the May 15<sup>th</sup> meeting agenda.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:52 pm. M/2/C (/R. Bergin) Motion carried: 4-0

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Respectfully submitted,  
Alison Houk, Recording Secretary