

LIVONIA JOINT ZONING BOARD OF APPEALS
August 21, 2023

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

Excused: J. Prato

AGENDA:

- (1) Ted Sotir – 5924 Big Tree Road, Livonia, NY*
- (2) Brett Porter – 4142 East Lake Road, Livonia, NY - Continuation*
- (3) Verizon Wireless – Niver Road Cell Tower, Livonia, NY*

Chairman Mike Sharman brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

(1) Ted Sotir – 5924 Big Tree Road, Livonia, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **August 21, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Ted Sotir** for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed Garage replacement, which will violate the front and side Setback requirements according to Sections 150-31G (1 & 2). This property is located at **5924 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.

ZCA Juie Holtje polled the Board for site visits:

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

Chairman Mike Sharman asked Ted Sotir to come forward for the proposed Garage replacement.

LIVONIA JOINT ZONING BOARD OF APPEALS

August 21, 2023

Rosemary Bergin disclosed that she is a friend of Ted Sotir and his wife and that it will have no bearing on her ability to be objective with this project. Ted introduced himself, discussed his family history with Conesus Lake, introduced his architect, Chuck Smith, and presented a revised site plan dated 08/16/23. The revision includes correcting the labeling of the front and rear setbacks. Architect Chuck Smith reviewed the new garage, which will have a footprint of 924 square feet and a height of 21' 7 1/2" to the ridge. The new garage will be 5' from the property line, meeting the Fire Code, whereas the existing garage has no setback and is over the property line. Chuck Smith explained that a 5' side setback would allow 30' between the new garage and the existing "Duke House," which is a garage/accessory dwelling unit that will receive cosmetic changes to bring a cohesive balance to the property. 30' is necessary for maneuvering and loading between the side loading garages. Chuck explained that they would like to line up the building fronts for architectural balance and style.

Chairman Mike Sharman asked the Board if they had any questions. Doug Major asked for clarification on the location of the circular stairs and the 30' separation between the garages. A Backus confirmed that the Code has provision for access up to 4' from the property line and that metal stairs wouldn't be considered a fire issue. Chairman M. Sharman opened the public hearing. Deb & David Giordano from 5880 Big Tree asked for clarification on the house being built. Their concern is that Airbnb's are affecting the standard of living for the residents and feel that they are being forced out. They have been negatively impacted by excessive cars, loss of privacy, parties every day, and flooding from their neighbor paving his driveway. Chairman M. Sharman recommended that they take their concerns to the Town Board, which meets the third Thursday of the month, and to call the Sheriff's office when enforcement help is not available through the Building and Zoning Department. The applicant responded to the Board that his property would not be rented out, that it is for their family only and for the next generation to enjoy in the same way that they have historically enjoyed the lake. With no further comments, the public hearing was closed.

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 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

LIVONIA JOINT ZONING BOARD OF APPEALS
August 21, 2023

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 replacement Garage. Rosemary Bergin made a motion to approve the application as submitted. Motion to approve. M/2/C (R. Bergin/M. Thompson)
Carried: 4-0.

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

Chairman Mike Sharman asked Brett Porter to come forward for the continuation of the proposed Addition.

Brett reviewed the application for the Board. At the last meeting, he did not get the chance to adequately describe the process he went through in the design he presented. In his application, he had already done the work to reduce the amount of relief requested to be able to join the two existing structures, practically use the residence, and ensure that it can accommodate his aging mother, as she may someday come to live with him. The front setback is important so that he does not have to build a step down to enter the home. Brett described the neighborhood and presented evidence that the request he is making for the front and rear setbacks is less than others granted in the immediate area and much less than the existing neighbors in the neighborhood. His house will be more in compliance than any in the neighborhood. At a front setback of 25', he is the farthest house off the road. 25' is at the closest corner; it becomes 29' on the other corner. Brett asked the Board to consider the application as presented. Doug Major asked if all the porches were at the same elevation. Brett said this addition will have the main entrance and provide easy access to the house. The garage sits higher. With no comments from the public, the public hearing was closed. Chairman M. Sharman disclosed information received from the Building and Zoning Department regarding previous variances granted in the neighborhood and commented on how this parcel has been enlarged and given previous variances.

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LIVONIA JOINT ZONING BOARD OF APPEALS
August 21, 2023

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

With no more questions from the Board, Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Area Variance for the proposed replacement Garage. M. Thompson made a motion to approve the application as submitted. Motion to approve. M/2/C (M. Thompson/R. Bergin) Carried: 4-0.

Brett Porter mentioned to the Board that they have a great Building and Zoning Department and that Adam and Julie have been very helpful.

(3) Verizon Wireless – Niver Road, Livonia, NY - Continuation

Chairman Mike Sharman asked Jeff Twitty, Attorney of Nixon Peabody, representing Bell Atlantic/Verizon Wireless, Jackie Bartolotta, Site Acquisition Specialist, and Phillip Colantonio, RF Engineer for Verizon Wireless, to come forward to discuss the proposed Cell Tower on Niver Road.

Chairman M. Sharman mentioned that the Planning Board has met with the applicant, and the public hearing has remained open. Mike stated:

This application was submitted to the Livingston County Planning Board for their review. They made a motion to recommend “Approval” of the proposed Action. This motion failed to pass due to a lack of a quorum vote. The County Planning Board has taken no official action on this application due to a lack of a quorum vote. A response of “No Action” on the part of the County Planning Board should not be construed as a judgment on the project. The Town is now free to take final action on this application.

This application was determined to require Long Form SEQOR, which was completed with the Livonia Joint Planning Board as the lead agency at their August 14, 2023, meeting. A negative declaration was determined at that time.

Chairman Mike Sharman closed the Public Hearing with no one wishing to comment.

LIVONIA JOINT ZONING BOARD OF APPEALS
August 21, 2023

Chairman Mike Sharman asked the Board to go through the Conditional Use 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 *M. Sharman commented that there could be, but buffering could mitigate sight lines to the base of the tower. Parking will be minimal.*
- (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
There was a discussion about putting a curve in the driveway so that you cannot look up the driveway and have a straight shot to the tower. The Board would like buffering the perimeter of the parking and equipment area or putting a curve in so you cannot see down the driveway.
- (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 *Attorney Campbell said there is usually a removal bond. Discussion about language regarding the removal bond was discussed. The bond will remain and cannot be canceled unless the Town is notified and a replacement bond is in place.*
- (8) Chairman Mike Sharman asked the Board for a motion to accept the SEQR Long Form findings done with the Livonia Joint Planning Board as the lead agency. D. Major made a motion to accept the SEQR Long Form findings. Motion to accept. M/2/C (D. Major/R. Bergin) Carried: 4-0.

Chairman M. Sharman asked if the applicant had any questions or any additional items they would like to present. Jeff Twiddy asked for clarification on the buffering requirement. The applicant assured the board that the compound would not be visible from the road. M. Sharman noted that the plans were last amended on August 7, 2023, and buffering requirements are per Article XII.

Chairman Mike Sharman asked the Board for a motion to accept the Planning Board's SEQR findings. M/2/C (D. Major/R. Bergin) Carried:4-0.

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Conditional Use Permit for the 195' Cell Tower & equipment with the conditions that a curved driveway be implemented (equipment not visible from the road) and a removal Bond. Any change or

LIVONIA JOINT ZONING BOARD OF APPEALS
August 21, 2023

discontinuation of the Bond requires the Town of Livonia to be notified in writing. The Bond is to be approved by Attorney James Campbell & Town Engineer. R. Bergin made a motion to approve the Conditional Use Permit as submitted with conditions. Motion to approve. M/2/C (R. Bergin/M. Sharman) Carried: 4-0.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:56 p.m. M/2/C (D. Major/R. Bergin) Motion carried: 4-0

Respectfully submitted,
Julie Holtje