

# LIVONIA JOINT PLANNING BOARD

September 23, 2024

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

Excused: R. Haak, Attorney J. Campbell

Agenda:

- 1) *Accept and approve the meeting minutes – August 26<sup>th</sup> & September 9<sup>th</sup>, 2024.*
- 2) *Daryl Johnston – 3191 Rochester Road, Lakeville, New York – Tax # 65.-1-9  
Site Plan & modification to existing Conditional Use Permit.*
- 3) *Bridgette Heap – 63 Big Tree Street, Livonia, New York  
Tax # 75.9-2-16  
Modification to Site Plan & Conditional Use Permit.*

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

- 1) Approve Meeting Minutes from September 9, 2024. Chairman Rick Bennett asked for a motion to approve. M/2/C (D. Andersen/J. Palmer) Carried 7-0.

2) ***Daryl Johnston – 3191 Rochester Road, Lakeville, New York***

Chairman Rick Bennett asked Daryl Johnston to come forward for the proposed Site Plan and modification to the existing Conditional Use Permit.

ZCA J. Holtje read the public notice:

**PLEASE TAKE NOTICE** that the LIVONIA JOINT PLANNING BOARD will hold a public hearing, per Section 150-12, on Monday, **September 23, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Daryl Johnston** for modification to an existing Conditional Use Permit and Site Plan. The modification is for a 30' X 52' proposed Garage Addition located at **3191 Rochester Road**, Lakeville, New York, Tax parcel number 65.-1-9. The property is zoned Commercial Light Industrial (C/LI).

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 Rick Bennett stated that the Planning Board will refer this application to the Zoning Board of Appeals for the Area Variance for the proposed Garage Addition and Lean-to. The applicant will return to the Planning to continue the application for the Modification to the Site Plan and Conditional Use Permit.

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Chairman R. Bennett: This 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. With no one in attendance who wished to speak, the public hearing was closed.

D. Johnston: He is looking to add a 30'x52' addition with a 9'x52' lean-to on the south side of the existing garage. His business is not the same as it was when the original garage was built, and the original CUP issued. He now has the need for outdoor storage of the cars that he tows as he does a lot of work for Livingston County and must sometimes hold vehicles until the Sheriff's Dept. releases them.

Chairman R. Bennett: The Board acknowledged the Memo from the B&Z Dept. dated Sept. 5, 2024. There are several items that are not in compliance with conditions of the original CUP given by the Zoning Board of Appeals in February 2013. The conditions were:

1. There shall be no outside storage except for one (1) working tractor and licensed motor vehicles.
2. The approximate 18' x 20' dilapidated storage building must be demolished and all of the property must be in compliance by July 1, 2001.
3. The siding on the barn must be wood or vinyl.
4. The barn may be no closer than 20' to the rear property line and 58' to the front property line.

There are the unlicensed motor vehicles and outdoor storage. The Board will send the application to the ZBA, with recommendations for modifications to the CUP and Site Plan.

## Discussion:

- CEO A. Backus: It is not relevant that he is a registered auto dealer or that he has a contract to do certain work for the County. The conditions set forth in his CUP and site plan approval are what control the use of the site. He was approved for items 1 thru 4. If he has an issue with any of those conditions being followed, he can mention those items, but we have to work within the approval.
- D. Johnston: when he was approved for his dealer's license, shouldn't this have been brought up and approved at that time?
- Chairman R. Bennett: it is the owner's responsibility to update the conditions or change the terms of your CUP and site plan approvals. The change is not automatic because you received a license to do something
- CEO A. Backus: it doesn't matter what Motor Vehicles or any other authority says. Zoning regulates the use of the property, and it is the applicant's responsibility to communicate with the Town and stay in compliance with zoning. No other agency has authority over the use of the property.
- Discussion about zoning for Motor vehicle fueling, service, sales or repair establishments, Section 150-65.

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- ZCA J. Holtje stated that this is a change in the use, a more intense use than what he was originally granted. The original approval was a CUP for a motor vehicle repair and towing service with the conditions specified. His business has changed and Section 150-65 is the zoning regulation that governs this use and should be used when modifying the changes in his approvals.
- D. Johnson- the original conditions were set when he built the building, before he had the business and contracts he has now.
- A business is required to obtain a new or modified CUP before changing the use or exceeding the conditions of the original permit.
- Chairman R. Bennett: He needs a variance for the addition and lean-to. If granted, it may alleviate the outdoor storage. Then he would need to come back to this Board for modification to CUP and Site Plan, at which point in time we can address the vehicles. He may be able to comply with the current zoning per 150-65 Motor vehicle fueling, service, sales or repair establishments.
- CEO A. Backus: it needs to be clearly stated how the property is to be used
- Discussion about D. Johnson being able to control the number of vehicles on site. He maintains control by the site plan approval, as this will show exactly how many cars the site can accommodate and is approved for. When you have conditions of approval, you may not violate those conditions. This is why you are changing the conditions of your permit. The applicant needs to submit a site plan that shows the Board what he wants to do. He has a good survey map to work from.

Chairman R. Bennett: The Board needs a site plan clearly defining what the applicant wants. This needs to include the placement and number of vehicles to be stored outside. There shall be no outdoor storage besides the vehicles. In making the referral to the ZBA, the Board will state that they are aware that the applicant is not in compliance with the previous approval, but that the Planning Board will modify the CUP and Site Plan to clearly define the location and number of spots where vehicles can be stored outside. There will be no outdoor storage of materials and equipment, as they will be housed in the new addition. Vehicles may be licensed or unlicensed.

ZCA J. Holtje: the ZBA may also have conditions to add and should make their approval conditional upon receiving CUP and Site Plan modification approval from the Planning Board.

### **3) *Bridgette Heap – 63 Big Tree Street, Livonia, New York***

ZCA J. Holtje read the public notice:

**PLEASE TAKE NOTICE** that the LIVONIA JOINT PLANNING BOARD will hold a public hearing on Monday, **September 23, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Bridgette Heap** for approval of a Conditional Use Permit and for Site Plan review according to Section 155-20 of the Zoning Code of Livonia. The proposal is for a Café located at **63 Big Tree Street**, Livonia, New York, Tax parcel number 75.9-2-16. Site Plan and Conditional Use Permit approvals are required per Section 155-33 D (2). The property is zoned Core Commercial (CC). The application is on file in

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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 Rick Bennett asked Bridgette Heap to come forward for the proposed Site Plan and Conditional Use Permit for the proposed Cafe.

Chairman R. Bennett: This 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. The Public Hearing was closed with no one wishing to make a comment.

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 accept a negative declaration: M/2/C (J. Palmer/J. Brown) Carried 6-0.

Chairman Rick Bennett and the Board reviewed the Conditional Use Permit criteria.

Discussion regarding hours of operation and character of the neighborhood: Hours of operation were reviewed for the coffee cart and the Café, and parking and access to the building are to be addressed.

The Board reviewed the revised memo. Patios and gardens have been removed from phase 1, hours of operation have been provided, an exemption was given for use of public parking spaces.

There is no clear delineation of pedestrian access to the two doors on Big Tree side.

Discussion about trash receptacles. There is one receptacle, and they do not anticipate any additional. It will be kept on the side of the building on Big Tree Street. In lieu of returning for modification to the site plan for screening of garbage, more than 2 receptacles shall be screened from residential neighbors and the applicant can follow-up on this with the B&Z Dept. as a permit is required.

Summary:

1. If trash receptacles exceed 2 cans, a privacy screen shall be installed and requires a building permit from the B&Z Dept.
2. Provision for pedestrian access shall be provided to the doors and reflected on the site plan.
3. The temporary coffee cart shall be removed by the end of February 2025.

Motion to accept the modification to the Site Plan and Conditional Use Permit for a Café as submitted and with conditions 1-3 above. M/2/C (D. Andersen/K. Strauss) Carried 6-0.

The Planning Board had a discussion regarding revitalizing a community playground. Kelly Strauss introduced this plan and has agreed to head the program. She will draft a letter to the

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Livonia Town Board making them aware of the Planning Board's desire to assist and support in this project.

With no further questions, Chairman Rick Bennett asked for a Motion to adjourn the meeting at 7:52 p.m. Motion to adjourn: M/2/C (D. Andersen/J. Brown) Carried 6-0

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Respectfully Submitted,  
Julie Holtje, Zoning Compliance Assistant