

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

Present: Chairman R. Bennett, A. Baranes, J. Brown, R. Haak, J. Palmer, K. Strauss, CEO Adam Backus, Zoning Compliance Assistant J. Holtje, Attorney J. Campbell, Secretary A. Houk

Excused: D. Andersen

Agenda:

- 1) *Accept and approve the meeting minutes of June 26, 2023.*
- 2) *Dolores Cicero – 6679 Big Tree Road, Livonia, New York – Tax # 75.-1-18.144
Subdivision*
- 3) *John & Jennifer Pontillo – 3495 Pebble Beach Road, Livonia, New York – Tax #
65.71-2-2.1
Site Plan*
- 4) *Lorin Cooper – 6233 Cleary Road, Livonia, New York – Tax # 84.-1-46.211
Subdivision*
- 5) *Ingredients Plus – 5768 Sweeteners Blvd., Livonia, New York – Tax # 65.-1-53.1
Site Plan*

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

1) Approve Meeting Minutes for June 26, 2023. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/J. Palmer) approved as submitted. Carried 6-0.

2) *Dolores Cicero – 6679 Big Tree Road, Livonia, New York*

PLEASE TAKE NOTICE that the LIVONIA JOINT PLANNING BOARD will hold a public hearing on Monday, **July 24, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Dolores Cicero** for Subdivision approval according to the Zoning Code of Livonia. The proposal is for a one-lot Subdivision. The property is located at **6679 Big Tree Road**, Livonia, New York, 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.

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.

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

Chairman Rick Bennett asked Dolores Cicero to come forward to discuss the proposed Subdivision.

ZCA Julie Holtje stated that Dolores would like to separate the Wedding Barn from the bulk of the agricultural property. The Zoning Board originally granted a Use Variance on the entire 43-acre parcel; now, the applicant requests to separate the bulk of the agricultural lands from the Wedding Barn and remove the Use Variance from the agricultural lands outside of the Wedding Barn parcel. The Planning Board will refer this application to the Zoning Board of Appeals for a Use Variance modification. Originally, under the Use, the Wedding Barn was an accessory to a farm operation. When the applicant came to us with a plan to subdivide, we recommended that she come before the Board with a minimum of eight acres because the Wedding Barn operation uses approximately three acres, and by Zoning Code definition, a farm is a minimum of five acres. We wanted enough land to provide a buffer between adjacent residential and agricultural lands. The Building & Zoning office has reviewed this application and provided a checklist of items which was forwarded to the Planning Board for their review. Some of the items have been addressed, but there is still the location of the driveway for the Wedding Barn that needs to be shown on the map. Jeanne Brown asked if the parcels would have two separate tax parcel numbers. She wanted to know if the Use Variance that the Zoning Board granted carries with the Wedding Barn parcel. Attorney James Campbell stated that it is a little tricky. Usually, the County will take the larger parcel and keep the associated tax parcel number with the parcel left. Jim asked if there was anything else on the eight acres other than The Wedding Barn. Delores responded that 41 acres out of the 43.5 are being farmed with corn, and it will continue to stay that way. The proposal would be that she would own the 8 acres around the Wedding Barn. Jeanne was concerned that the Use Variance would also include the farmland and could possibly create a loophole for future Use operations. Attorney James Campbell stated that is being addressed with the Modification to the Use Variance with the Zoning Board of Appeals. The ZBA would require the applicant to state for the record that the amended Use Variance would only apply to the eight acres, and any privileges under the previously granted Use Variance would be surrendered.

Chairman Rick Bennett opened the Public Hearing. There were no comments from the public at this time. The Public Hearing will remain open.

Attorney James Campbell recommended that the Planning Board appoint the Zoning Board of Appeals as the lead agency for the Short Environmental review form since they will be hearing the Use Variance request. Jeanne asked if the applicant would have to come back to the Planning Board for the Subdivision. Chairman Rick Bennett clarified that the applicant will be returning for the approval of Subdivision, but SEQR will be addressed with the Use Variance modification with the Zoning Board.

Chairman Rick Bennett asked for a motion to refer the application and the SEQR process to the Zoning Board of Appeals for their review. Motion to refer the application for Use Variance and SEQR review to Zoning Board of Appeals: M/2/C (R. Haak/J. Palmer) Carried 6-0

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

3) John & Jennifer Pontillo – 3495 Pebble Beach Road, Livonia, New York

Chairman Rick Bennett asked John & Jennifer Pontillo to come forward to discuss the proposed Home Occupation. John stated that, currently, there is no garage on the property. They have quite a bit of land that is south of the home, and they would like to construct a 24' X 50' garage building. The first 25' will be a garage, and the second 25' will be made into a commercial kitchen. It will not have any fryers that will produce noxious smells or sounds. He and his wife would like to proceed with what they had at their restaurant, *Giovani's* in Geneseo, before they closed. They removed the wood fire pizza oven from that location, and it is currently being mounted on a trailer so they can do mobile catering such as wedding receptions, birthday parties, and corporate events. The backend of the garage structure will be a commercial kitchen with reach-in coolers, freezers, sinks, and prep tables. No roof penetration for exhaust fans and no large delivery trucks to the parcel. They will obtain the supplies they need themselves. There will be no people coming to the property for pick-ups. The garage from the south side property line will have a 12 ½' driveway that will be used to park the trailer with the wood fire oven so that it won't be in front of the home. The driveway will also allow access to the back of their property. The driveway will not interfere with the neighbor to the south (*The Willis's*). The neighbor has his garage there, along with a stockade fence that runs all the way down the property to the back line by the outlet of the lake. There is nothing that Mr. Willis would see. They are asking to build the proposed garage up closer than what the Code for the front setback states. It would be in line with all the other garages built on Pebble Beach Road; some are even closer than they would be. They are not asking to go out further than anyone else's garage currently is. It would be almost twenty feet from the edge of the road to the proposed garage. They are in a position where they don't want to rent from a landlord anymore; they want to be self-contained. The only people involved in the operation are him and his wife. They will be very limited, which is why the back end of the garage building is critical to them for their business.

Chairman Rick Bennett asked if a Variance was needed for the distance off from the road. ZCA Julie Holtje noted that they will go to the ZBA for the setback Variance and a Conditional Use Permit for the Home Occupation in the accessory dwelling. CEO Adam Backus said he didn't realize they would be driving around the back of the proposed garage. He has 15' between the proposed structure and the side property line. With a 10' driveway setback, there wouldn't be room to do that, and we need clarification on driving around the side of the building. ZCA Julie Holtje noted that the Design Criteria requires a 10' separation for a driveway. John stated that he would not have to park the trailer there; he could put it in the garage. CEO Adam Backus asked if he currently had a yellow storage container on the property. John said yes, that is where they store all the restaurant equipment. Once they empty the equipment out of the storage container, they have a buyer for the container, and all the items will be gone. Adam asked if he considered moving the garage structure back so they could maintain more space on the busy road to get off-street parking. John said they didn't want to have to move the garage back too much further and take up more of their backyard because that is the area to enjoy the lake.

Chairman Rick Bennett noted that the Variance request will be addressed with the Zoning Board of Appeals. The Planning Board will address the Site Plan. The Site Plan cannot be acted upon

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

until the applicant obtains the variance and the Conditional Use Permit for the Home Occupation. The Planning Board can make recommendations to the ZBA for the variance that is being requested.

CEO Adam Backus asked if the applicant could push the garage back due to the congestion in the front with a busy road. They are asking for relief from the front setback, and there is a significant yard to the back. He thought the ZBA would take that into account. There is also a variance needed for lot coverage. John thought his Architect felt that a lot coverage variance wouldn't be needed. ZCA Julie Holtje noted that we do count decks, so when she calculated the lot coverage, it was at 26%, and 25% is the maximum. Jeanne didn't think the impact of the proposed business was an issue other than making sure it was located in the right spot, not negatively impacting the area. Chairman Rick Bennet stated that from the Board's standpoint, the kitchen usage being that it is more of a prep kitchen versus a full kitchen doesn't seem to be as big of an issue as the Variances needed in regard to setbacks and the Conditional Use Permit.

Ted Sotir of 5924 Big Tree Road said that it's called a commercial kitchen. However, this commercial kitchen won't be cooking there. Does that mean that every time in the future, the law will indicate that it is a commercial kitchen and will never allow cooking? ZCA Julie Holtje asked if the applicant would be doing any baking. John stated there will be an oven for baking, but there will be no penetration through the roof. They will have a commercial recirculating unit above the oven. Asking for roof penetration for exhaust fans will never be their situation. The front of the proposed garage would be in line with the rest of the garages on Pebble Beach Road. They did not go out any further than his neighbor to the south. He noted that some firewood that was used for the brick oven, which was out in front of the house, has been relocated to the side of the house, away from the road area. CEO Adam Backus said he would like to understand the question regarding the commercial kitchen from a Zoning and Fire Code standpoint. As far as the Planning Board is concerned, are they doing commercial operations that are outside the normal residential use. If it's a commercial kitchen, you would usually think of exhaust and Ansul system, grease, and things like that. Ted Sotir stated that just because it can't go out the roof doesn't mean the exhaust can't go out other ways. CEO Adam Backus stated that grease-laden vapors are the criteria and what would trigger the Fire Code requirements. If there is no grease, there are no vapors to ignite. Attorney James Campbell noted that the Zoning Board of Appeals can set conditions when reviewing the application for the Variances and the Conditional Use Permit. The Planning Board can also set conditions, and having both Boards set the conditions will have a better chance of holding up in the future. ZCA Julie Holtje mentioned that if the Planning Board had any conditions that they would like to have the ZBA include, they could make those recommendations now when referring the application to the Zoning Board. Chairman Rick Bennett asked the applicant where he was parking on the property now. John stated in front of the house on gravel. Julie asked how large the trailer was that carries the pizza oven. John said it was a 14' long dual axel trailer. Jeanne asked if it was possible to make the proposed building a little narrower so that they could drive around to the back. John said they could look into that, but it would take away from being a two-car garage. John said he knows there may be a concern regarding driving down the side of the garage to get to the back, but his neighbors do it all the time. They drive over their grass to the back of their property. He stated that this area between the garage and the property line will not be visible to his neighbor to the south. CEO Adam Backus stated that his neighbor is not asking for a Conditional Use Permit and Variance. For the Board to acknowledge that you may be driving in a way that wouldn't

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

meet the side setbacks is a little bit awkward compared to how someone has always done it. CEO Adam Backus recommended that the applicant needs to be prepared with a plan "A" and a plan "B." Possibly being willing to move the garage building back. It's loaded parking, and you really can't get down the side, and it's already congested as you drive by. Why not kick it back a little more as plan "B" in case the Zoning Board is not receptive to your request. John stated that they would be willing to look at kicking the building back further from the road. Chairman Rick Bennett stated that building this kitchen in the garage won't increase any more vehicles. John said that was correct; the vehicles would be parked in the garage. Chairman Rick Bennett stated that he could park one car and possibly the trailer in the garage. John said that they mapped it out with spray paint, and if they park two cars on the apron going into the garage, there will be nothing in front of the home where they are parked now. He sees the congestion's point, but with everything else being removed, there is nothing in front of the house. John noted that the oven on the trailer could be stored in the garage if it wasn't hot. He and his wife both have a vehicle. John asked if there would be a limit on how many vehicles he could own in the future. He is concerned that if he has a nephew stay with them, the nephew couldn't have a car. When he walks down Pebble Beach Road, there is not much room between their cars and the garage in some homes. Some of the homes are rented out to college kids, and during the winter time, for one house, you may have 5-8 cars parked in front of the house. CEO Adam Backus stated that we are trying to avoid this with your situation. If you have room to alleviate some of that pressure by moving the building back, it should be thought about.

Chairman Rick Bennett asked for a motion to refer the application to the Zoning Board for the appropriate Variances. Motion to approve: M/2/C (J. Brown/R. Haak) Carried 5-0

4) Lorin Cooper – 6233 Cleary Road, Livonia, New York

Chairman Rick Bennett asked Lorin Cooper to come forward to discuss the proposed Subdivision. Lorin stated that the plan is to sell four acres to the Pastor of the Livonia Community Church. He may eventually want to build a house, but there are no plans in the immediate future because there is a parsonage in the progress of being built in the old Church on High Street in the Village. That is where he will spend his time as long as he is the Pastor of that Church. He has a cleaning business and does not take a salary from the Church, which he will continue to do. He would store some cleaning equipment in a small building on the property. The end of the parcel is on Route 15, and the property's access is located on Cleary Road. The DEC states they have jurisdiction over the property abutting Route 15. A swamp was created by the culvert pipe placed on the property when Cleary Road was rebuilt. Before that, the swamp did not exist. The swamp is something that was created by the people who built the road, and the DEC didn't have any authority over it for a while but claims they do now, and there is some understanding that they may not continue that in the future. They would have liked to put the access off Route 15, and the DOT came to mark a spot. However, the DEC biologist stated that would not be allowed to happen unless Lorin put in a bridge that was comparable to bridges built by the highway department. That cost would be around a million dollars, so that is where that ended. As long as the DEC takes that position, he can't put access off Route 15. However, it does provide a water source for the Fire Department. There is plenty of underground water all over that area, and whatever their water storage needs are, that would accommodate that need. The driveway would only be a driveway for himself or the person who owns the property.

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

Attorney James Campbell asked if emergency equipment could access the property as it has been proposed. CEO Adam Backus stated that the applicant mentioned that it would only be accessed by him and the person who purchased the property. It would also have to be able to accommodate a fire truck with turnouts along the way and a turnaround at the end. Fire water supply would have to be established, not the swamp. The property would be approximately 1500' off the road and 700' from the nearest water hydrant, with the swamp in between and a little space to build on. The infrastructure required to get back there would be tremendous. It's a significant distance off the road, and fire protection and access are not insignificant. Lorin said there would be no question about doing what is necessary to provide whatever is needed for fire protection. He understands there are options to do that. There is talk of putting water down Cleary Road but is unsure if that will happen. If water does come down Cleary, it may be possible to have a pipe brought in for water access. CEO Adam Backus stated that the fact is that you will still need to get the water within 400' of the structure. That will be a huge expense. Lorin said they did have access to some machines and people who could put in the base for the driveway. CEO Adam Backus asked why the proposal was for the section near the corner. Lorin said this because they wanted to keep the rest as farmland. That is a spot that was suitable. That area is only a problem because the DEC would not allow a driveway across the creek. Kelly Strauss asked if the main issue was the long driveway and being able to get water. CEO Adam Backus stated that he felt it is a very challenging and difficult spot. Part of the problem is that you are looking at 1500' of the driveway, which is expensive to provide utilities for, or if you could even get fire protection there or not. This application is for the subdivision, but it's important to be aware of the challenges of developing the property. CEO Adam Backus noted that it is a preliminary review at this time. Ashley Baranes asked if there was any way to access the Lot from the right side. Lorin said he has spoken with Paul Miller, who owns the nearby property and is not interested in selling a portion of his land for access. CEO Adam Backus noted that there is no way to access from Route 15. Lorin said that things might change in the future, but not now. He felt it would be quite some time before there would be serious use of the property. He has been willing to give the prospective property owner a good deal with all the work that will need to be done. CEO Adam Backus stated that one of the challenges is showing a potential residence, not just an accessory building. Lorin stated that is something that wouldn't happen for a long time. CEO Adam Backus stated that it still needs to be proposed now so we can call it an accessory use to a primary dwelling. ZCA Julie Holtje stated that you would need to show the proposed garage and the primary dwelling to prove that you have the setbacks and that it's manageable on the site. Attorney James Campbell asked if it showed the property in the flood zone. Julie confirmed that it was.

Chairman Rick Bennett stated that while it's true that there would be challenges and the cost would be expensive to develop the property, the property owner has the right to develop the property within the Code as he sees fit. Subdivision can be done as permitted. In order to build an accessory building and in order for it to be permitted, you must have plans for a house. We will need a Site Plan application showing the proposed location of the dwelling and get an idea of what exactly the accessory building will be. There was mention of a commercial application for the accessory building, such as storage. CEO Adam Backus commented that it needs to be clarified that this will be an accessory to a residential property. Lorin stated that this just be used as storage for a small business. Chairman Rick Bennett stated that the Code permits the use of accessory buildings, but you need a house to go with it, or at least show it and provide

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

information that it can be accomplished. Between the setbacks and the wetlands, it needs to be shown. Lorin stated that, currently, there are no plans to build a house on the property. Chairman Rick Bennett stated that you are making it difficult to grant accessory use because future development will require a site plan application; you need to show intent. CEO Adam Backus noted that this will be accessory use to a primary use, but it's not going to happen right now, showing that it can be done and is planned to be done. The Board could approve the site plan or the Subdivision, but when someone submits a permit application, it will require a fire and water supply. That will be required prior to starting any construction. Attorney James Campbell noted that we could request that the surveyor include those conditions & comments on the survey map. This way, anyone who may be a prospective buyer of the property would be made aware by their attorney or the County Clerk's office that there are certain restrictions to the property regarding usage. ZCA Julie Holtje commented that a site plan is always required with the Building & Zoning permit application, and a note could be added to the subdivision map that fire protection and an access road are necessary to develop the property. Chairman Rick Bennett asked if there should be a Subdivision approval or should that be considered after we receive a drawing with the added notes regarding the requirements. Robbyn Haak commented that she thought the Board should see the drawing before approving the Subdivision. The Board members agreed. Chairman Rick Bennett stated that the Board would like to see the subdivision plan with the potential build-out of the house. Attorney James Campbell stated that it's really about warning a prospective buyer in the future. If the person interested in purchasing the property now decides that he wants to sell it, you want that person to have a mechanism to be aware of what the challenges might be and what is going to be required. Prior to building permit approval, all these issues will need to be addressed before construction on the property can begin. Chairman Rick Bennett stated that the subdivision is not giving someone approval to build; they would still be required to have site plan approval. It's a warning to anyone interested in purchasing the property that there could be some major issues. A survey map will be required with all of the requirements & conditions that have been discussed prior to the Planning Board's approval of the Subdivision. The Building & Zoning Department will provide the applicant with a list of requirements/conditions to have listed on the survey map. Once that has been accomplished, the applicant can return to the Planning Board for consideration of Subdivision approval.

The Planning Board will review the Short Environmental Assessment Form (SEQR) when the applicant returns with the requested survey map.

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.

6) *Ingredients Plus – 5768 Sweeteners Blvd., Livonia, New York.*

Chairman Rick Bennett asked Ryan and Victor to come forward to discuss the proposed modification to the site plan. Ryan confirmed that everyone had received the drawing. Ryan referred to the drawing. He explained where the main building was located and the rail line in the back area. What they are proposing to do is to improve site safety and visibility by adding lights. There currently is very poor visibility, especially in the parking area. One of the lights

LIVONIA JOINT PLANNING BOARD

July 24th, 2023

will be down by the road. They will be adjustable LED lights. If there were to be a problem, they could change the pitch or the direction of the light. The other three lights will be located in the parking area and along the main driveway going in. The bubble around the lights on the drawing shows luminosity and how far out the light is going to shine. They are here to obtain approval to proceed with the lighting project. Victor noted that he has more detailed site plan information, including a survey, that he could forward to the Building & Zoning office. Kelly Strauss asked what was located across the street. Ryan referred to the map provided and discussed the location of the first residential house, the wood's location, and the water treatment plant. Victor stated that the lighting will be faced towards the road and shouldn't affect traffic or anyone, but they do have the ability to adjust them. Joanne Palmer asked if the lighting would be dark sky compliant. Ryan commented that he wasn't sure what that meant. CEO Adam Backus explained that it is terminology that the lighting is not spilling out and being directed at anyone else. We are the department that would receive those complaints regarding the lighting disrupting nearby neighbors, and you have stated that you have the ability to make any adjustments if needed. It is a sensitive area, and we have had problems in the past; it is in the applicant's best interests to ensure the lighting is compliant. Victor stated that they want to be good neighbors and are willing to make any adjustments that may be needed. Ryan noted that the light pole is approximately 90' back away from the road. Ashley asked what that light would be lighting up. Ryan stated their main driveway. Driving up there during the dark hours makes it difficult to see the area. Ted Sotir asked, since the operation is 24/7, will the lights still be on if there is a holiday. Ryan stated that the lighting will be solar-powered. If it is dark outside, the lights will be on. Ted wasn't worried about energy use; he was concerned that the area would still be lit if no trucks were coming in or out. Ryan noted that trucks and employees are always coming in and out of the operation. The person wanted it noted that 365 days, 24/7, the lights will be on. Chairman Rick Bennett stated that the lights will only be on at night. He felt that one of the conditions should be that the applicant provides an updated site plan showing the proposed lighting. The approval will be contingent on that this is provided. Chairman Rick Bennett noted that the lighting will improve safety in the plant by increasing nighttime visibility and will be a benefit. Any comments received in the future may necessitate review in terms of dimming the lights.

Chairman Rick Bennett asked for a motion to waive the Public Hearing. Motion to waive: M/2/C (J. Palmer/R. Haak) Carried 6-0

Chairman Rick Bennett 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 (J. Brown/K. Strauss) Carried 6-0

Chairman Rick Bennett asked for a motion to approve the modification to the Site Plan application as submitted, with the condition that an updated site plan showing the new lighting is provided to the Building & Zoning office. Any comments from the public that are received shall necessitate a review in terms of dimming the lighting. Motion to approve: M/2/C (J. Palmer/R. Haak) Carried 6-0

With no further questions, Chairman Rick Bennett asked for a Motion to adjourn the meeting at 8:47 p.m... Motion to adjourn: M/2/C (R. Haak/J. Palmer) Carried 6-0

LIVONIA JOINT PLANNING BOARD
July 24th, 2023

Respectfully Submitted,
Alison Houk, Recording Secretary