

**LIVONIA JOINT PLANING BOARD
FEBRUARY 22, 2021**

Present: Chairman R. Bennett, D. Andersen, J. Brown, R. Haak, J. Palmer, J. Sparling, CEO A. Backus, Zoning Compliance Assistant J. Holtje

Excused: Attorney J. Campbell, L. Willoughby, Secretary A. Houk

Note, Public Meetings (Covid-19) precautionary policies were followed to the best of our ability and included:

- Applicants would typically be asked to wait in their vehicles until instructed to enter the building; however, the attendees at this meeting were able to maintain social distancing and wore face coverings.
- Hand sanitizer was made available at the entrance of the town hall.
- Meeting room occupancy was restricted to no more than 50% of the maximum occupancy (or 48 persons). Less than 48 persons attended this meeting.

Agenda:

- 1) Approve the meeting minutes. – January 25, 2021**
- 2) Erie Enterprises – 3031 Rochester Road, Lakeville, NY.**
Conditional Use Permit/Approval of Site Plan – 65.-1-6.122
- 3) Perry Veterinary – 6611 Richmond Mills Road, Livonia, NY.**
Continuation of Site Plan – 75.-1-3.114
- 4) Torin Gleeson – 3488 Poplar Hill Road, Livonia, NY.**
Sketch conference – Home Occupation referral to ZBA – 66.-1-44.3

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

1) Approve Meeting Minutes for January 25, 2021. Chairman Rick Bennett asked for a motion to approve. M/2/C (J. Sparling/R. Haak) approved as submitted. Carried 6-0.

2) Erie Enterprises – 3031 Rochester Road, Lakeville, NY.

PLEASE TAKE NOTICE that the LIVONIA JOINT PLANNING BOARD will hold a public hearing on Monday **February 22, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Erie Enterprises, LLC** for approval of a Conditional Use Permit per Section 150-12, (Public Hearing) of the Zoning Code of Livonia, and Section 150-20D (Conditional Use Permit). The proposal is for retail Fuel sales located at **3031 Rochester Road, Lakeville**, New York. The property is zoned Commercial Limited Industrial

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(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 asked James Marshall of Erie Enterprises, LLC to come forward for the Conditional Use Permit for fuel sales. Erie Enterprises is requesting approval to install three 30,000-gallon propane storage tanks, and four 25,000-gallon fuel oil storage tanks. The propane and fuel oil would be loaded from the tanks into their delivery trucks for delivery to local home owners, famers and businesses. They are also proposing motor fuel and heating oil tanks which will be located in the middle of the property. The center section off the driveway in the back will be used to store above ground propane tanks used at customer's homes. They are proposing the addition of a gravel driveway to the back of the property for tank access for the delivery trucks. They are also proposing a separate parking area for their trucks and team member's cars. The entire area for the tanks, and most of the driveway would be surrounded by a 6' chain link security fence. One light pole would be installed to provide light for the tank area and truck loading. They would also like to offer low-cost portable propane tank refills onsite. The propane tank filling station will be located adjacent, and to the north of the customer parking area. The existing building will be utilized for their offices. Office hours would be 8am to 5pm, Monday through Friday. The existing sign would be refaced. Initially the operation would employ 3-4 people, eventually growing to 1-12 team members.

Chairman Rick Bennett stated that the Board has previously seen a sketch plan and this is a more formal Site Plan that involves a Conditional Use Permit. The Board will not be issuing any approvals at this meeting as we are still awaiting review from the Town Engineer.

Jack Sparling asked what was the size of the propane tanks. James Marshall stated that they are 30,000 gallons each. Chairman Rick Bennett asked for the dimensions. James stated they are approximately 66' long and about 10' in diameter. Jack Sparling asked how far off the ground they would be? James stated they are approximately 13' off the ground to the top of the tank. Chairman Rick Bennett, referring to the Site Plan asked what the small propane tank was for. James Marshall stated that will be either a 500 or a 1000-gallon tank that will be used to refill customer's barbeque tanks. Jack Sparling asked if there were any plans for vegetation around the tanks to conceal them from the highway. James Marshall stated that the tanks are so far back on the property, and with the exiting building and trees on the property, felt that the tanks would not been seen from the road. Robbyn Haak stated that the propane tanks will be visible from the road coming from the north, heading south. James Marshall stated that on their other sites where this is a concern, they have planted evergreen trees in a crisscross pattern to block the tanks from being seen. Robbyn Haak asked if we have received confirmation from the FCC in regards to safety. James stated that he searched the FCC website with several key words: tanks, propane, propane storage tanks, fuel. There was nothing on their site for any of that. Robbyn asked if he had contacted anyone from the FCC for any information? James stated he did not and wasn't sure how you would contact someone regarding that. Robbyn stated that it is a dangerous situation.

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CEO Adam Backus stated that the final Site Plan application will need to show a Code compliant path for all applicable Code including the following: Confirm the tanks proximity to communication lines is acceptable to the FCC. Setbacks: Reference table 6104.3 in the NYS Fire code (which matches table 6.4.1.1 in NFPA 58 (2017), include appropriate separation dimensions on the plan and reference the appropriate Code sections. The plan should address separation between individual tanks, or quote Code section for allowable groups of tanks, referencing the appropriate aggregate volume related to separation. Chairman Rick Bennett asked what other items were being reviewed by the Town Engineer. CEO Adam Backus stated 2020 Fire Code regarding fire hydrants, location & adequacy. The applicant did send a questionnaire regarding some of the Fire Department questions, and that was sent to the Lakeville Fire Department but we haven't heard back on that. The 2020 fuel gas Code, the DEC, FCC and any other agencies having jurisdiction.

Jeanne Brown asked if in the future there were any complaints regarding screening, would they be open to plant additional trees? James Marshall stated that they would be willing to work with any neighbor concerns.

Robbyn Haak asked if the tanks were going to sit on concrete pads or gravel? James stated that the propane tanks will sit on a concrete pier foundation that is approximately 3' off the ground, with a steel saddle holding the tank in place. Underneath the concrete pad will be gravel. The other fuel tanks will have steel saddles sitting on a concrete pad. Robbyn asked about the trucks coming onsite. James stated that the tanker trucks for fuel oil typically haul approximately nine to ten thousand gallons. This type of supply won't be needed more than once a day. Even if business increases, there won't be more than one fuel oil tanker truck a day. It will be the same scenario for the propane trucks. In the future, there may be two propane trucks a day, then one the next day and back to two trucks the day after, if they are busy. In the summer time they may only have one truck a week delivering. They will also be loading their delivery trucks one or two times a day. Robbyn asked how many trucks they anticipate for home delivery? James said their largest division has seven trucks. Dawn Andersen asked if the truck route would be towards the south of the building to fuel the trucks. James stated that was correct. Dawn asked if there would be adequate room to turn around for either propane or fuel oil loading. James stated there are two options for the trucks to turn around when delivering or loading. Robbyn stated that she was also concerned about the truck activity near the curve where Route 256 intersects with Route 15. This area is a 55mph zone and has been a concern in the past with the intersection and curve. Robbyn asked how much land they expect to disturb? James stated that it was indicated on the drawing & SEQR form. Robbyn stated that they are proposing 3 propane tanks and 4 fuel oil tanks, would they be requesting additional tanks in the future? James stated no they would not. This layout is similar to their other locations.

Jeanne Brown asked where the shipments come from? James stated that the oil will most often come out of Rochester. On occasion it may come from Vestal or Big Flats. The propane industry is very complex. They can get propane from Canada, Watkins Glen off the pipeline and other caverns that store it similar to Watkins Glen. The problem is that you need to pull it from all those points or you will have a supply issue in the winter time. That is why so much storage is needed to secure the propane for their customers. There have been times when Watkins Glen

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has run out of propane, or that trucks have waited in line over eight hours to get loaded. You need to make sure you have another resource. Dawn Andersen asked what was the closest existing facility. James stated there is one in Geneva and one in Bath. Dawn asked if they had looked into the demand for fuel this area. James stated that he has canvassed the area and was able to see how many propane tanks, and also noted that in this area, there is not an abundance of natural gas.

Chairman Rick Bennett opened the Public Hearing and asked for anyone wishing to make a comment. John Haak of Livonia Center stated that he didn't see a Public Hearing sign posted on the property. ZCA Julie Holtje stated that she put the sign up and had driven by a couple of times, and the sign was still posted at that time. Dawn Andersen stated that she saw it on Sunday morning. John Haak felt that the other property owners in the area may not have seen it. CEO Adam Backus stated that the property owner to the north, Eagle Storage was aware of the Public Hearing as he did call the Building & Zoning office regarding the meeting. CEO Adam Backus stated that it was published in the Livingston County News and there is a sign posted onsite. Chairman Rick Bennett stated that the Public Hearing will remain open for oral or written comments until we receive comments back from the Town Engineer.

CEO Adam Backus asked the Board if there was anything further that they would like to request the applicant provide for the next meeting. Jack Sparling asked if the applicant could provide pictures of what the fuel tanks will look like. James provided pictures of the fuel oil tanks, which are 25,000-gallon tanks. He will provide the propane tank pictures for the next meeting. Chairman Rick Bennett asked for the dimensions of the fuel oil tanks. James stated that the fuel oil tanks are 42' long, 13' high and 10' diameter. The tank sits 3' off the ground making the total height 13'. They are a double wall tank with overfill protection. Chairman Rick Bennett asked about spillage. James stated that they are double wall tanks which also eliminates the requirement for a containment duct. If the first tank has a leak, it will be contained in the second tank. They also perform monthly inspections on all tanks to check for any fluid between the tanks. Dawn Andersen stated that since they will operate Monday through Friday, what if something happens at 10pm on Friday night. James stated that there are signs on both gates that have emergency phone numbers. James's phone number along with the operation manager, & location manager of the site. They also have guys that are on call 24 hours a day to handle any issues. Dawn stated if there was a spill or leak that was undetected over the weekend, that could impact the neighborhood and environment. James stated that is why they have double walled tanks and someone would mostly likely notice the smell before any fuel ran off the property. There are so many safety measures in place, a spill is very unlikely.

3) Perry Veterinary – 6611 Richmond Mills Road, Livonia, NY.

Chairman Rick Bennett asked Robert Bausch of Perry Veterinary and Andrew Kosa, Project Manager from Clark Patterson Lee to come forward for the continuation of the Site Plan. This proposal is for a 6700 Sq. Ft. Veterinary building. Andrew stated that this is an update to last

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months meeting. They have adjusted their design and shifted the building approximately 8' towards the North to gain the full 20' landscaping buffer. They have developed the interior of the building which Bob Bausch will provide details on. They will have 42 parking spaces. The Site Plan shows an easement and grading for the future Sidewalks. They have made their full submission to the D.O.T. for the curb cut and are awaiting comments back from D.O.T.

Bob Bausch of Perry Veterinary introduced Dr. Peter Hecht and two employees of Perry Veterinary. Bob stated that when it comes to the building, they want to make sure they meet the needs of their doctors, technicians & support staff. They also want to be good neighbors and he is not aware of any complaints over the years at any of their locations. Safety, security and privacy are critical to the building's layout. The outside front of the building will have a residential look, double roof, overhangs and flower gardens. Clients will park on the side in the front of the building. There will be in and out doors and an enclosed walking area. Animals are never allowed out in the walking area without a handler on a leash. On the inside of the building separation becomes critical. In the reception and check out area, there will be two separate sections for people to check in or out without having their animals be face to face. In the waiting area there are partitions to keep animals separated. The inside layout is designed in a "U" shape. Clients come in one entrance, continue to an exam room and out to a separate check out area and different door to exit. This facility will have five exam rooms and a comfort room for animals that need to be put down. The middle of the building is called the "Hub". This will be the treatment area with two double tables that will accommodate four animals. One will also have a sink; the rest will be all counter top. There will be a dental suite complete with dental x-rays. An imaging room for x-ray and ultrasound. There will be two surgical suites and a lab room. There will be offices for doctors. Located in the back corner, there will be four wards for the animals. Cats, small dogs, which are in cages. A large dog ward with runs, and an isolation room. There is a door in the back that can be utilized to bring in isolated animals. They will have a cleaning room for laundry and for sterilizing surgical tools & equipment. Bob noted that they are very proud that all of their facilities are kept clean and don't smell. Their staff is always cleaning, in addition to the mechanical systems that are designed to keep it clean. There is an employee area with staff bathrooms and a personal room for anyone feeling ill. They try to meet the needs of their clients with the highest level of medicine, ensuring safety and security as people come and go with their animals.

Dr. Peter Hecht stated that he appreciates the Boards consideration. He has been a Vet since 1987, and at the Livonia location since 1990. He has enjoyed working in the community. They have outgrown their current location. The new building would give them the opportunity to service the community even better. He feels that all of their facilities have fulfilled a real need in the community and they have been good neighbors.

CEO Adam Backus asked for clarification regarding trailer parking. Bob Bausch explained that any animals coming in trailer would be there on a temporary basis. Depending on the animal, Dr. Hecht would come out and treat the animal in the trailer or the animal would come into the Clinic. The trailer would only be parked temporarily during the treatment time.

CEO Adam Backus stated that when the Town Board made this Zoning change, they were sensitive to the fact that a huge portion of the town would be subject to professional offices. The

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Town needed some protection because some locations would not be a good fit for a professional office, such as a Vet Clinic. We would like this application to be cohesive between the Planning & Zoning Boards. The Zoning Board will consider the application for a Conditional Use Permit, as well as a possible variance for the Sidewalk, and a Kennel by definition. Bob Bausch asked if the Kennel Variance was referring to the animal walking area. The distance to the property is supposed to be a 100' to the property line. ZCA Julie Holtje stated that they are approximately 53' from the property line. She also said that at the last meeting they had discussed some continuity in the frontage. Bob Bausch stated that he did have a discussion with their architect regarding this. ZCA Julie Holtje stated that they should also consider in regards to Zoning that Lot Coverage now is included for buildings only. Lot Coverage in Neighborhood Residential is 25%. When we have parking lots and this much road frontage it is important to the character of the neighborhood, and that it shouldn't translate to only to include buildings. Hopefully our Zoning will soon reflect that it's all impervious surfaces. As it is proposed now, they are at their maximum build out. If in the future additional parking was needed, they would be exceeding the Lot Coverage.

Bob Bausch stated that the employee parking at the current Vet Clinic has 14 parking spaces. The client parking has 14 parking spaces, including the handicapped spots. As you pull in on the right side there is 8 additional overflow spots, for a total of 36 parking spaces. The new facility has 43 parking spaces total. Jack Sparling asked where the employee parking will be. Bob stated it will be located on the east side of the building. Joanne Palmer asked if they will offer animal boarding for animals with special needs if people need to go out of town. Bob stated that there would be room for animals with special needs for temporary boarding. Jack Sparling asked what the average animal stay at the Clinic is. Dr. Jessica Litteer of Perry Vet stated that most animals are there just for the day. Occasionally they may have some animals stay a day or two. Boarding is very rare as they don't have the staff to handle weekend pet care. They would refer clients to a boarding place that could better handle care. The new Clinic will have enough boarding rooms if needed to accommodate boarding for special circumstances. Chairman Rick Bennett asked if an animal having a surgery that requires an extended stay would be sent to the Clinic located in Perry? Dr. Peter Hecht stated that the orthopedic surgeon is located in Perry. He couldn't think of any surgeries done in the Livonia Clinic that required more than a couple of days boarding afterwards. Dr. Jessica Litteer stated that she currently has a dog that came in that morning to have surgery for eating two squeaker toys. He will be there for the night on pain medicine and will go home tomorrow afternoon. Joanne Palmer asked for clarification on what the large animals would be. Dr. Peter Hecht stated that they service Pot Belly Pigs, Alpaca and sheep or goats. It would not be Cow's. Jack Sparling stated that he thought there was a barn planned in the future. Bob Bausch stated that in the long-term future plan, there is the option for an exam room for large animals. It would be a drive through building where the animals would be treated in their trailers and then leave. They would be able to accommodate large farm animals but not Cow's.

Chairman Rick Bennett stated that moving forward to the ZBA, the issues will be the definition of a Kennel and a Variance would be required for the Sidewalk. Jeanne Brown asked if there is currently a Sidewalk running from Kathryn's Way to East Avenue. Bob Bausch stated there was a Sidewalk, but it only has to be on one side of the road. Jeanne asked if sidewalks are required

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in Neighborhood Residential District. CEO Adam Backus stated that not necessarily, but that they are required here due to the proximity to the Park and the Comprehensive Plans vision is to extend them to Livonia Center. CEO Adam Backus stated that the Town Board felt that Sidewalks were important, and the Comprehensive Plan recognizes the requirement for Sidewalks. Bob Bausch stated that it is his understanding that they will be requesting two Variances. One for the definition of a Kennel for the outside walking area, and the other is the Sidewalk. Regarding the Sidewalk, he would have to discuss with the other owners that a contingency be added that if the Town ever added Sidewalks, that Perry Veterinary would pay for them when the time comes. CEO Adam Backus stated that from the Town Board's prospective, Sidewalks are a necessity and therefore an easement will be required so that they can be implemented in the future. He understands that currently it does not make sense to have sidewalks to nowhere, but there needs to be a mechanism in place for the future. Chairman Rick Bennett stated that although the Planning Board is in favor of such a mechanism, the ZBA is held to a more stringent letter of the law when granting a CUP. CEO Adam Backus stated that Perry Vet's rationale may be a satisfactory explanation for the ZBA to accept. Bob Bausch stated that the other concern is that they would need to maintain the Sidewalk.

Andrew Kosa of CPL asked what the next steps would be. CEO Adam Backus stated, lets try to summarize the outcome of this meeting and boil down the items. When they go to the ZBA, you need to make sure you have everything covered, along with the recommendation from the Planning Board. ZCA Julie Holtje stated that they are scheduled on the March 1st ZBA agenda.

Chairman Rick Bennett stated that the Board consensus regarding the Sidewalks was that if they have the easement, and if and when the Sidewalks are required, Perry Vet agrees to pay for them, the Planning Board is in agreement with that. CEO Adam Backus stated that we will need to consult with council how this should be documented. Bob Bausch asked if it could be apart of the Abstract. CEO Adam Backus stated it could possibly be included on the Site Plan.

Chairman Rick Bennett stated that in regards to the Variance needed for the fenced in dog walking area, what is the definition of a Kennel? CEO Adam Backus stated that if you harbor, board, etc. It is tough to say that they don't qualify with having animals stay overnight. Dog runs are required to be 100' from a property line. It doesn't necessarily meet the intent of the Code, but it does fit the language. Jeanne Brown read the definition from the Town Code for a Kennel: "*A lot or parcel of land where four or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of four months*". CEO Adam Backus stated that you also have to refer to the section on permitted uses, it will refer to a Kennel associated with a Vet Clinic. Robbyn Haak stated that it is a walkway area where dogs are not unsupervised. Bob Bausch stated that it is used for animals that are there after having surgery. Once or twice day, a handler will take the pet on a leash out in the walkway area so it can do its business and is brought back inside. The animals are not left unattended at any time. Chairman Rick Bennett stated that there is also a fence there to contain the animals for extra safety in case they should escape the leach.

Chairman Rick Bennett stated that it is the Boards standpoint that the outside walkway area will not be a nuisance. It is not a storage area for animals and they will not be left unattended.

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4) Torin Gleeson – 3488 Poplar Hill Road, Livonia, NY.

The applicant was not present. ZCA Julie Holtje explained the proposal of Torin Gleeson regarding a Home Occupation located at 3488 Poplar Hill Road. We have received inquiries regarding Subdivisions for this land. Parcels have been broken off over the years, and there was a drainage issue behind one of them. After discussions with CEO Adam Backus regarding the drainage issues, and they didn't want to see the frontage get chopped up and have no access to the back lands. There already has been one house built on one of the lots, and a large percent of the road frontage used without giving thought to a safe access point to the rear lands. Future development concept needs to be considered. Mr. Gleeson's mother owns the property, and he was requested to provide us with a sketch plan. That plan did not work so he contacted a new engineer and provided a new proposal. The new plan does not show access to the rear lands. The application that Mr. Gleeson submitted was for a Conditional Use Permit from the ZBA for a Home Occupation, which is a commercial Machine Shop. The application was denied because the building was too large. That is not the intent of the Home Occupation. After discussion with Mr. Gleeson and his attorney, the Code does state that any occupation can be a Home Occupation. A Variance from the ZBA for the 40% accessory dwelling could be made if they could make a case that met requirements. She felt having the applicant come for a Site Plan from the Planning Board, could direct Mr. Gleeson through the process. Robbyn Haak stated that there is currently a Machine Shop on Stone Hill Road. Mark Brown was present and he is interested in purchasing one of the lots to build a home on Poplar Hill Road. He is interested in Lot # 13 or #14, or possibly both lots. Before that can proceed, road frontage and setbacks need to be determined, in addition to drainage being evaluated by an engineer. He is also aware that there may be a potential road in the future to access the rear land. ZCA Julie Holtje also noted that this is Mr. Gleeson's concept plan, which does not address access to the rear lands. They also are proposing a possible business on lot #11. It is unknown if that is where the Machine Shop is being proposed. After discussion with CEO Adam Backus, they would like an engineer to evaluate an overall concept for drainage. At this point we are waiting for the applicant to provide a complete application.

Robbyn Haak stated that she would like to make a request that in the future, Public Hearing's be sent to the Board first to be set. If there is a Public Hearing set prior to a meeting, the Board needs to be notified ahead of time of such meeting. CEO Adam Backus stated that the E&V energy application was unique. We usually wait for the Planning Board to determine if a public hearing is warranted, but in this case, it was automatic because of the CUP. ZCA Julie Holtje stated that there are two applications now, Site Plan and a Conditional Use Permit which will be done by the Planning Board, and not the Zoning Board. Robbyn Haak asked why? ZCA Julie Holtje stated that it was due to how the Code is written, it is a specific permitted use. CEO Adam Backus noted that the public wouldn't have had anymore notice then they do now. Robbyn Haak stated that she was surprised to hear that it was a Public Hearing. There are many areas that she doesn't drive by to see a sign. If there is a Public Hearing that the Planning Board has not previously discussed, they would like to be made aware ahead of time. CEO Adam Backus mentioned that the public hearing was referenced in an email sent to the Board on 2/16

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With no further questions, Chairman Rick Bennett asked for Motion to adjourn the meeting at 8:37 p.m... Motion to adjourn: M/2/C (J. Sparling/D. Andersen) Carried 6-0

Respectfully Submitted,
Alison Houk, Recording Secretary