

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

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

Excused: Attorney J. Campbell, L. Willoughby

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. – February 22, 2021*
- 2) Timothy McCarthy – 7382 Richmond Mills Road, Livonia, NY.  
1 lot Subdivision – 76.-1-31.12*
- 4) Perry Veterinary – 6611 Richmond Mills Road, Livonia, NY.  
Site Plan approval – 75.-1-3.114*
- 5) Jerry Gilbert – Kathryns Way & Big Tree Road, Livonia, NY.  
Subdivisions*

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

1) Approve Meeting Minutes for February 22, 2021. Chairman Rick Bennett asked for a motion to approve. M/2/C (J. Brown/J. Sparling) approved as submitted. Carried 6-0.

***2) Timothy McCarthy – 7382 Richmond Mills Road, Livonia, NY.***

Chairman Rick Bennett asked Kevin O’Donahue, representing Timothy McCarthy to come forward to discuss the proposed Subdivision. Pam Bishop owns the property, and she is Timothy’s mother-in-law. They are proposing a one lot Subdivision. It will be a 5-acre lot to build their house. There will be 92.5 acres remaining.

This Subdivision application was referred to the Livingston County Planning Board for review.

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

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (J. Palmer/J. Sparling) Carried 6-0

Chairman Rick Bennett asked for a motion to approve the Subdivision as presented. Motion to approve: M/2/C (R. Haak/J. Brown) Carried 6-0

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

Chairman Rick Bennett asked Robert Bausch of Perry Veterinary, Andrew Kosa, Project Manager & Nicole Cullen both of Clark Patterson Lee to come forward for the continuation of the Site Plan for the 6700 Sq. Ft. Veterinary Clinic located at 6611 Richmond Mills Road. Andrew Kosa gave an update from the last meeting. Perry Veterinary was before the Livonia Joint Zoning Board of Appeals on March 1<sup>st</sup> for approval of a Conditional Use Permit for the 6700 Sq. Ft. Veterinary Clinic. The Zoning Board granted approval which included Sidewalks from the east to west property line, shifting the building/pavement/parking to the north to line up with St. Matthews church, and Site Plan approval from the Planning Board. They received a comment letter back from the D.O.T with clarifications. Among those were that the entrance lanes were changed from 16' to 15'. They received a comment letter from Building & Zoning and are still working through those items.

CEO Adam Backus referred to the memo from the Town. Landscaping requirements state that 12 trees are required, and they are only proposing 6 trees. Andrew Kosa stated that according to the Code, 1 tree is required for every 25' of frontage, which ends up being 12 trees. They have spaced the trees 50' and are proposing 6 trees. The canopies on the trees will reach about 50' to satisfy the coverage (intent) in the front. In consultation with their landscape architect, another 6' trees would produce crowding and would not be beneficial to the trees. Regarding the required interior landscape, they felt that with the addition of the outside trees and other plantings, adding additional trees would make things congested. ZCA Julie Holtje stated that when she reviewed the landscaping Code requirements, there is a street scape, a buffer area, perimeter parking landscaping and interior parking landscaping requirements. On this project, these areas are all very close together and run into each other. The Code specifically states that in the interior parking area, in addition to any buffer or perimeter parking, has the minimum requirement of a certain square footage, which was a little over 1000 Sq. Ft., where they have only 200 Sq. Ft. proposed. The landscape areas do blend into each other and the Planning Board will need to determine if that meets the intent of the Code. Andrew Kosa stated that if you take the site as a whole, they have the buffer, the Bio-retention, and another layer of trees on the exterior. They are implementing full canopy trees in the front. He felt that they have met the intent of the Code. The area that ZCA Julie Holtje is questioning, is the interior parking area landscaping. The Code does specify a certain amount of dedicated square feet and a minimum number of trees. Robbyn Haak asked if the striped area is what they are referring to, is that just plantings or are there trees in there as well? Andrew Kosa stated that currently they are showing that area as just to be paved. Andrew Kosa referred to the Site Plan map and showed that there is

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a large area of planted grass in relation to overall green space. The Board felt there was sufficient green space as they have shown on the Site Plan. CEO Adam Backus stated that the next topic is the proposed front loop. Bob Bausch stated that they have to appreciate the community that they will serve. If we have someone from 4H that needs treatment for their animal, it could be expensive to send a Vet out. This would give them the opportunity to bring their pet in on a trailer for the treatment. This situation is not something that happens every day, twice a month would be a lot. The animal trailers will be in and out in a very short time. The other facilities provide this service, and you have to expect this in a rural area. Dr. Peter Hecht stated in the past year, he may have serviced an animal outside in a trailer twice a year.

CEO Adam Backus stated that memos from the Town Engineer in regard to fire access were delayed in getting to the applicant, and they didn't have a lot of time to prepare responses for this meeting. The applicant is showing on the Site Plan the truck paths that seems to cover the fire access. They have the loop in the front, and access to get to the back of the building. The question now is, is the loop in front still necessary with the future plans to treat animals in trailers in the back of the building. ZCA Julie Holtje stated that the Zoning office felt that if they are treating animals outside in the front yard, that could easily increase in frequency, and it would be better to treat them in the back and not in front of the building. This area is special Zoning for professional offices in the Neighborhood Residential District and we feel that it would be more professional, and in keeping with the other types of professional offices listed, to have trailer traffic with any large animals being directed to the back of the building for treatment. Dr. Peter Hecht commented that based on the past, treating animals outside in trailers doesn't happen more than once or twice a year.

Bob Bausch stated that during the ZBA meeting, it came up that the Zoning Board wanted them to line up the parking lot with St. Matthews church parking lot, which is what they have done. The Planning Board members felt that was a good concession. Chairman Rick Bennett stated that if you look at St. Matthews, there is no access to the back side of the building. Jeanne Brown stated that we are a rural community and felt anyone driving by was not going to be offended by seeing an animal trailer in the front of the building. Robbyn Haak stated that trailers will only be there for a short time. Jack Sparling commented that we are a farming community.

CEO Adam Backus stated that lighting and signage will be addressed during the Building Permit process, and storm water will be addressed once we get further details. The sidewalk easement can be added to the map, and they have addressed the neighborhood and buffering. Chairman Rick Bennett mentioned that the Public Hearing has already been addressed with the Planning and Zoning Board. The SWIPP will be provided by the applicant, and then we can proceed with the SEQR process. Any other items can be wrapped up and the notes added to the plans regarding the legal description for the easement.

The Planning Board stated that they are comfortable with the Site Plan and the applicant can proceed forward to the next step. CEO Adam Backus stated that we will work with them regarding the additional truck spots and the fire access.

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**4) *Jerry Gilbert – Kathryns Way & Big Tree Road, Livonia, NY.***

Chairman Rick Bennett asked Jerry Gilbert to come forward to discuss the conceptual plan for proposed Subdivision's on Big Tree Road and Kathryn's Way. CEO Adam Backus reiterated that this is a conceptual discussion to introduce what the applicant would like to do. Jerry Gilbert stated that he has been discussing the proposal with the Building & Zoning office. He is present to introduce the layout, and to find out what is acceptable so he can have an engineer provide the formal plans. The plans will include the infrastructure, water and sewer and other details. Jerry provided handouts for the Boards review. He will discuss the proposal for Big Tree Road first. There was an engineered sketch plan and one that Jerry has drawn. Jerry explained the plans and stated that it was very similar to the conceptual approval he received on the total development of Country Elegance back 20 years ago. He is looking to proceed with phase I, and provide the water & sewer. The frontage lots all meet the minimum requirement for the Town. There would be no Variance needed for the proposed lots. The lots will vary between a 100'-155' wide, 100'-110' frontage, and all of them would be 175' deep. The summary of the discussion was that 2 -60' wide access points will be preserved for access to the remaining lands south of the proposed 8 frontage lots on Big Tree Road. These 60' wide access strips, if used for more than one access to each lot, would be required to be private drives and meet the Town of Livonia Design Criteria. With the location of this subdivision bordering the Village and with the existing character of the neighborhood, the Planning Board is willing to refer the "Big Tree Road Subdivision" to the Livonia Zoning Board of Appeals with a positive recommendation to reduce the front setback to 30' on these private drives. The front setback on Big Tree Road will remain 50'. The Planning Board would favor a shared driveway cut to service 2 lots, which would eliminate the 10' separation from the property line but increase the driveway separation distances in accordance with access management.

For Kathryn's Way, the Town favors the preservation of the extension of Kathryns Way and utilities to Big Tree Road, as shown in the overall concept plan approved by the Planning Board in 1991. The applicant has agreed to a design that makes provision for this by changing the cul-de-sac to a street intersection/hammerhead. Jerry explained the difficulties and expense of extending a dedicated road and the sewer and watermain. All these lots are necessary to pay for the expense. Jerry does not think that Kathryns Way will ever go through to Big Tree in his lifetime, but he is willing to make provision for that. He would like to finish up with the property. There was discussion about the length of a dead-end road. The Livonia Design Criteria advised 540' (6x min. lot width of zoning district) and Kathryns Way extension as proposed is more than 640'. Jerry said that Dave Coty was in favor of the design for maintenance. Jerry would like to offer smaller sized lot, under a cluster plan design, because there is a market in Livonia for these types of lots and smaller homes. The density will remain the same, or an area be devoted for open space located at the rear of 3 adjacent lots. CEO Adam Backus stated that Jerry's design professional should make a plan considering all the relevant codes in the Town of Livonia and in the Fire Code and submit a preliminary drawing so that the Board will be better able to comment. The Board was generally in favor of getting a nice ending to Kathryns way. The responsibilities of addressing access to remaining lands was discussed. The Building and Zoning Department will draft a memo from this discussion and forward to Jerry Gilbert.

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There was a brief discussion regarding EV Energy:

Robbyn Haak stated that she was reading the Code in regard to EV Energy and CEO Adam Backus previously stated it was a specific permitted use. Robbyn asked where in the Code this was referenced. She stated that she did see it in prohibited uses. CEO Adam Backus stated that the application is not for wholesale, or wholesale distribution, it is retail services. Robbyn said that the Code states: “Commercial operations whose principal activity is the storage, production, processing or sale of hazardous or radioactive materials”. Robbyn asked, doesn’t this Code apply? ZCA Julie Holtje stated that at the initial meeting with EV Energy, this was reviewed with Town Attorney, James Campbell and was determined to be a permitted use. Robbyn Haak stated that the Code also states the following for non-permitted uses: “All uses not explicitly listed as permitted uses within the regulations governing a given Zoning district shall be deemed to be non-permitted uses”. This applies to each and every Zoning district. The permitted use for EV Energy is not specifically listed. CEO Adam Backus and ZCA Julie Holtje stated that there was language in the Code, and after reviewing with Attorney James Campbell it was determined to be a permitted use. CEO Adam Backus stated that it was stated on the record at the first meeting that it was a permitted use. They can review the initial rationale when it was first reviewed to see if this was doable with Robbyn, if she would like. If there is ever a question whether that was a proper interpretation, it can be sent to the Zoning Board for an interpretation. If our interpretation is challenge, the Zoning Board can overrule our interpretation. ZCA Julie Holtje stated that Livingston County Planning Department asked for the rationale and when it was described, the County didn’t not have any comments back regarding that. ZCA Julie Holtje stated that she would furnish the rationale that was discussed with Attorney James Campbell for Robbyn’s review. Robbyn Haak stated that by the Code she has referenced, it is saying that EV Energy’s application is not permitted. Robbyn asked what meeting Attorney James Campbell was at? ZCA Julie Holtje stated it was the first sketch plan meeting when EV Energy presented their proposal. CEO Adam Backus stated that the application was looked at hard, and the determination was made. If the determination was wrong, there is a safety valve to have that challenged. It was the first item that was addressed once the application was received, and for extra measure they consulted with Attorney James Campbell to confirm. ZCA Julie Holtje stated that originally, they thought it was bulk storage, but it was determined not be bulk storage/wholesale, but rather it was retail and services. Robbyn Haak stated that it is hazardous material. Chairman Rick Bennett stated then that puts every house along the road having hazardous material. Any house that has a storage tank, or even Sweeteners Plus who has many storage tanks. CEO Adam Backus stated that we would need to define what is hazardous materials. Robbyn stated that she also was aware of that. CEO Adam Backus stated that was okay, that is why we are reviewing it. Robbyn stated that it listed hazardous material defined by the United States Department of Transportation in Title 49 of the United States Code. It listed propane and fuel oil. CEO Adam Backus stated that it must also give an amount to consider being hazardous because your LP tank at your house could be considered hazardous. Chairman Rick Bennett stated that both the Quicklees, in Avon and Lakeville have tanks. Robbyn stated that is different because they are a gas station. Chairman Rick Bennett stated that its still a hazardous material isn’t it? Robbyn stated that in our Code it lists motor vehicle service and gas stations differently. CEO Adam Backus stated that they would provide the original rationale and if there is anything that determines that it doesn’t apply, now is the time to flush this kind of thing out.

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Joanne Palmer stated that in regards to cluster developments, this might be a good time to bring this topic before the Town and Village Board to consider adding cluster development to our Zoning Law. CEO Adam Backus stated that we have cluster development, but we don't have the community Planned Unit Developments (PUD). Joanne suggested that we should try to get ahead of it as much as we can. CEO Adam Backus asked if she would volunteer to be on the committee? Joanne said she would be on the committee, but is unable to be the Chairman. Joanne stated that she would also be willing to be on the committee to update the Comprehensive Plan.

With no further questions, Chairman Rick Bennett asked for Motion to adjourn the meeting at 9:18 p.m... Motion to adjourn: M/2/C (R. Haak/J. Palmer) Carried 6-0

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Respectfully Submitted,  
Alison Houk, Recording Secretary