

**LIVONIA JOINT ZONING BOARD OF APPEALS**  
**October 17th, 2016**

Present: Chair P. Nilsson, R. Bergin, G. Cole, M. Sharman, B. Weber, Code Enforcement Officer-A. Backus, Attorney, James Campbell, Recording Secretary-A. Houk

- AGENDA:**     ***(1) Accept and approve the meeting minutes of August 15th, 2016***  
                  ***(2) United Refining – 5996 Big Tree Road, Lakeville, NY***

Chair P. Nilsson brought the meeting to order at 7:00 p.m...

Chair P. Nilsson asked if everyone reviewed the meeting minutes. The Board agreed they had and Chair P. Nilsson asked for a motion to approve. M/2/C (M. Sharman/R. Bergin) Carried: 5-0

***(2) United Refining – 5996 Big Tree Road, Lakeville, NY***

CEO A. Backus read the Public Notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday October 17, 2016 at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of United Refining for an area variance pursuant to section 150-17C of the Zoning Code of Livonia.

An area variance is requested for the construction of a Gas Station & Convenience Store. This proposed construction will violate the requirements according to Section 150-36 F (2) which states the minimum required rear setback shall be 50 feet. And Section 150-65 G which states No motor vehicle establishment with fuel-dispensing equipment shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.

This property is located at 5845 Big Tree Road, Lakeville New York in the Gateway Commercial District (GC).

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.

CEO A. Backus polled the Board for site visits:

Chair P. Nilsson:	Yes
R. Bergin:	Yes
G. Cole:	Yes
M. Sharman:	Yes
B. Weber:	Yes

## LIVONIA JOINT ZONING BOARD OF APPEALS

October 17th, 2016

Chair P. Nilsson asked Jerry Fasciano United Refining, Director of retail construction to come forward and address the Board to explain what he is proposing to do. J. Fasciano explained United Refining's proposal to build an approximate 4900 Sq. ft. gas & convenience store at the 5845 Big Tree location. They are positioning the building back into the 50' setback to keep turning radius open for large vehicles. It is approximately 26' off the back of the building to the property line. The property has two frontages located on Big Tree Road and Stone Hill, they would like to have an entrance off each. The other variance is for the proposed building will be within 500' from a place of assembly, which is the North Shore Grill. Chair P. Nilsson asked what the actual distance was. J. Fasciano stated that it is just under 300'. J. Fasciano explained that today's fuel dispensing systems are very safe. There are shear valves located under the dispenser's which will shut the fuel off and trip a switch to kill the power to the pumps if someone were to run into the pumps. CEO A. Backus asked if this system will have an Ansel system above it. J. Fasciano stated that the new code states they are not required to put an Ansel system in anymore, however there is a grace period and that it is still up to the local Official's. J. Fasciano stated that they took this requirement out of the New York State Code because they don't perform very well. They were not planning to put the Ansel system in. There is a different type of fire suppression that goes directly into the dispenser sump and they were planning to install those. It will disperse a fire retardant directly at ground level and is more effective.

J. Fasciano stated that after attending the County Planning Board meeting, one of their responses stated that the property fell within the hundred year flood zone. He was aware that FEMA has changed a lot of the flood maps and after researching he was unable to confirm this and wanted clarification. CEO A. Backus stated that the County Planning Board was stating that the property itself was not located in a flood zone, but the property was located 400' from Conesus Lake which is in the flood zone. Chair P. Nilsson stated that this would fall under the Site Plan review, where the Planning Board would take further interest in. Chair P. Nilsson stated that it will be the Zoning Boards recommendation to defer the SEQR to the Planning Board before they make final determination on the requested variances. Attorney J. Campbell confirmed that this Board should wait for determination after the Planning Board's Site Plan review. CEO A. Backus commented that United Refining's main concern at this point are the variances so they can move forward with the purchase of the property. They realize they are at their own risk with the other issues. Chair P. Nilsson stated that the Zoning Board could give a probability for the variances, but not an absolute. Chair Nilsson stated since the Zoning Board will wait for the SEQR, they are requesting United Refining waive the 62 day requirement due to circumstances, and their choice of approaching the ZBA prior to site plan approval.

B. Weber asked in regarding to the 50' setback, has the neighbor to the rear been approached about purchasing additional property so their proposal would not require such a significant variance. J. Fasciano stated, not that he was aware of. J. Fasciano stated that in regards to the discussion of a privacy fence, they would like to provide what the local municipality wants. For other sites they have used wood, vinyl or trees for privacy screening. When possible, they like the sites to be as green as possible. Chair P. Nilsson stated that he was not aware of any other buildings located on the back portion of the property, only lawn area for the record. M. Sharman stated that he owns the property located to the east. The plans mention an Ash tree being taken down. J. Fasciano confirmed that the Livingston County Planning Board thought that United Refining was planning to put an Ash tree at the location.

R. Bergin asked what the actual distance between the facility and the North Shore Grill was. J. Fasciano stated that he thought it was 293'. R. Bergin asked if United Refining has had any conversation with the Fire Department regarding their intentions. J. Fasciano stated that they have not up to this point but would be willing to discuss their plans with the Fire Department. R. Bergin felt it would be a good idea to have their input. J. Fasciano stated that on past projects, once construction begins, he contacts the local Fire Marshall regarding the propane canister storage.

## LIVONIA JOINT ZONING BOARD OF APPEALS

October 17th, 2016

B. Weber asked where the deliveries would take place. J. Fasciano confirmed that all deliveries would take place from the front of the store in addition to the west side of the building where there is a receiving entrance located.

Chair P. Nilsson opened the meeting up for questions from the public. Chair P. Nilsson asked that they state your name, address and state your questions or concerns.

Mr. Richard Mistretta of 4735 East Lake came forward to request clarification of the variances that are being requested. J. Fasciano approached Mr. Mistretta with the site diagram and explained why they are asking for relief from the setbacks.

Chair Nilsson requested that J. Fasciano make a short presentation to the public regarding their proposal. J. Fasciano went over the layout of the convenience store and the location for the fuel dispensing. He also stated that they will be purchasing an additional small parcel located at north east corner of the property. This will help meet the 30% open space requirement.

Mr. Gene Bolster of 5804 McPherson Point, Livonia came forward to voice his concerns regarding the storm water drainage issues and to confirm that drainage from this site will not be discharged into Conesus Lake. Mr. Bolster asked if the project required a storm water pollution prevention plan which takes in to account post construction run off. J. Fasciano replied that this site will mostly likely have a storm water retention system below grade that will tie into the current DOT or municipality. Mr. Bolster stated his concern that this facility may not allow storm water to be treated properly and would allow discharging into the lake. J. Fasciano stated that by today's standards, United Refining would not be allowed to let that happen. They will be required to implement storm water retention. They would have to retain all of the storm water on site and discharge at the same rate as it was prior to the facility being built. Mr. Bolster again stated his concern of storm water discharge into the Conesus Lake at a location that already has concerns with storm water. Attorney J. Campbell confirmed with J. Fasciano the discussion with the Livonia Planning Board was that they would be installing an underground retention systems for the storm water. J. Fasciano confirmed the underground retention system, but stated at this point there were no plans to also treat the water. This would be something that would come up with the SEQR, DOT & DEC regulations & requirements. Storm water retention and treatment would be explored as part of the site plan & engineering.

Mike Parker of 5894 Big Tree Road, Lakeville came forward. He is aware that the Town of Livonia and the Conesus Lake Association plan to build an education center at Vitale Park, just east of the Chip Holt Nature Center. He believes that this would also fall under the 500' from assembly rule. Mr. Parker also wanted to state for the record the following concerns. With the back entrance off from Stone Hill Road being in line with the diesel fueling island, this may put extra traffic load on Stone Hill. He is also concerned that this entryway may provide a cut through for people wanting to beat the traffic light at Rt. 15 & 20A, or cutting through to get to restaurants on Big Tree. Mr. Parker also expressed concerns if there is really a need for another convenience/gas station. There is already 5 within a 2 mile radius. He is also concerned that there has been no discussion regarding the water protection zone or the water supply protection zone as established by the CRR New York 123.1. As previously brought up, there are concerns regarding storm water run-off from this site. Currently there are three storm water catch basins in front of this property. Two of them have previously discharged directly into Conesus Lake near the North Shore Grill. Within 400 feet of the south east corner of this property, there are three ditches that drain directly into the lake. He would like those concerns brought into consideration. Chair P. Nilsson advised that the Planning Board would address those types of concerns such as environmental issues.

**LIVONIA JOINT ZONING BOARD OF APPEALS**

**October 17th, 2016**

With no further questions or comments, Chair P. Nilsson closed the public hearing portion of the meeting and asked the Board if there was any further comments.

B. Weber asked for better clarification of the additional parcel that was going to be purchased. J. Fasciano referred to the site plan map and explained that both properties were owned by Bruce Beardsley and the additional parcel was a separate parcel that they will be purchasing. B. Weber asked CEO A. Backus for clarification regarding the definition of the separation distance from a public assembly. Specifically, where we would measure to and from. A. Backus stated that it was his interpretation that measurement was to be from the entrance of the building, to the property lot line of parcel containing fuel dispensing equipment.

Chair P. Nilsson asked CEO, A. Backus if Town Engineers will be reviewing this proposal as well. CEO A. Backus stated that they have already done a preliminary review to assist with the conceptual part up to this point. They will also be reviewing the final concept proposal. Their concerns were centered towards the turning radiuses for the larger trucks and the traffic patterns.

Chair P. Nilsson asked if United Refining was planning to review the storm water containment and treatment systems. J. Fasciano stated that there could be, although he wasn't sure if that was taken into consideration. Attorney J. Campbell suggested that J. Fasciano pass on that information to their engineers as being a particularly sensitive topic that will need to be addressed.

Chair P. Nilsson stated that it was noted for the record that United Refining is waiving the 62 day requirement. The Zoning Board would not be making any motions at this time until other issues are addresses and the SEQR is completed along with the Planning Board Site Plan review.

CEO A. Backus wanted to make sure that everyone was clear regarding the setbacks showing two fronts. They have picked the north east side as the rear of the property. This may or may not be what is determined in the end. B. Weber stated that it would be the same setback either way. B. Weber suggested that the applicant pursue the avenue of purchasing property to the rear line (Spencer Property). With the present proposal you are asking for a substantial variance of almost 50%. B. Weber also asked to have more clarification regarding the 500' from public assembly.

Chair P. Nilsson stated that the Planning Board will be weighing in on this proposal along with a comprehensive review done by the County Planning Board. Both are available for public review for anyone who is interested in this case.

B. Weber asked if CEO A. Backus was aware where the education center was going to be built. A. Backus stated that he was aware of the building but did not have a lot of details yet. Mr. Gene Bolster spoke up and stated it was going to be near the area of the Sheriff Sub Station, the northeast side of Vitale Park.

Chair P. Nilsson asked if there is any further discussion by the Board, being none .....

Chair P. Nilsson asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:52 pm.

M/2/C (G. Cole/R. Bergin)

Motion carried: 5 to 0

Respectfully submitted,

Alison Houk

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Recording Secretary