

LIVONIA JOINT PLANNING BOARD

May 13th, 2024

Present: Chairman R. Bennett, D. Andersen, A. Baranes, R. Haak, J. Palmer, K. Strauss, CEO Adam Backus, Zoning Compliance Assistant J. Holtje.

Excused: J. Brown, Attorney J. Campbell

Agenda:

- 1) ***Accept and approve the meeting minutes – April 22, 2024.***
- 2) ***Douglas Ricketts – Meadow Drive, Livonia, New York – Tax # 75.14-1-3.258 Subdivision – Public Hearing.***
- 3) ***Chris Wegener – 3175 Rochester Road, Livonia, New York – Tax # 65.-1-7 Site Plan Approval.***
- 4) ***Rising Storm Brewing – 5750 South Lima Road, Livonia, New York – Tax # 65.-1-12.702 Modification to Site Plan.***
- 5) ***Jerry Gilbert – Big Tree Road, Livonia, New York – Tax # 75.-1-65.1 Subdivision.***

Chairman Rick Bennett opened the meeting at 7:00 p.m.

- 1) Approve Meeting Minutes from April 22, 2024. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/D. Andersen) Carried 5-0.
- 2) ***Douglas Ricketts – Meadow Drive, Livonia, New York.***

Chairman Rick Bennett confirmed with the Building and Zoning Department that Doug Ricketts is moving forward with the construction plans for his own house on lot A-R3 and that the site plan works independently as well as with the proposed 3-lot subdivision. A. Backus & J. Holtje confirmed.

Chairman R. Bennett summarized the status of drainage for the 3-lot subdivision. The Town received and forwarded the revised plans to the consultant engineer May 10th, final approval is still outstanding. A resolution to the drainage pond maintenance agreement has not been finalized, therefore the application remains incomplete, and no action can be taken.

Chairman R. Bennett asked Douglas Ricketts and Eillen Moran to come forward for Ricketts/Moran Subdivision on Meadow Drive.

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Chairman R. Bennett: This subdivision application was referred to the Livingston County Planning Board for review. Livingston County Planning reviewed the application and determined it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

Chairman Rick Bennett opened the Public Hearing.

ZCA J. Holtje read the public notice:

PLEASE TAKE NOTICE that the LIVONIA JOINT PLANNING BOARD will hold a public hearing on Monday, May 13, 2024, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Douglas Ricketts for Subdivision approval according to Article III, Section 130-6 E of the Village of Livonia Code. The proposal is for a three-lot Subdivision. The property is located at the turnaround at the end of Meadow Drive, Livonia, New York, tax parcel number 75.14-1-3.258, and is Zoned Neighborhood Residential (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.

Chairman R. Bennett asked if the public had any comment.

Jared Hirt, Attorney from Evans Fox, LLC, counsel for Joanne Backus, located at 106 Big Tree Street, stated that there is an issue that relates to a temporary easement that was recorded decades ago, and it services all of the Meadow subdivision. It allows stormwater to go across my client's property. Their concern with the subdivision before the board is that it will be serviced by the temporary easement, which we take strong exception to because it is not a permanent easement. Right now, it is private, and his client has every legal right to cease the use of that. They want to make sure that this subdivision will not exacerbate the problem that exists and to make sure that it is addressed prior to approval. J. Hirt asked if the applicant's home would be serviced by the storm sewer or if it would be self-contained on his one lot.

ZCA J. Holtje: The drainage plan must address the temporary drainage easement and be finalized into a permanent maintenance agreement with the Village prior to granting any subdivision approvals for this property.

CEO A. Backus disclosed that the property owner, J. Backus, is his father's wife, so he has chosen to abstain from involvement in this discussion. Aside from the subdivision, it is his opinion that a single-family home built on this lot needs no Planning Board approval. If someone wants to subdivide additional lots, then Planning Board approval would be necessary.

Jared Hirt: will the single-family home tie into the existing stormwater system?

Adam Backus: Yes, and they have the right to do that because it is a pre-existing lot. Someone who has a preexisting lot has the right to build on it, the Planning Board is not involved. It is the subdivision that triggers the Planning Board.

J. Hirt: Agree in terms of Planning Board approval, although disagree with the construction of

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that single-family home because of the fact that it is tying into the stormwater. The difficulty is that the Village is aware of the situation and should not take steps to exacerbate that by allowing further stormwater runoff.

J. Holtje: Might agree with that in another case, but this pond was designed to serve the entire property. It was oversized for how many lots are there now. It is now the legal issue of making the temporary easement permanent, and that needs to be addressed before any further development outside of allowing a home on the existing one lot remaining at this point, on which D. Ricketts will build his home.

J. Hirt: If I disagree with that conclusion, I will address it with the Village Attorney.

J. Holtje: Invited J. Hirt to include D. Ricketts and the Village Attorney in the discussion.

J. Hirt: Fair enough.

Chairman R. Bennett: Until we get the drainage resolved, we cannot proceed with subdivision approval.

D. Ricketts: Regarding the agreement with Magar Homes and the right-of-way that he now maintains along the school property, he has worked with the school to clear it, seed it for proper drainage, and maintain it. Very little runoff goes to that detention pond. Property owners and property managers have to maintain their drainage pieces and it is clear that the pond is not and historically has not been managed properly. Now is the right time to get it managed properly. It is on the onus of the landowner to do that by the way the law is read.

Chairman Rick Bennett stated that the Public Hearing would remain open until they received a complete set of drainage plans. With no further comments, the project was tabled, and no action was taken.

3) Chris Wegener – 3175 Rochester Road, Livonia, New York.

Chairman Rick Bennett stated that Chris Wegener is not present for the continuation of the Site Plan development because he is still waiting on the requested SHIPO letter. He will be rescheduled once that item is received.

4) Rising Storm Brewing – 5750 South Lima Road, Livonia, New York.

Chairman Rick Bennett asked Bill Blake to come forward for the proposed modification to the Site Plan.

A revised site plan was received earlier this morning, showing additional items such as portable toilets, a fire lane, a stage, storage containers, etc.

Chairman R. Bennett questioned the Building & Zoning Department as to whether this application was complete. The plan is not to scale.

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CEO A. Backus: Rising Storm is here because of past complaints about exceeding approvals for parking and music events. There has been an impact on both parking and music with neighbors, which has resulted in violations and tickets being issued. They are here to address these issues.

ZCA J. Holtje: The Planning Board must determine the required level of review. It has been provided with the list of Codes from the letter to the applicant on June 15, 2023, and from the Memo of April 17, 2024.

B. Blake: It is not everyday parking, but overflow on days when they have music or an event. Their goal is to be good stewards of the community and do the right thing.

Chairman Rick Bennett asked the Board to consider holding a Public Hearing and to let the applicant know what more information is needed for a complete application to be presented to the public. The previously approved documents should be available for the public, and a complete proposal for moving forward. They need a physical plan. Also needed are hours of operation, number of events, etc.

A. Backus: The goal is to help the neighbors accept this and resolve it to peaceful coexistence.

J. Holtje: Because of this business's success, it is significantly different from the original application. There is a need for much more parking, as outdoor events can be very large. This is impacting the community, so it is time to update the site plan and explore solutions.

CEO A. Backus noted that there are residents in attendance tonight and it might be beneficial to hear from them.

Chairman R. Bennett opened the floor to the public to speak.

Regina Collins of 5762 South Lima Road spoke regarding her concerns about parking, specifically in front of her home and on her lawn. She is also concerned about what will happen if they get approval for 120 cars and they get 150.

B. Blake: Cars parked in front of the Collins property, which they did not condone, because they didn't have adequate parking space in their leased space. Now that they own the property, their goal is to have adequate parking on site.

Chairman R. Bennett: Many things are working quite well, but we need to determine what more needs to be done.

CEO A. Backus: Rising Storm must propose a solution to the Board and the public.

ZCA J. Holtje: Need to shed some light on the events, how large they will be and how will they control the noise.

Chairman R. Bennett: You need a concept plan for the whole space and grounds with an explanation for this next proposed stage.

B. Blake: They plan on bringing the kitchen inside and providing more seating space in the future, but they are not asking for more than what they are doing now with the outdoor space: once a week, on their anniversary, and a handful of extra days. They would like more flexibility

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and temporary tents to be put up. They will fill out an application for tents when the size requires it.

CEO A. Backus: Until the site plan is amended, the applicant should comply with the existing site plan approval.

Regina Collins: If live music is once per week, does the DJ fall within that?

Chairman R. Bennett: The new site plan approval will more clearly define music. For the public hearing, the applicant should clearly define their request and include any conceptual plan they have for accessing the larger indoor space.

D. Andersen: discussion regarding ownership and the length of time it has taken to address these issues.

B. Blake: they could not fill out an application until they were owners of the property. They purchased it in March and needed time to sit down with Adam and Julie and make a good plan.

Discussion: about breweries and the common problems they have and the need to be consistent in addressing them.

A. Baranes: Will areas be painted/defined when parking on grass areas? If parking is more of a permanent fixture, then lighting should be considered.

J. Holtje: The “overflow” appears to be a regular weekly need for parking. The off-street parking and loading codes are relevant.

Chairman R. Bennett: The Board will establish a date for the public hearing to collect more information. The Building and Zoning Dept. will email the applicant with the next available date.

5) Jerry Gilbert – Big Tree Road, Livonia, New York – Tax # 75.-1-65.1

Chairman Rick Bennett: asked Jerry Gilbert to come forward for the proposed 3-Lot Subdivision on Big Tree Road.

This application was not submitted to the Livingston County Planning Board for their review. It meets the exemption criteria for minor subdivisions in that no new roadways are created, no new water or sewer facilities are required, and no new access points are proposed to a County or State Road.

Jerry Gilbert: offered a revision to the original sketch plan which was not accepted because of Access Management requirements. The new plan conforms to Access Management. There is space to accommodate driveways 220' from each other, but he would like to amend this plan so that the driveway on lot 3 is not in the center of the lot and locate the driveway for lot 2 to the right of the drainage swale. Having the driveway on the left of the swale requires a second culvert to get to the house location. They would rather not restrict the swale by a crossing. Keeping open drainage would be better.

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J. Gilbert described the open swale draining to the north. He proposes reducing the driveway separations to 100 feet, which matches the required lot width.

ZCA J. Holtje: the Planning Board can request the Town engineer to review and waive the 220 foot requirement if a better alternative or more practical solution is warranted. To do that we need more information in the form of a grading and drainage plan. This drainage feeds into the existing drainage pond. We need updated information on the drainage pond, as it is currently in violation. This drainage is part of an overall plan and in an existing drainage district. Records show that section 2 of the Country Elegance Subdivision was going to finalize the design for the drainage pond. The pond has not been functioning well over the last couple years. Maintenance has been an issue. It was designed as a detention pond, but it retains water often, not drying out and breeding mosquitos and attracting wildlife. These details need to be shown on a map for our Town engineer to be able to review.

J. Gilbert: The pond has functioned for 30 years and only recently had maintenance issues which he has handled.

Discussion about the maintenance of the pond. J. Gilbert was not aware that the Town has received numerous complaints. He has only had 2 complaints.

ZCA J. Holtje: The Point remains that we have a private detention system without a maintenance agreement/easement for the existing lots and the 3 proposed new lots. This is the time to finalize design and propose a maintenance easement to the Town.

J. Gilbert: When the remaining land on Kathryn's Way is further developed, an easement would be granted, and a permanent turnaround would be put in. It is not further developed yet, so as far as he is concerned, it is allowed to be a temporary turnaround and a temporary detention pond.

Discussion about the pond holding water, it being a "swamp", and not drying out as originally intended.

ZCA J. Holtje: We need a new concept for the remaining lands at the end of Kathryn's Way.

J. Gilbert: What does the concept have to do with the 3 lots on Big Tree?

ZCA J. Holtje: It is the same parcel and shares the same drainage pond. In phase one, this low spot was used with some improvements as a temporary use and specified that in the next phase it would be finalized. This is the next phase in the overall development. You are showing a 40' wide drainage easement but we do not know how it is going to get to the pond or what impact it is going to have.

J. Gilbert: one option for the next phase is that the road can turn and return to Route 20A in a new curb cut.

CEO A. Backus: The applicant needs to understand that no other phase can be developed unless you wrap up what you have already started here. The turnaround is not complete, and the detention pond is not working; it must be fixed. Approval for 3 lots depends on these items being satisfactorily addressed.

J. Gilbert: the pond was built to the specifications of the Town Engineer for the discharge opening size.

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ZCA J. Holtje: We have learned that we can't assume that development will continue someday, and we have to make each phase stand on its own. At this point, the drainage needs to be finalized so that it can serve both what is there now and what is proposed in the concept overall.

J. Gilbert: the only difference would be if the pond will need to be dug out deeper to hold more water, it will discharge at the same rate.

CEO A. Backus: the pond was intended to detain water temporarily during a storm event.

Discussion regarding detention and retention ponds, maintenance responsibilities, the recent flooding of neighboring properties, and how the detention pond was recently "repaired". People have attended the Town Board meetings to complain. The contractor that was hired did not act responsibly; J. Gilbert was not on site. The existing perforated pipe was replaced with a solid pipe. The pond is filled with trees and shrubs. The outlet design was for section one and to be redesigned in section 2. The Building & Zoning Department considers this development section/phase 2. Any modification to the detention structure would require design and approval. If it is retaining water, the Planning Board needs evidence of the adequacy of the existing detention pond. Detention and a maintenance agreement for service of the infrastructure should be finalized with subdivision approval.

J. Gilbert: The outlet of the pond was determined and will most likely not change,

ZCA J. Holtje: Let's get a drainage facility that manages this project with room for expansion, should the concept be realized down the road. The facility should have a maintenance agreement that clearly defines how the pond is to be maintained. If it is not maintained, the Town can come in to perform the maintenance. A drainage district is already in existence.

J. Gilbert: feels he is being held hostage for a 3-lot subdivision to complete these items.

A Baranes: NYSDOT should be consulted as to the viability of the second outlet for Kathryn's Way.

Sidewalk discussion.

Chairman R. Bennett: The Town Highway Dept. is okay with the temporary turnaround as it presently exists. We do need more information on the adequacy of the stormwater pond.

Summary: we need to see how the drainage from these three lots is getting to the detention pond, the existing condition of the pond needs to be assessed and show provision for how it will properly serve the existing development as well as the future lots.

A drainage and grading plan is required for the application to be complete. Just like Mr. Ricketts was required to provide on Meadow Drive.

Chairman R. Bennett: the application is incomplete without a grading and drainage plan.

CEO A. Backus: When development increases the number of lots, a comprehensive drainage plan is needed.

J. Gilbert brought forward an alternate plan for a one-lot subdivision. The Board decided that creating one additional lot is still development and requires solving the drainage issue.

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Chairman R. Bennett: Once the drainage is taken care of, the subdivision of lots should proceed smoothly.

Discussion about requiring percolation tests. The Building and Zoning Department brought Section 125-7 to the Planning Boards attention. They may require percolation tests if they deem it to be necessary.

Chairman R. Bennett: The 3-lot subdivision will not proceed until the drainage information is submitted for a complete application.

**6) Joanne Backus/Jared Hirt – 106 Big Tree Road, Livonia, New York –
Sketch Plan regarding subdivision.**

Chairman Rick Bennett asked Joanne Backus and attorney Jared Hirt to come forward for a sketch plan discussion about a proposed 3-lot subdivision located on Meadow Drive.

J. Hirt passed out plans for a 3-lot subdivision for concept/informal review. This was originally put before the Planning Board in 2014. It ties to the Ricketts application that was discussed earlier as this is the land encumbered by the drainage pond. They are looking for comments and feedback regarding a future formal application.

Their goal is to receive a path forward to address the detention pond and allow them to recoup some expenses without making it a Village and Town burden.

Joanne Backus: she bought the pond because she did not want the pond to be touched.

Discussion about the location. Currently, this is one lot. The land purchased from Beardsley was added to the existing lot at 106 Big Tree. This proposed subdivision would ultimately end with four separate lots.

Discussion about water pressure.

From the Board's perspective, there is no issue with subdivision, it was meant to be developed, but the stormwater detention pond must be dealt with.

The Board and applicant agreed that stormwater would always enter and exit the pond on the Backus property. The Board is concerned about maintenance issues arising and the owner and Village being liable for them.

J. Hirt: Right now, there is no agreement. The benefit of this is that we can formalize a maintenance agreement with the Village, very clearly define who has what obligations, and turn this into a permanent easement, which would resolve all these issues.

The Board agrees that the concept is acceptable, but they cannot proceed to entertain an application that does not include a resolution to the pond maintenance easement. Nothing can progress until that happens.

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Discussion about the driveway to serve 3 lots. The Village Design Criteria specifies that a lot must own 60 feet of frontage on a road. The applicant should propose a practical solution for ownership along the end of Meadow Drive and it may require a Zoning Board variance.

An engineered grading and drainage plan will need to be provided with the subdivision application.

With no further questions or discussion, Chairman Rick Bennett asked for a Motion to adjourn the meeting at 8:23 p.m. Motion to adjourn: M/2/C (D. Andersen/A. Baranes) Carried 7-0

Respectfully Submitted,
Julie Holtje, Zoning Compliance Assistant