

# LIVONIA JOINT PLANNING BOARD

June 13, 2022

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

Excused: J. Palmer, Attorney J. Campbell.

Agenda:

**1) Approve the meeting minutes. – May 9, 2022**

**2) Pride & Joy Day-Care/Gina Lang – 3031 Rochester Road, Lakeville, New York.**

*Approval of Site Plan*

**3) Marjorie Benson – 3479-3485 Bronson Hill Road, Lakeville, New York.**

*Subdivision sketch conference*

**4) Perry Veterinary – 6611 Richmond Mills Road, Livonia, New York.**

*Approval of Modification to Site Plan*

***Chairman Rick Bennett opened the meeting at 7:06 p.m.***

1) Approve Meeting Minutes for May 9<sup>th</sup>, 2022. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/D. Andersen) approved as submitted. Carried 6-0.

**2) *Pride & Joy Day-Care/Gina Lang – 3031 Rochester Road, Lakeville, New York***

Chairman Rick Bennett noted that this Site Plan 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 asked Gina Lang and Joe Ardieta of Vanguard Engineering to come forward for discussion of the proposed Site Plan application. Joe stated that their application is for a Daycare at the existing facility, which has one access point off Rochester Road. The current layout would have children getting dropped off from a bus on the road as buses cannot access the parking lot and be able to turn around. They propose adding a second egress for the buses to exit the parking lot. This will enable them to drop the children off at the building. They submitted their application to the New York State D.O.T and received permission for a one-way with a right turn out only. They have redesigned their plans per the D.O. T recommendations. There will be signs stating “no entry” on the second driveway from Rochester Road. When exiting Rochester Road, there will be a “no left turn” sign. Chairman Rick Bennett commented that the only thing that is not on the Site Plan map is the existing driveway to the south. Joe stated that was correct. Gina confirmed that the entrance driveway would be located to the

## LIVONIA JOINT PLANNING BOARD

June 13, 2022

south. Joe clarified that the exiting driveway would remain and could be used to go in or out for car traffic. Jeanne Brown stated that it would be similar to the Five Start Bank driveways; you enter in one and go out the other. Dawn Andersen noted that the only difference is that the bank's speed limit is still 35mph. Chairman Rick Bennett commented that the speed limit is 55 mph at the Daycare location. Robbyn Haak asked how much traffic will this proposal create? Gina stated that the current capacity they are applying for would be 38 children. After speaking with Livonia School, they would have one school bus to pick up and drop off. The buses would pull into the parking lot to load and unload the children. This would be for before and after school. There could be 38 cars coming in and out to pick up and drop off in the beginning and at the end of the day if each child does not have a sibling. Gina felt it would be much safer to have the buses pulling into the parking area to load and unload the children. Joe stated that there would be no impact on the existing vegetation and trees that are there now. They will have the driveway go in between the two trees. Gina noted that they also revived the current landscaping. CEO Adam Backus asked if they would need a garbage dumpster. Gina stated that they would only be serving an afternoon snack. They will use garbage totes on the sidewalks outside the fence, away from where the children will play. Joe stated that this application includes two fenced-in play yards for two different age groups in the back of the building. Chairman Rick Bennett noted that he felt this application is an improvement from what was previously proposed at this location. R. Haak stated that it was, but there is still a concern with the traffic. There will be 38 cars stopping to turn or pull out into traffic; that is where the concern is. Gina noted that they wouldn't all be coming at the same time. Joe stated that if there is an average of 30 cars total, with carpooling and siblings coming together, that would be one car every two minutes. Gina also noted that they are open approximately twelve hours daily to accommodate parents' schedules. They typically open with two staff members; their ratio is that they never have more than ten kids, and this works in the first hour. By the second hour, they would be fully staffed between 6 am, and 8 am when the bus would come. Typically, they are not full for both mornings and afternoons. The morning side of their program is about half full, and the afternoon program is typically very full. Dawn Anderson stated that when the Board talked about 38 kids and cars, that didn't include the staff. Gina stated at full staff, there will be four cars. There are two additional parking spaces for staff on the north side of the lot. CEO Adam Backus asked if there was potential for cars backing up. Gina stated that there wouldn't be more than ten cars at a time, and with the older kids, they are a quicker drop-off. CEO Adam Backus stated that there are sixteen parking spaces, so there would not be enough room for everyone to pull into a space. Gina stated that was correct. Dawn Andersen commented that the north exit driveway would be used for both cars and buses. Gina stated that was correct, but they would prefer the school buses use that driveway. Their main concern is keeping the children away from the road. Joe stated that ideally, the cars would use the existing south exit. Chairman Rick Bennett stated that ideally, for the evening, the northbound exit is best. CEO Adam Backus asked if they had a plan for if cars start to get backed up. Gina said they have a lot of extra grass and a delivery area located on the south side of the building. It's big enough for a large box truck and would easily accommodate four cars in that area. CEO Adam Backus stated that if a problem were to occur with cars backing up in the future, do they have the means to make adjustments to allow additional cars to pull in off the road? Joe said that the site is large enough that if there were an increasing demand for parking, they could expand the parking lot along Rochester Road. Joe stated that would be the desire. When parents drop off, they want to pull in and drop off as

## LIVONIA JOINT PLANNING BOARD

June 13, 2022

quickly as possible. When there is a backup of cars, there is a diminished amount of happiness in that business. You want everything to go smoothly. If the cars are stacked up, that goes against what the business is trying to provide. It's in the Daycare's desire to ensure things are streamlined and go smoothly. CEO Adam Backus stated having a plan "B" if that did develop, there is adequate land to make provisions to avoid that. ZCA Julie Holtje wondered if you have room for the cars coming in to have a lane for people to get around the stopped or backed-up cars? Robbyn Haak stated that she could see this being a jam-up. She would like to see it as a one-way driveway. Chairman Rick Bennett noted that St. Agnes church has two preschool programs, and their situation is a lot worse than this because it's located on the main circle in Avon. This parking is comparable. His children went there from pre-school to elementary school. Parents get used to this quickly and realize there is never a continual flow. From that standpoint, with as many parking spaces that this application has, and with the continual flow and possible buses coming in one way and out the other, it is a perfect situation. There is room to expand if they need to. Gina noted that the area that leads into the parking is very long. There could be four to five cars on their property before getting to the parking lot. They have a good reputation for doing things right, and they are very willing to ensure things are done properly for anything to do with satisfaction or safety. CEO Adam Backus suggested possibly having a staff member in the parking lot to direct traffic. Gina said that with the school-age children, the parents would love that, but they can't make the promise that every day they would be staffed and able to do it. They could also have a staff member in the vestibule to take the incoming children. The parent would drop off; the child would come and be directed by a staff member into their classroom. Most of the time, parents would not be parking. They would pull up and drop off, then exit the parking lot. CEO Adam Backus said he would like assurance that if there is a problem, they will be willing and able to resolve it. Joe stated that this parking lot is more than enough based on the experience of the facilities he has designed and operated for years. Should this site become an anomaly and the demand be much higher, there is room to expand the parking lot to the north. Gina said they could also adapt morning routines and have someone outside directing the traffic. CEO Adam Backus stated there is a concern with traffic in this area. This should be more than adequate, but if it's not, you will take measures to help steward the people or create additional parking spaces. Gina confirmed that was correct. Dawn asked if any of their other facilities were on the main road similar to this? Gina said that this location is unique. Jeanne asked about the in one way and out one way. She asked if the buses would use the flashing lights and if that would prohibit incoming traffic flow. Gina noted that they were requested and were verbally granted a second exit. Otherwise, the buses would be a full stop on the road with their flashing lights on. Jeanne asked if the parents dropping their kids off would have to wait behind the buses. Gina noted that they would need to have their kids there before the bus; the buses are for school-age kids. Dawn asked what the proximity of the playground was to the radio towers? Gina stated that she is aware that the towers have the potential to fall on their property. Currently, a portion towards the back is not maintained or mowed. Their fence is located within the mowed area closer to the building. If the towers had a problem, it wouldn't be in the area where children are playing. She also noted that the kids would not be outside in the play area if there were any severe weather. Joe stated that if the Town could provide the information regarding the fall zones, he would ensure that the play area was not in that area. CEO Adam Backus stated that we have the fall zone concern, and the AM Radio tower has many dynamics. A lightning storm in Rochester can cause it to discharge; it is different from an FM

## LIVONIA JOINT PLANNING BOARD

June 13, 2022

tower as it is energized. Joe asked what the proximity was of the AM tower to the facility. ZCA Julie Holtje stated that it was in the back portion. CEO Adam Backus stated that if the proposed fence is metal, he suggested bonding it for added protection. Robbyn and Ashely felt that they would prefer a one-way parking area. Joe stated that the proposed layout is the safest in his professional opinion. Gina noted that the buses would turn right when leaving the site and going towards South Lima Road, not taking a left out of the parking area. Jeanne questioned if the Board would be approving the Site Plan as submitted. Chairman Rick Bennett noted that any approval would be with the D.O.T modifications allowing the one-way egress to the north.

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

Chairman Rick Bennett asked for a motion to approve the Site Plan application as submitted with the D.O.T modifications. The applicant will return to the Planning Board as needed and agree to make any modifications regarding traffic and parking issues. Motion to approve: M/2/C (J. Brown/K. Strauss) Carried 6-0

### **3) Marjorie Benson – 3479-3485 Bronson Hill Road, Lakeville, New York.**

Chairman Rick Bennett asked Jeremy Years, Land Surveyor representing Richard Maier Land Surveying, and the Benson family to come forward for the proposed Subdivision. ZCA Julie Holtje stated that this proposal has many non-conformances with our Design Criteria and Zoning Code. This is a sketch conference to discuss the proposal. Jeremy stated that it appears that this is a family estate that is being settled. That is what is triggering the division of the property. There are currently two residences on the property, lot A and C. Lot A has 143' of frontage on Bronson Hill Road, and proposed lot C has 111.47' of road frontage. Lot D is a vacant parcel with nine-tenths of an acre that would have 200.4' of frontage on the proposed 60' wide private drive. That lot would be subject to Site Plan approval if Subdivision approval is granted. Lot B and the way it is configured is the 60' strip of land which is 60.14 on the frontage of Bronson Hill Road. It would go up the hill and then widen out in the southeast corner of that property to create 1.747 acres. Ownership of the 60' strip would be attached to lot B. There is currently an existing lot owned by Carl Shantz that is accessed by an existing 50' wide right of way that comes up the common driveway. Jeremy stated lots B & D would have legal access. Dawn stated that lot C would have its own ingress/egress on Bronson Hill. Jeremy confirmed that was correct. CEO Adam Backus asked how lot B gets 60' when Carl Shantz owns it? Jeremy stated that it would be 60' at Bronson Hill Road, then it would come up and jog around the Shantz property and would come back around. It would be 60' until it meets the Shantz property line. It would then take a jog, turn towards the north, and come around their existing lot. Technically that last section of proposed lot B would be less than 60' wide. CEO Adam Backus stated that essentially the common/private drive would end at the west side of the Shantz lot, then it would be a private drive to get to lot B off the end of the road. Jeremy said that once you go past the 200.4' of lot D, the rest of that would be accessed for lot B only. CEO Adam Backus noted that the Code would call for four lots to have equal ownership of 15' strips. Robbyn Haak asked how lot D gets the ownership and why lot B maintains the entire road. CEO Adam Backus asked how you can have 15' ownership strips. Jeremy asked if lots A & C could put in their own

## LIVONIA JOINT PLANNING BOARD

June 13, 2022

driveways? Chairman Rick Bennett stated that the garage for lot A faces the gravel driveway. You can't come in anywhere on that lot and be able to turn into the garage without going on the private drive. CEO Adam Backus stated they are also proposing to create two non-conforming setbacks because lots A & C would be too close to the private drive. They would be creating a problem, not asking for relief from the burden. Chairman Rick Bennett stated that one way to eliminate the five lots accessing the private drive is to make lot C assessable from Bronson Hill. That would have to be approved by the D.O.T. He doesn't see any way around the Setback issues. They would have to go to the ZBA for those Setback Variance approvals. Chairman Rick Bennett also stated that the proposed Subdivision would affect the Shantz right of way; you would have to gain some relief from him to do this. Chairman Rick Bennett stated that you have a 60' private drive with four lots that have access, and each one must own equal segments, so they all need to own 15' segments which would equal the 60'. ZCA Julie Holtje stated that from our Design Criteria, a right of way serving more than one lot should be at least 60' in width, and each owner shall own a fee interest in a part of said right of way of at least 60'. Ownership of said 60' wide parcel may be in common with others. Chairman Rick Bennett said that they all must have common ownership. Robbyn asked if that would require a driveway maintenance agreement? Julie stated that was correct. An easement acceptable to the Town and Attorney must be provided. Jeremy said it could be a 60' wide strip that goes up to the Shantz property, but the proposed lots would have common ownership. CEO Adam Backus stated that would be something to consult with their Attorney about. Robbyn noted that you wouldn't have the 60' that is required. CEO Adam Backus said we would still require a fire access turnaround and fire protection items. Chairman Rick Bennett stated we would have a 60' right of way with a 20' driveway, and we need enough room for a turnaround for fire equipment. The whole process would stop at the Shantz property. Lot B owner would be responsible for gaining access to his lot. Chairman Rick Bennett stated that so far, we have issues with access to five lots which could be remediated with the approval to access lot C from Bronson Hill. Now you would be down to four lots with a private drive that has to be 60' total with a 20' private road, with a mutual agreement between the four lots. The setbacks would be referred to the ZBA. There were discussions regarding lot A because it is less than 50' to the new private road right of way, and since it is too small for septic, it would need to be hooked into the sewer. Lot D has issues because it's less than 40,000 square feet. That would also need public water or sewer in order to meet the area requirement for zoning. Both lots D and B would need water for fire protection. Chairman Rick Bennett asked if we know where the Shantz dwelling is located. ZCA Julie Holtje provided the survey for the Board. Water for lot B will need to be figured out. CEO Adam Backus stated that it would still be required to have water for fire equipment. If you eliminated lot D and had road access from Bronson Hill, you wouldn't need a private road because you would only be accessing three lots. ZCA Julie Holtje stated they would still be required to have a private road for two or more lots. The maximum is four lots per private drive. Dawn asked if the Shantzs had any opinions regarding the proposal? CEO Adam Backus stated they were not on great terms the last time he knew. Chairman Rick Bennett stated that if Mr. Shantz has the right of way, can that be modified without his permission, and is the proposed turnaround sufficient? ZCA Julie Holtje stated the turnaround, as proposed now, is not sufficient. Chairman Rick Bennett stated that the Board would require something in writing from the LCWSA regarding the water and sewer and that the design proposed has their approval. The Planning Boards' main concerns are the setbacks, private drive, turnaround, and the number

# LIVONIA JOINT PLANNING BOARD

June 13, 2022

of lots accessing the private drive. CEO Adam Backus stated that the main highlights would be outlined in a memo to the applicant. The Planning Board feels that the setbacks are a huge issue, and they could not refer it as it stands to the ZBA. CEO Adam Backus stated that Planning Board needs to make some recommendations to the Zoning Board. ZCA Julie Holtje stated that in early correspondence, the Building & Zoning office made the applicant aware that they would be facing many difficult obstacles. Chairman Rick Bennett stated that as a Board, they try to accommodate applicants in situations like this. However, we can't allow a Subdivision without creating proper access and conforming to the Setbacks. CEO Adam Backus suggested a consultation with Attorney James Campbell to review the discussion and the many obstacles this proposed Subdivision presents. He requested that he help provide this Board with a proper path forward to the Zoning Board. Chairman Rick Bennett agreed and stated that the Planning Board recommends forwarding the meeting minutes and memos from Building & Zoning to Attorney James Campbell, requesting a path forward to the applicant, and recommending conformance to the many issues facing this request. Once that has been done, the applicant can return to the Planning Board for further review. Jeanne asked if the applicant had plans of building on lots B & D. Jeremy said he thought that would be the result after the Subdivision was completed.

#### **4) Perry Veterinary – 6611 Richmond Mills Road, Livonia, New York.**

Chairman Rick Bennett asked Bob Bausch representing Perry Veterinary, to come forward with the proposed modification to the Site Plan. Bob stated that the project had been delayed because Mr. Schuster, who previously owned the land, added a clause to the property deed that required a 300' Setback. Their Attorney did not identify that problem during the initial application. They have since resolved the issue and provided Building & Zoning a letter stating all the stipulations required to move forward. The revised plan includes the following: The Setback is 100'. To accommodate the new Setback, the turnaround in the front of the building has been removed. The parking area will stay in the front of the building. They have added a truck turnaround and provided a visual for the Board's review. They have added additional parking at the back of the building. The original landscaping is the same, except the east border now has a double row of trees with a 6' fence starting at the front of the property and running to the back corner. On the back corner of the north property line is a row of trees with no fence. Chairman Rick Bennett asked for clarification regarding an object on the map. Bob stated that it was a swale. CEO Adam Backus noted that it comes down to removing the front turnaround, adding some parking and a fence, and additional buffering.

Chairman Rick Bennett asked for a motion to approve the modification to the Site Plan application as presented. Motion to approve: M/2/C (R. Haak/D. Andersen) Carried 6-0

With no further questions, Chairman Rick Bennett asked for a Motion to adjourn the meeting at 8:15 p.m... Motion to adjourn: M/2/C (R. Haak/J. Brown) Carried 6-0

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Respectfully Submitted,  
Alison Houk, Recording Secretary