

LIVONIA JOINT ZONING BOARD OF APPEALS

May 19th, 2025

Present: Chair R. Bergin, D. Major, J. Prato, Zoning Compliance Assistant Julie Holtje.

Excused: CEO A. Backus, M. Sharman, M. Thompson, Attorney J. Campbell.

AGENDA: ***(1) Accept and approve the meeting minutes of April 7th, 2025.***
 • ***The minutes were tabled until a Board quorum was present.***

(2) Mary Patterson Estate – 5219 South Livonia Road, Livonia, NY

(3) Michelle Gardner – 3537 Camp Run Drive, Livonia, NY

Chair Rosemary Bergin brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

Chair Rosemary Bergin asked if everyone had reviewed the meeting minutes from April 7th, 2025. J. Prato was not in attendance at that meeting, so will abstain. Without a Board quorum present, the approval of the April 7th minutes was tabled.

(2) Mary Patterson Estate – 5219 South Livonia Road, Livonia, New York

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **May 19, 2025**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Estate of Mary Patterson** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed 1-lot Subdivision fronting Niver Road. The property is located at **5219 South Livonia Road**, Livonia, New York, and is zoned Agricultural Residential Conservation - 5 (ARC-5). 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.

Chair R. Bergin polled the Board for site visits:

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

Chair Rosemary Bergin asked Cynthia Akers and Vicki Patterson, from the Estate of Mary Patterson, and Attorney Margaret Linsner, to come forward for the proposed 1 Lot Subdivision.

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 (# 7).

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This application was determined to require SEQR review, and it was completed with the Livonia Joint Planning Board on April 28th during Subdivision review.

Chair R. Bergin opened the Public Hearing.

Discussion:

- M. Linsner: She represents the Estate of Mary Patterson. As part of the will, Lisa McKay was devised her home and one acre of land. The estate has a contract with L. McKay for the purchase of more than one acre to comply with the zoning. The estate has concerns about where the lot lines are. There is a creek that runs through the parcel, and after this parcel is sold off, the farm will be sold to another who will operate it as a farm. It is important to make sure that we are not compromising the farmer's use of that stream. The original map proposed to the Planning Board showed 5 acres in an L-shaped lot. The Board was not okay with where that west line was. The estate would like to continue the west line of Vicke Bussell to the north, making a 288'+/- width on the remaining frontage to the west.
- J. Holtje: explained the Planning Board's recommendation of keeping the width of the remaining property to the west at 350'. A width of 350' would allow for a conforming lot if the road frontage were to be subdivided in the future. Although the L-shaped lot meets the letter of the law with the 5 acres, it creates a pinch point and does not favor the practical future use of the land. The Planning Board also recommended a minimum of 4 acres.
- Kevin Walsh from Geneseo, an engineer representing/working with Lisa McKay, the buyer for lot 1. Their request is that the application be denied. The Planning Board was very clear that they wanted a rectangular lot. If it were a rectangle, the property could be 5 acres without touching the creek. The master plan identified this area as 5-acre lots. There is no reason to grant that variance as there is no hardship.
- J. Holtje: The Board meant a rectangular shape, not a strict rectangle. The Board understood that it could jog west, but only enough as would permit a 350' width on the remaining land to the west.
- M. Linsner: The estate is not asking for 5 acres because they don't want to go further north than where that north line is proposed. On behalf of the estate, the application is for 4 acres. They are not asking for 5 acres. The negotiations between the parties have nothing to do with this application to the Planning or Zoning Board.
- K. Walsh showed historical pictures of the farm and there was further discussion about the creek.
- Jeff White, 6412 Niver Road: the farm has not been farmed in over 40 years. He used to plow it and plant corn. The land needs a lot of work and he questions the feasibility of a farming operation. They may have success with animals.
- Lisa McKay, 6409 Niver Road: would like the variance denied because she would like to comply with the zoning and is willing to purchase the property from the estate.
- D. Major: clarified that the application is for 4 acres because 5 acres would impose on the creek and plans for animals/farming.

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- Discussion about the creek, a lane around the creek, and fencing.
- M. Linsner: for the benefit of the rest of the estate and the sale of the remaining acreage, they don't want to impose any hardship related to the creek. They are asking for an area variance for 4 acres, not proposing any options. K. Walsh and Lisa McKay do not have an application before the Board for 5 acres, and this is not an option the estate is proposing.

With no further comments from the public, Chair R. Bergin closed the public hearing and 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
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
 - Steve Sessler, read the draft minutes from the Planning Board and commented that the Board may be well advised to ask for that revised map before any action. It is hard to have public comment on something ambiguous.
 - J. Holtje: Discussion at the Planning Board advised the applicant not to submit the revised map until the details were settled with the ZBA. The original map was determined to have enough detail, along with the Planning Board's clear recommendations on the minimum size and width requirement. The Planning Board requested that this finalized map be prepared after/if the ZBA granted the variance. The Planning Board gave conditional approval contingent upon their recommendations being followed and the ZBA's approval. If approval is obtained, the map will be verified by the Building & Zoning Department, signed by the Planning Board Chairman, and be able to be filed in the County Clerk's office. A return to the Planning Board may not be necessary.

Chair Rosemary Bergin asked the Board for a motion to approve or disapprove the Area Variance for the proposed 1 Lot Subdivision. Joe Prato made a motion to approve the application to grant the area variance as presented with the following conditions: Approval of Lot 1 with 380.84' of road frontage as shown on the map with the west line of lot 1 maintaining 350' from the Myers at Churchville LLC's east line, and a depth to create a minimum of a 4-acre lot. Motion to approve. M/2/C (J. Prato/D. Major) Carried: 3-0

(3) Michell Gardner – 3537 Camp Run Drive, Livonia, New York

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PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **May 19th 2025**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Michelle Gardner** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for an existing Shed, which violates the side and rear Setback requirements according to Sections 150-31G (2) & (3) and 150-71 non-conforming lots. This property is located at **3537 Camp Run 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.

Chair R. Bergin polled the Board for site visits:

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

Chair Rosemary Bergin opened the public hearing and asked Michelle to come forward for the existing Shed Variance.

Chair Rosemary Bergin stated for the record:

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.

M. Gardner explained that she had a garage that was falling down and couldn't be used. She was unaware that a replacement required a permit until she got a letter in the mail. She is here to ask for her new shed to be allowed to stay where it was placed, 5' from the side property line, and 11' from the rear property line. Michelle submitted letters from 3 neighbors who are happy with the shed and that the garage is gone.

Discussion: The previous garage was 14x20, and the setbacks were 1.5' from the side property line and 3' from the rear property line. The new shed is smaller, 12x16, and is set 5' from the side property line and 11' from the rear property line.

Chair Rosemary Bergin 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

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2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? Yes
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

With no further discussion, Chair R. Bergin closed the public hearing and asked the Board for a motion to approve or disapprove the area variances.

Doug Major made a motion to approve the application to grant area variance as presented for the existing 12' X 16' Shed with a 5' side setback from the east property line and a rear setback of 11'. Motion to approve. M/2/C (D. Major/J. Prato) Carried: 3-0

With no further discussion, Chair Rosemary Bergin asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:05 p.m. M/2/C (D. Major/J. Prato). Motion carried: 3-0

Respectfully submitted,
Julie Holtje