

LIVONIA JOINT ZONING BOARD OF APPEALS
February 6, 2023

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

Excused: D. Major, Attorney J. Campbell.

- AGENDA:**
- (1) Accept and approve the meeting minutes of Oct 17, Nov 21 & Dec 5, 2022*
 - (2) Jakob Stevens – 7033 Big Tree Road, Livonia, NY*
 - (3) Michael Dube – 5178 Old Bald Hill, Hemlock, NY*
 - (4) John Quinlan – 3975 Graywood Ctr, Livonia, NY*
 - (5) Adam Frank – 3564 Camp Run Drive, Lakeville, 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 October 17, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (M. Sharman/R. Bergin) Carried: 3-0.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from November 21, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (M. Sharman/R. Bergin) Carried: 3-0.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from December 5, 2022. The Board agreed they had, and a motion was made to approve. M/2/C (M. Sharman/R. Bergin) Carried: 3-0.

- (1) Jakob Stevens – 7033 Big Tree Road, Livonia, NY*

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, Dec 5, 2022, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Jakob Stevens for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia.

This area variance is requested for a 30' X 96' existing Greenhouse, which violates the front Setback requirements according to Sections 150-32G (1). A reduced front setback is also requested for future greenhouses. This property is located at 7033 Big Tree Road, Livonia, New York, and is a Zoned Agricultural Residential Conservation District (ARC-3). The application is on file in the

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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

Chairman Mike Sharman asked Jake Stevens to come forward for the continuation of the December 5th, 2022, meeting regarding the existing greenhouse and proposed new greenhouses. Chairman Mike Sharman noted that the applicant has provided a new survey map for the record. The applicant recently purchased the property, and the Surveyor, who did the initial purchase survey, added this drawing labeled a Tape Location Survey. Jake confirmed he is proposing the same request from the December 5th application. The existing 30' X 95' Greenhouse, shown on the survey as 37' & 36' from the highway, is the placement the applicant requests to keep. Chairman Mike Sharman asked if the applicant gave any more thought to adjusting the other two Greenhouses in the back. Jake stated that they discussed that option with the Agri-Business Planner and decided that they would like to put up three additional Greenhouses in the future. They would like to keep the current layout of three, with an additional three added in the future. Moving the Greenhouses further away would be difficult because the Greenhouse that is furthest to the north currently has a 4' fall on it. Moving it further away from the road would require a significant amount of fill dirt. That would make it a lot more expensive and defeat the purpose of putting up a hoop house if you put fill dirt in. The layout was based on where the wash/pack building will be located in the future and where the entrance driveway is located. There should be plenty of room for an employee parking area. Rosemary Bergin asked where the retail area would be. Jake stated that there is no retail there. The retail sales will stay on Plank Road. Chairman Mike Sharman noted that retail sales were brought up at the last Board meeting. Jake stated that it was brought up to potentially put up a farm stand, not a retail location. It would only be a seasonal produce stand. Chairman Mike Sharman asked where the parking would be located. Jake stated that the area between the proposed building and where the driveway exists is a significant amount of space that could be used for parking. Chairman Mike Sharman stated that all the land to the west of the 48' X 32' building would be parking. Jake confirmed that was correct. Chairman Mike Sharman stated that the Greenhouses are not intended to be temporary. CEO Adam Backus stated that the first Greenhouse was installed too close to the road, which precipitated this meeting; now, two additional buildings would be proposed with the same setbacks. The applicant returned because the setback was too short and, on top of that, proposed two additional buildings with the same violation. Why not correct the other two instead of continuing to do the same thing? Jake stated that it was so it would not be a waste of agricultural space. It is flat in that location which makes it easier to build there. With the 100' setback and the size of equipment they are currently using and expanding to, you would end up with a quarter-acre lot that turns into a lawn in the front instead of being utilized for agricultural production. CEO A. Backus stated that the Board is put in a position where either Zoning matters

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or it doesn't. Agricultural has setbacks, but we are compounding times three now. The justification is to save agricultural land north of the other two Greenhouses. Jake confirmed that was correct. Chairman Mike Sharman noted that was his question regarding the permanency of the structures. CEO A. Backus stated that we don't see a difference between a Greenhouse on poles or a tent over a boat. It is a structure, and there is no distinction whether it's anchored 42" in the ground or sitting on top of the ground; it is a structure. Chairman Mike Sharman stated that his first reaction would be to push the two back further. Rosemary noted that at the last meeting, there was a discussion regarding moving the proposed wash station further back. CEO Adam Backus stated that it's difficult for the Board. Why do we have Zoning if we're going to violate it here and then come in for a Variance? Oh, by the way, I want to do it two more times. There has to be a justification for that. The answer is that the rest of the property would be encumbered by the building footprint if we want the Greenhouses to be further back. The applicant needs to be able to explain why. Jake stated they are agricultural farmers trying to preserve land use. They are not building residential structures but trying to utilize every square foot possible for agricultural use since it is so valuable. Placing the Greenhouses closer to the road, instead of having an extra 40' of lawn, allows them to have another 40' of productive Ag land on the back side of the Greenhouses. Chairman Mike Sharman asked why he stated 40' more feet. Jake said it would be 38' if they pushed the Greenhouse back. ZCA Julie Holtje noted that the setback for this district is 75'. Chairman Mike Sharman stated that other farmers have requested relief from the setbacks, but none have ever asked for this much, regardless of terrain or use. He also noted that their structures were more permanent in nature. Chairman Mike Sharman noted that Board would prefer that the Greenhouses were not up this close to the road. They understand that the applicant currently has one Greenhouse up with a 36' Setback off the highway right of way. The dimensions to the east property line are significant. Rosemary Bergin stated that the concern is compounding a negative. Chairman Mike Sharman stated that the Board could consider future buildings being further back, such as a 50' setback. Joe Prato asked if this Variance was for the additional Greenhouses and wash/pack building. ZCA Julie Holtje stated that it was noted on the Public Notice that the application was for future Greenhouses. CEO Adam Backus stated that what originally precipitated this was that the first building was too close to the highway. Now the applicant is requesting two more at the same distance. Chairman Mike Sharman asked if the applicant puts in three more Greenhouses, where would they go? Jake stated they would match up across from the existing Greenhouses towards the west. They would align with the existing ones and be aesthetically pleasing. Jake approached the Board with a Survey map to clarify the placement of the proposed Greenhouses.

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

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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 – We are a farming community, and he is working with a limited amount of land.
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? 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 greenhouses. Chairman Mike Sharman made a motion to approve the Area Variance, approving the existing Greenhouse. The other two buildings, the 30' X 48' Greenhouse and the 48' X 32' wash/pack building, will be allowed a 50' setback. The future Greenhouses will be placed behind the wash/pack building. Chairman Mike Sharman requested that the applicant works with the Building & Zoning office to ensure compliance. Motion to approve. M/2/C (M. Sharman/J. Prato) Carried: 3-0.

(2) Michael Dube – 5178 Old Bald Hill, Hemlock, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, **February 6, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Michael Dube** for a Conditional Use Permit pursuant to Sections 150-17 B of the Zoning Code of Livonia.

The Conditional Use Permit is requested for the use of a travel trailer for more than 14 consecutive days per Section 150-49. This property is located at **5178 Old Bald Hill**, Hemlock, New York, Tax Parcel # 94.-1-27.512, and is Zoned Agricultural Residential Conservation District (ARC5). 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

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Chairman Mike Sharman asked Michael Dube to come forward for the proposed Conditional Use Permit. Michael stated that he would like to build a barn with an apartment. The property came with a fifth-wheel camper with solar energy when he purchased it. The camper is currently in a stationary position. He would like to reside in the camper while the barn and apartment are being built. His son & grandson will be helping him, but it will take some time to get everything built. When he purchased the property, he was under the impression that it was acceptable to have the camper there and reside in it. He has obtained his permit for the septic system and pricing for the utilities and excavating, and he would like to proceed with that part of the development. When he is out at the property working, he would like to be able to stay in the camper. He doesn't want to have to move the camper as it has been stationary for a while, and it would take some bigger equipment as it has a triple axle. In the future, his son may want to build a small ranch house and use the barn as a barn after Michael is gone. Chairman Mike Sharman asked if there is currently water on the property. Michael stated that a well had not been installed yet. The septic and electric will be going in this spring. He hopes the water will be put in around that time frame. He has his contractors ready to proceed. Rosemary Bergin asked how long he expects the construction to last. Michael stated that with his son and grandson helping, he anticipates it will take about a year to complete the barn. He hopes that the apartment will be done within two years. His wife passed away a few years ago, and he planned to have his family help him build the structure. Rosemary asked if he plans on living in the camper full-time. Michael said he has a nice house in Palmyra and plans to use the camper when he works on building the barn at the property. He may be out there quite a bit to get things going. He also has most of the materials already on site from a Morton building that he took down. He was surprised when he came in and learned he wasn't permitted to stay in the camper long-term. The property was sold to him as an off-grid summer getaway when he purchased it. All along, his intentions were to build a barn with an apartment. Chairman Mike Sharman asked if the camper was on site when he purchased the property. Michael confirmed that it was there. The previous owner owned the property for four or five years. It was cleared, and they brought in the camper. CEO Adam Backus stated that we had received complaints on this same road where someone was squatting in a trailer, and neighbors were concerned because they said the person squatting wasn't paying taxes and had no septic or electricity. It was awkward; we don't go around looking for problems. In this situation, the camper is tucked back in, and you don't see it. The applicant came in, trying to do the right thing. Technically, you can live in a travel trailer during the process of a building permit to construct a residence. The applicant came into a situation where things weren't done quite right. He wants to do things right, so he requests a Conditional Use Permit to occupy the camper for more than 14 consecutive days. This would allow him to work on his plans. We have no record of any complaints about this property. The applicant is making every effort to be compliant. If he has the means for septic removal and obtains a permit to build a separate structure, we would not normally ask for a Conditional Use Permit to occupy a camper while building the new structure. In this situation, the applicant wasn't aware of the Zoning rules pertaining to the camper and would like to start with a clean slate. Obtaining a Conditional Use Permit was the safest option for us to recommend for him to make this legit. If we issued him a building permit, he would have had the year to stay in the travel trailer legally. CEO Adam Backus felt that the applicant had gone above and beyond to try to make this right. We are not aware of adverse effects or complaints regarding the travel trailer. Chairman Mike

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Sharman asked if the travel trailer would go once the barn and apartment were built. Michael stated that it would not be lived in. It would be nice to have it there for his son to visit, but if not, it could be sold. He will have the trailer connected to the well, septic, and electric. Chairman Mike Sharman stated that the Board doesn't want an accessory dwelling on the property. CEO Adam Backus clarified that the applicant intends to connect the trailer to the necessary utilities while the structure is being built if the Conditional Use Permit is granted. Joe Prato asked what the duration of the trailer would be. CEO Adam Backus stated that the Board could put conditions on the duration, but if he didn't get the Conditional Use Permit, he could reside in the trailer for a year with obtaining a building permit. The applicant is trying to legitimize using the camper if the building process takes longer than a year. CEO Adam Backus stated that a Conditional Use Permit was granted for a camper where the occupants spend six months out of the year living in it, and the other six months they live down south. Rosemary asked that after the barn and apartment are built, would the applicant need to obtain a Variance to have the trailer on site as an accessory dwelling since it will be connected to utilities? CEO Adam Backus stated that at that point, it would go back to the travel trailer Code that states no more than 14 consecutive days. You wouldn't want both because then it would be an accessory dwelling. Once the barn and apartment are built, the trailer will no longer be a primary dwelling; it will be a camper. Michael stated that he didn't intend for someone to live in the trailer once the barn and apartment were built. Chairman Mike Sharman asked if the Lavines had moved into the property located to the south. Michael stated that they had not. Michael confirmed that there are not any close neighbors. On the other side, there is a pond and barn.

Chairman Mike Sharman opened the Public Hearing and asked that they state their name and address for the record.

Steve Hill of 5285 Old Bald Hill Road stated that he had never met the applicant. A property near his was previously occupied by Craig Southern. The property became a real problem. Mr. Southern lived in a travel trailer with no septic system, had many personal issues, and was a bad person. He doesn't want to see anything like that happen again. He knows Mr. Dube's property very well. His daughter was going to purchase the property but backed out once she realized what it would take to install a septic system. He knows the property's previous owners, and it was a weekend getaway. He purchased his property in 2007 and had a 29' trailer. He had Bruce Cratsley put in a driveway, and it was a weekend getaway. When he referred to the Code, it states that if you're going to have a trailer, it needs to be a permanent home with a septic system to Code and 75' back from the road. He doesn't want to see something happen to the property values in the area. He has no issue with what the applicant is requesting to do. He is 79' back from the road and within the Code. He doesn't want to see it turn into a multi-family. Once the barn and apartment are built, the trailer should be disconnected from the utilities. There should be something in writing regarding the time period for the trailer that protects the property owners and their land values. He would like the guidelines in writing.

Roger Johnson of 5210 Old Bald Hill stated that another house bordering the applicant's location, the Lavines. They have been working on it for a very long time. He agrees with Steven Hill; there must be a stipulation that guarantees certain things will take place when they are supposed to. They had a terrible experience with someone else on their road, as Steven

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explained, and don't want to deal with that again. This is a nice group of people and homes, and they would like to maintain that same quality of life on a rural road. He hopes that the Board and the applicant understand the concerns.

Chairman Mike Sharman closed the Public Hearing with no one else wishing to speak from the public.

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 (# 10).

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 will 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 will 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 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
- (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 use of a travel trailer for more than 14 consecutive days. Rosemary Bergin made a motion to approve the Conditional Use Permit with the condition that the camper/trailer is unhooked from septic, water & electric and no longer used full time after the construction of the barn and the apartment is completed, and the Certificate of Occupancy has

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been issued. At that time, the trailer/camper would revert back to 14 consecutive days of occupancy. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 3-0.

(3) John Quinlan, 3975 Graywood Ctr, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, **February 6, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **John Quinlan** 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.

This area variance is requested for a proposed 1790 Sq. Ft. single-story dwelling, which will violate the side & rear setback requirements according to Sections 150-31G (2&3) and 150-71. 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 accessory dwelling per Section 150-31 D (1). This property is located at **3975 Graywood Center**, Livonia, New York, Tax Parcel # 74.69-1-19, and is Zoned Neighborhood Residential District (NR). The application is on file in the Building & Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

ZCA Julie Holtje polled the Board for site visits:

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

Chairman Mike Sharman asked John Quinlan & Contractor Jason Seeley to come forward for the proposed area Variance and Conditional Use Permit for the proposed 1790 Sq. Ft. Single Family Dwelling. Jason Seeley stated that the applicant requested his services to remove the existing structure and rebuild a new structure down by the Lake. They originally started as a 1500 sq. ft. home. They knew that they were going to need a Setback Variance. They wanted to keep the second dwelling closer to the private drive, not take down both structures. When he spoke with the Building & Zoning office, he was told there were issues with having two dwellings. The second dwelling needs to be 40% smaller, so they increase the size of the house to 1900 sq. ft. They are here to figure out what they need to do. Rosemary Bergin stated that the northeast corner of the accessory dwelling is over the Lot line. She asked if they had any approval from that neighbor. John Quinlan noted that the neighbor is Dave Mann, and he just installed a water drainage pipe down through there. Rosemary asked if he had anything in writing. John stated that he could get something in writing if it were needed. John asked what this had to do with the main structure. Rosemary said it had nothing to do with the main structure, but you are asking for an Accessory Dwelling Variance. Rosemary asked ZCA Julie Holtje what would happen if the neighbor's property was sold. Julie stated that a legal agreement typically covers those types of things. John asked how they did that in the past because the house was built in the 1900s.

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Rosemary stated that it wouldn't be an issue if the applicant weren't asking for an Accessory Dwelling. Julie asked how long the applicant had owned the property. John stated that he had owned it for a couple of years. Julie asked if there was an agreement regarding the Lot line when he purchased it. John stated no. Chairman Mike Sharman asked if a bank was involved in the purchase, and John commented no. Chairman Mike Sharman noted that is why there is no boundary line agreement, which is needed. Rosemary commented that the Board would like to see something in writing regarding the boundary line agreement. John commented that we have asked him to make the other structure bigger, but they haven't taken into account the parcel located on the other side of the private drive. They own all the way to the road and across the street. Rosemary asked if they could move the second structure across the street. John said that the Board is asking for the primary dwelling to be bigger than the accessory structure and maintain the Setback, and it is not possible to have everything. Rosemary commented that is what you are asking for, "everything"! Julie stated that she had this discussion with Jason in the beginning. Every residential lot is allowed an Accessory Dwelling unit with the requirement that it does not exceed 40% of the primary dwelling. In this case, you wouldn't just make the primary structure bigger so that the existing Accessory structure conformed. Jason stated that they are over on the lot coverage, but we are only taking into account the square footage on the lakeside parcel. Julie noted that she summarized the whole ask, along with Lot Coverage, and proposed Lot Coverage in a memo that was sent to the Zoning Board. John asked if the house was over the line. The survey shows the accessory dwelling over the property line. John mentioned that Chris Ramsey came down and surveyed it. John said the neighbor would sell that property if this were a big deal. Julie noted that the neighbor could not sell that piece of property because you can't reduce an already non-conforming lot further. Chairman Mike Sharman felt that a remedy would be a boundary-line agreement. Maybe your attorney would have a better option. Rosemary stated that if he sold the property, she wasn't sure if that agreement would go with the property. Chairman Mike Sharman noted that the applicant & the neighbor would need to put that in their property Deeds.

Chairman Mike Sharman asked how soon the applicant wanted to proceed with this project. John stated that as soon as he was granted the approval. Chairman Mike Sharman noted that this case would require another meeting to give the Town time to consult with the Town Attorney regarding this matter. John asked for clarification on what was needed. ZCA Julie Holtje noted that the boundary line agreement, if required, could be a condition of the Building Permit. Before moving forward, Rosemary Bergen requested consultation from James Campbell, the Town Attorney.

CEO Adam Backus summarized that the concern with this application is expanding and needing relief from Lot Coverage and Setbacks. Is there any way you could see not needing a Setback on the primary building and resolving the Lot Line issue? John noted that they had to increase the size of the primary dwelling to satisfy the 40% requirement. CEO Adam Backus stated that the applicant could request an Area Variance to address that issue without increasing the impact on the lot coverage with an increased footprint. You could ask for relief on the Accessory Dwelling instead. Jason said the plan was not to tear down the accessory dwelling near the road. The applicant has children and grandchildren that could stay there when visiting. CEO Adam Backus asked if they could develop a plan "B" to reduce the ask on the primary dwelling. Joe Prato

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noted that the reason to do that would be to bring the request further into compliance. ZCA Julie Holtje stated they could make the primary dwelling side setback 9', reduce the footprint and set it back further from the Lake. Jason said they could do that but would like to stay 18' off the Lake. The south side will be close to the line. Julie asked what would be the maximum footprint needed. John stated 1800 sq. ft. CEO Adam Backus stated that if the only thing we were working with were that the primary dwelling was too small based on the Accessory Dwelling, that would be less of an ask. John asked what would bring the application into compliance. CEO Adam Backus stated that the Setbacks and the lot coverage. Jason noted that the only Setback issue was to the south side. The existing house was 1.9', and they have moved it over to 6.0'. They would still be 18' off the Lake. Rosemary Bergin asked what Building & Zoning would recommend regarding the primary house. Julie stated that there was a conversation in the beginning that discussed not just making the primary dwelling bigger to bring the Accessory Dwelling into compliance because they would be increasing the Lot Coverage significantly. Currently, the Lot Coverage is at 35.6%. With the increased size of the primary dwelling, it has increased to 45%. There appears to be room on the lot to fit a primary dwelling within the Setbacks. Joe commented that would leave the issue between the primary and Accessory Dwelling. Julie noted that she felt the Board would rather see a Variance between the existing and primary dwelling rather than exceed the Lot Coverage. Rosemary commented that would be less of an ask. CEO Adam Backus stated that if there were a plan "B," would you be able to meet all the Setbacks on the primary dwelling? Jason said they would need to figure out the primary house's square footage. Julie stated they weren't planning to have a second story, but you mentioned finishing the basement in the future, which would double the square footage. We are more concerned with the footprint and the Lot Coverage than increasing square footage to make accessory dwelling compliant. John said he thought that the basement wouldn't count as square footage. Julie noted that it would be counted if it was finished. CEO Adam Backus commented that if you're going to ask for relief from the 40% on the Accessory Dwelling because of the size of the primary, then it does matter how many stories you go and how much livable space there is because that is what would dictate the size of those structures. Currently, you need relief on the primary dwelling, which has increased, and the boundary line issue. He suggested that plan "B" shouldn't have an ask for the primary dwelling. Then ask for a Variance on the Accessory Dwelling being too large compared to the primary Dwelling. Jason asked how much they were over on the existing Lot Coverage. Julie stated that the Lot Coverage requirement is 25%. They are currently exceeding that at 35.6% and now asking to increase that to 45%. Jason asked if it would help to remove the existing garage. CEO A. Backus stated that you would be removing 371 sq. ft; he suggested they meet their Setbacks on the primary Dwelling and ask for relief for the difference between the Accessory Dwelling and 40%. That will be a bonus if you want to bargain with the garage. Jason said they could reduce the primary dwelling size to 1500 sq. ft. and remove the garage, reducing some of the footprint. Jason asked why the whole Lot wasn't counted in the size as they own the parcel across the street. Julie explained that for Lake parcels that are split by a road, this Board has historically held that the intent is that Lot Coverage is on the separate parcels. Joe Prato stated that as a rough calculation, which would need to be verified, the house's square footage would need to be 1440 sq. ft; of livable space to meet the Lot Coverage requirement. CEO Adam Backus clarified that the Accessory Dwelling 40% requirement is living space. The intent is to make the accessory dwelling smaller than the primary dwelling. Julie asked if they could meet all the Setbacks and

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didn't increase the Lot Coverage with the new construction on the primary dwelling, keeping the Lot Coverage at 35.6%, so the footprint is equal to what is there now. Would that be acceptable? John stated that he thought it would be. Rosemary stated that she wanted to consult with Attorney James Campbell before a decision and that the boundary agreement would still be requested.

Chairman Mike Sharman closed the Public Hearing with no one present wishing to speak regarding this application.

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

Chairman Mike Sharman recommended that this application be postponed allowing the applicant time to determine a path forward and how they would like to proceed. The Board would also like a remedy for the boundary line issue.

Chairman Mike Sharman asked the Board for a motion to postpone the application until the next scheduled Zoning Board of Appeals meeting. Rosemary Begin made a motion to postpone. Motion to postpone the application. M/2/C (R. Bergin/J. Prato) Carried: 3-0.

(4) Adam Frank, 3564 Camp Run Drive, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **February 6, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Adam Frank** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia.

This area variance is requested for a proposed second-floor expansion, which will violate Section 150-70 A (2), which prohibits the expansion of a non-conforming building. This property is located at **3564 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.

ZCA Julie Holtje polled the Board for site visits:

Chair M. Sharman: Yes
R. Bergin: Yes

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D. Major:	Excused
J. Prato	Yes

Chairman Mike Sharman asked Adam Frank to come forward for the proposed area Variance for the second-floor expansion. Adam said this would be a cottage he and his family would use during the summer. They would like to bring everything up to Code. He would like to raise the ceiling height and have enough bedrooms for everyone to sleep in without being in the same room. They would also like to add one extra bedroom to what currently exists. The Variance is requested to raise the section above the stairs an additional 2' to equal the roof height.

Joe Prato asked why this application requires a Variance to raise the roof. ZCA Julie Holtje stated that the building as it is now is non-conforming. Any expansion of non-conforming, such as an increase in size, would require a Variance. CEO Adam Backus noted that there is also the Uniform Code and the flood plain requirements (if the variance is approved). Adam Frank stated that the 821' elevation above sea level pertains to one corner of the house that is slightly in the flood plain. CEO Adam Backus noted that if the Board grants the Variance, there are still flood plain and Uniform Code requirements. Adam Frank stated that he is working with FEMA, and everything required is being done. CEO Adam Backus wanted to clarify that this Board is only addressing the expansion of non-conforming, nothing to do with the flood plain or Uniform Code.

Chairman Mike Sharman opened the Public Hearing and asked that they state their name and address for the record.

Marcy Clark of 6058 Lakeview Crescent. She is concerned about preserving her lake view and wants to make sure the increase in the height of the house will not obstruct her view of the Lake. In addition to her property, there is also access to the Lake near the applicant's property which appears to be about 9' or less from the line. Julie Holtje clarified that Marcy was referring to the side survey tie near the common area. It is a 27' access for the homes in that area. The applicant is 6' from that shared property line. Joe Prato asked if the applicant was raising the roof height. Adam Frank's Architect confirmed that the roof section is already higher than what they are proposing.

Jamie Lever of 2720 Poplar Hill Road, representing Janette French, is present and would like to confirm what the applicant states in the application is what they intend to do. They don't have any objections at this time.

Chairman Mike Sharman closed the Public Hearing.

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 (# 3).

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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.

Chairman Mike Sharman asked the Board to go through the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance? No.
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? No
3. Is the variance substantial? No – No change in footprint.
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No - Chairman Mike Sharman advised the applicant to work with the Building & Zoning office regarding located in the flood plain.
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 second-floor expansion. Rosemary Bergin made a motion to approve the application as submitted. Motion to approve. M/2/C (R. Bergin/J. Prato) Carried: 3-0.

The Board had a brief discussion regarding the Zoning Board member candidates.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:42 pm. M/2/C (B. Weber/R. Bergin) Motion carried: 3-0

Respectfully submitted,
Alison Houk, Recording Secretary