

LIVONIA JOINT ZONING BOARD OF APPEALS
September 18th, 2023

Present: Chairman M. Sharman, R. Bergin, J. Prato, CEO A. Backus, Zoning Compliance Assistant Julie Holtje.

Excused: D. Major, M. Thompson, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of August 21, 2023*
 - (2) Peter McCabe – 5978 Stone Hill Road, Livonia, NY*
 - (3) John Harrower – 3609 Pebble Beach, Livonia, NY*
 - (4) Robyn Fennell – 6135 Stone Hill 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 noted to all applicants that two Board members were not present and that a unanimous vote from all three Board members would be required for their application to be approved. He gave the option for anyone who wished to re-schedule to the next meeting with a full quorum.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from August 21, 2023. The Board agreed they had, and a motion was made to approve. M/2/C (J. Prato/R. Bergin) Carried: 3-0.

(2) Peter McCabe – 5978 Stone Hill Road, Livonia, NY

ZCA J. Holtje read the legal ad aloud and polled the Board for site visits:

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

Chairman Mike Sharman asked Peter McCabe to come forward for the proposed covered Porch. Peter McCabe explained his desire to add a covered front porch onto his house. His house sits farther back than most homes on Stone Hill. With no questions from the Board, Chairman Mike Sharman opened the Public Hearing. Two letters of support were received from nearby neighbors, Kristen Neckers and Kevin & Michelle Barrett, and were read aloud. Letters are on file in the Building & Zoning office.

With no comments, the Public Hearing was closed.

LIVONIA JOINT ZONING BOARD OF APPEALS
September 18th, 2023

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.

The Board reviewed the area variance criteria and no impacts were identified. Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Area Variance for the covered porch. R. Bergin made a motion to approve the application as submitted. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 3-0.

(3) John Harrower – 3609 Pebble Beach, Livonia, NY

ZCA J. Holtje read the legal ad aloud and polled the Board for site visits:

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

Chairman Mike Sharman asked John Harrower to come forward. John explained that he and his wife have sold their home in Batavia and will reside on Pebble Beach full time. They would like to put up a 3 car garage and eliminate parking on the side of the street and make an accessory dwelling unit upstairs. John explained that he misinterpreted the setback and now is 2' short from the required front setback with his foundation. They measured from the edge of the pavement instead of from the property line. It was an oversight. There is no violation of the side setback. R. Bergin stated that she was curious to know why they went ahead without a building permit? John apologized. He did put in an application for a building permit and was having a hard time scheduling contractors. He was going to lose his site guy and his concrete guy so he made a decision to start, it was a bad decision. John felt like he needed to keep moving forward. ZCA Julie Holtje reminded the Board that they had a timeline of interactions with the applicant. R. Bergin asked John that if he had waited and gotten a permit and had sought the expertise of a surveyor for placement, would he have needed a variance? John responded that there was no reason why he would have needed a variance, there is enough room in the back. There was discussion about the memo and misreading it and the normal process of having a structure staked. John wasn't sure it would have been caught by anyone. Rosemary assured him that it would have been caught because of the steps involved in the process.

Letters from nearby neighbors, Gary Gaskin of 3613 Pebble Beach, Judith Smith of Pebble Beach Road, and Ted Sotir of Big Tree Road were read aloud. All letters expressed concern for

LIVONIA JOINT ZONING BOARD OF APPEALS
September 18th, 2023

the Setbacks and the having everyone being held to the same standards. The letters are on file in the Building & Zoning office.

Chairman Mike Sharman opened the Public Hearing.

Fran Kozakowski of 3608 Pebble Beach stated that Mr. Harrower has a nice property and does nice work and encouraged the Board to work with the situation & John. He is confident that the work will be done well.

Robert Donnelly of 3606 Pebble Beach stated that he has known the Harrowers for many years and that whatever work they are doing will be a credit to the community. He has no objections to the construction and is in favor of the proposal.

Rich Chiverton of 3579 Pebble Beach stated that he has seen many improvements on the property, which were always done with the highest regard. He has been a positive influence on Pebble Beach Road. The neighbors he has spoken to about this proposal are in favor of the project.

Archie Snyder of 3621 Pebble Beach Road would like to talk about the Codes. He has been working in this Town since 1958. Why can someone come in and not do it right? They set back to be in line with everyone else, not forward. Work began and continued without the issuance of a Building Permit, and nothing was correct from the footers up.

John Harrower responded to the Board that he has a letter from an engineer that his footers are compliant. He put frost protection in the footer when Code doesn't require it. Rosemary clarified that we are talking about setback, not the building construction details. John explained his miscalculation regarding the timing for the permit. The day came when he had to decide and didn't realize it would create an issue. He is apologizing and asking for forgiveness. Adam Backus commented on the response time and explained that the time was long because the application came in incomplete and also included multiple revisions. The response time is not the fault of the Building and Zoning Department. John clarified that he is not blaming anybody, and he is taking responsibility for the action. Leslie Harrower, John's wife, clarified that John made an honest mistake and blame was not to be misconstrued.

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

The Board asked questions about the Accessory Dwelling Unit (ADU) and reviewed the criteria for the ADU. No negative impacts were identified.

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 require the Short Environmental Assessment Form SEQR according to the New York Codes, Rules, and Regulations 617.5.

LIVONIA JOINT ZONING BOARD OF APPEALS
September 18th, 2023

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/J. Prato) Carried 3-0

Chairman Mike Sharman asked the applicant, John Harrower, if he was sure that he wanted to proceed knowing that he need all three Board member's vote. John confirmed he wanted to proceed.

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, it could have been because the cart was ahead of the horse here.
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 garage. J. Prato made a motion to approve the application as submitted. Motion to approve. M/2/C (J. Prato/M. Sharman), R. Bergin - Nay. * The application was denied since all three Board members did not concur.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the Accessory Dwelling. Joe Prato made a motion to approve the Conditional Use Permit as submitted, subject to complying with the Zoning Code regarding the garage meeting the required Setbacks. Motion to approve. M/2/C (M. Sharman/J. Prato) Carried: 3-0.

(4) Robyn Fenell – 6135 Stone Hill Road, Livonia, NY

ZCA J. Holtje read the legal ad aloud and polled the Board for site visits:

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

Chairman Mike Sharman asked Robyn Fennell to come forward for the storage container.

LIVONIA JOINT ZONING BOARD OF APPEALS
September 18th, 2023

Robyn Fennell explained that her son bought the shipping container, and they replaced an old shed with it 3.5 years ago. The container was put in the same spot. They were not aware that it didn't meet the zoning code. The Board stipulated that the container shall be painted and approved by the Building and Zoning Department by October 15, 2023. The color should be in harmony with the house. The board approved the color swatch provided.

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 Conditional Use Permit criteria and no negative effects were identified. Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit for the storage trailer. Rosemary Bergin made a motion to approve the Conditional Use Permit as submitted with the condition that the container is to be painted by no later than October 15th. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 3-0.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:16 p.m. M/2/C (J. Prato/R. Bergin). Motion carried: 3-0

Respectfully submitted,
Julie Holtje