

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

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

Excused: Attorney J. Campbell, J. Brown, J. Palmer.

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. – March 22, 2021**
- 2) Erie Enterprises – 3031 Rochester Road, Lakeville, NY.**
Conditional Use Permit/Site Plan review – 65.-1-6-122
- 3) Perry Veterinary – 6611 Richmond Mills Road, Livonia, NY.**
Site Plan approval – 75.-1-3.114

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

1) Approve Meeting Minutes for March 22, 2021. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/J. Sparling) approved as submitted. Carried 5-0.

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

Chairman Rick Bennett stated that this is a continuation of the Public Hearing, and asked James Marshall of Erie Enterprises, LLC to come forward. CEO Adam Backus stated that this meeting will provide the public, applicant and Board an opportunity to bring everyone up to date and move towards a resolution. Some things have changed, and some information has come in within the hour regarding this facility. It appears that the applicant has changed from 3 tanks to 2 tanks, and there have been some concerns brought up regarding safety regarding the proximity of the fuel tanks to the Radio Tower. The fuel tanks are within the fall zone of the 199' tower. In addition, an AM tower has a different voltage or frequency and that may be inherent hazards that we are not privy to. There would be a lot of fuel near the high voltage tower. We received a letter from the WYSL Radio station, explaining some of the nuances and potential hazards. We

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

need to make sure, if this application proceeds, that it is safe. CEO Adam Backus stated that there are propane tanks located in the Village and that their location is grandfathered. He received a call that someone smelled propane at the 7-11 store. There are small propane tanks in basket cages located at the 7-11, and also across the street at Shur Fine and Dollar General, but due to the wind direction, it was determined that the smell was coming from the large propane tanks up the hill to the East. It was a situation where the truck driver delivering the propane forgot to shut the valve off and the propane (which is heavier than air) drifted to the West. If there was propane in the air when the Radio Tower released static electricity, that could be very dangerous. We are not saying that this is a non-permitted use, but that the use is subject to review. In the review process we are trying to draw out all this information. It has proven to be difficult finding resources on this topic. We have asked our Town Engineer to research this, but we have not received any new information. At this point in the review process, the main issues include safety and esthetics of the tanks.

Chairman Rick Bennett stated that we have received comments and letters regarding this proposal that have been forwarded to the applicant. At this point, they have produced a new set of drawings. Chairman Rick Bennett asked if there was anything outstanding that we have asked the applicant for? CEO Adam Backus stated no, to the degree that he has reviewed it. The Livingston County Office of Emergency Management Services needs to weigh in. We received some information from the Lakeville Fire Department but are waiting for further comments. Chairman Rick Bennett stated that the applicant has responded and it is now our responsibility to obtain proper analysis for those responses. CEO Adam Backus stated that we have not yet been able to obtain the answers and will need time to process them before returning to this meeting. The Radio tower is the most critical issue from a safety standpoint.

James Marshall stated that he has tried several times to contact the FCC Media Division, and left detailed messages and received no response. NFPA oversees the Codes regarding these types of fuels, and has an online resource where you can ask questions and one of their experts will provide a response. We could ask them what the conditions are around Radio Towers proximity to fuel storage tanks. CEO Adam Backus stated the issue he has had when he goes to the NFPA is, he finds five different sources that deal with different aspects of it. We are trying to figure out where we can go for this non-typical situation, and find out if its okay or not. If its okay, we need something to say why we approved it. The applicant has done a very good job providing information, but we still need to verify that it is safe. Several items need to be determined and we need additional time to gather that information.

Chairman Rick Bennett stated that we have a goal to get to. He asked the applicant to bring everyone up to date on the modifications that have been made about the Boards comments. James Marshall stated that visibility was a concern. They are proposing to plant evergreen trees around both sides of the property so if you are coming from the south the tanks will not be visible. They will be blocked from the road by the wooden fence and additional evergreen trees. Turning radiuses were a concern, so they have modified the drives to ensure a full-length tractor trailer could make the turn around. Drainage and SWIPP has been addressed with a drainage pond. The new drawing shows the tanks drawn to scale.

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

Jack Sparlings concern was the 199' Tower with no breaks in it, and the fall zone. If it comes down the wrong way, it will hit the tanks. CEO Adam Backus stated that one of the difficulties we have is that the Cell Tower in the Village was a new proposition under our current Code that stated you can't put a Tower within the fall zone. In this case the Tower is already there. Now the landowner could ask why he is incumbered by a preexisting condition. Unfortunately, this is what we have and if the Tower tips over and hits the tanks it's a very big problem. Robbyn Haak stated that it is a serious problem at that! James Marshall stated that the back half of the property is 390' wide, and asked if the tanks were moved to the other side of the property, would that get them out of the fall zone? Robbyn stated that there is more involved than just the fall zone. There is spark and other concerns going on with that Tower.

Chairman Rick Bennett stated that we have the letter from WYSL Radio Station which should be forwarded to the applicant and to the Town Engineer for their response. The Board is not moving forward until we receive an answer regarding this critical situation regarding the Tower proximity. The building and zoning department responded that the letter has been forwarded to both.

Bob Savage Broadcast Engineer of WYSL Radio stated that he has operated the Radio Station for over 33 years with no violations, or problems from the FCC. He stated that the operation on South Lima Road consists of a 4-Tower directional array which is typical for an AM operation. There is a short 99' utility Tower on the property. The array consists of one 247' series AM Tower and three 199' Towers, one of which is in close proximity to the proposed EV Energy facility. WYSL is the third most powerful AM station in the state. The tower that is closest to EV Energy has the element on the array with the most voltage of 20,000 Watts. The tower closest to the original proposed site, has approximately 11kw, 13 amps RF at about 3000 volts. In the original 3 tank proposal, AM tower number two located on south west side, is within the fall zone of the tanks. Bob explained that the 199' tower and the entire structure is energized with high radio-frequency voltage, approximately 3kv at 11 amps RF, or 13,000 watts. FM, TV, cellular and utility towers are supporting structures for separate antenna which are mounted at the top or side-leg of the tower. For AM, the entire tower is the antenna and kept above electrical ground by means of a large porcelain base insulator, and the supporting guy wires are broken up with a series of insulators from Lapp Insulator of Leroy. The towers in their array are always electrically live, as the station operates 24 hours a day. He also noted that the RF energy behaves differently from the alternating current present in wall outlets. It arcs and sparks much more readily, especially in WYSL's case. 1.04 MHz or 1040 kHz, as opposed to 60 cycles AC. It is obvious that any antenna tower will attract lightning, but less known is the static build up from approaching storms, often as much as 60 miles away. From the information provided thus far, EV Energy proposes a large propane storage facility closely adjacent to their high-power AM broadcast array. During operation, these devices will spark the accumulated energy to ground from electrical storms. All of their towers get hit by lightning regularly, but they are designed for that. WYSL does employ a variety of lightning dissipated devices which include "ball-gaps" at the tower base to shunt lightning strikes harmlessly from the tower structure into the grounding system, and "horn-gaps" on antenna coupling equipment at the tower base to perform an identical function. The tower is also equipped with a "static drain choke" which more gradually dissipates accumulated storm static energy while allowing the broadcast signal to continue without interruption. They have a double-fence and an enclosure located at the tower

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

base, with posted warning signs. They are in full compliance with the FCC, FAA and OSHA regulations, and have tried to be good neighbors.

A large propane storage facility closely adjacent to WYSL's antenna seems very unwise. Propane vapors can accumulate on the ground and be blown by winds, and the slightest leak could cause a disaster. An explosion of 60-90,000 gallons of highly volatile fuel could level the neighborhood and cause severe casualties and fatalities among workers in the local businesses and motor vehicles on Route 15 and South Lima Road. While they don't wish to place undue obstacles in the path of new development, they feel that this is a potentially very dangerous proposal to public safety.

CEO Adam Backus asked how far away would the propane tanks need to be, in order not to be a concern? Bob Savage stated its impossible to venture an opinion in regards to that. You would have to structure this installation in a way that it would be impossible for enough gas to escape from EV's facility, and for it to reach an ignitable spot on their property. He doesn't know what that scenario would be. He doesn't believe you could find someone who would be willing to guarantee that. The way EV is intending to build their site, failure may not be likely, but it's not impossible. He would not put any flammable fuel anywhere near the towers.

Robbyn Haak asked CEO Adam Backus in regard to the propane smell incident in the Village, how far was the propane traveling from the tanks to wherever the person smelled it? Robbyn stated that it sounds like it was quite a distance, from the top of hill down to 7-11. CEO Adam Backus stated it was a further distance than the Radio Tower would be to EV's propane tanks. Robbyn Haak stated that the gas could easily spread to anywhere on the Radio Station property.

Larry Willoughby stated that the risk is the antenna falling and hitting a propane tank. Chairman Rick Bennett stated that its not only the tower falling, it's a fuel leak traveling. CEO Adam Backus stated that there is a lot of electrical components close to the fuel storage.

David Crocker of Eagle Tree Storage located at 3011 Rochester Road stated that he is located next to the proposed EV Energy site. He appreciates new businesses coming in, but he is very concerned about the smell of the propane. He has apartments and office tenants located there and feels that this will de-value his property, and that his tenants won't want to stay there with the propane business next door. He has done research and found that tenants don't want to be where they can smell propane. James Marshall stated that you may be able to catch a whiff at some point, but you should not be able to smell propane on a regular basis. Mr. Crocker felt that this is not a good fit for the location.

Dawn Andersen asked if Mr. Crocker wanted to provide the paperwork regarding his research, can he still submit that even though the Public Hearing will be closed? Chairman Rick Bennett confirmed that he could still submit any paperwork.

Robbyn Haak asked if there was a distance that you need to maintain from where people reside, she thought there was a 500' distance. CEO Adam Backus stated that there is a 100' from commercial businesses to residential use. Robbyn stated she thought there was rules for being a certain distance from fuel. CEO Adam Backus stated that it is 75', and that needed to be adjusted on their site plan. James Marshall stated that propane is to be 50' from a property line

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

regardless of being residential. Robbyn stated that she was asking in regards to the residential properties that are there, and also there is a banquet hall. Dawn Andersen stated that there are youth athletic fields with a lot of people and cars that are in close proximity. CEO Adam Backus stated that is something that we can look further into. Traffic in that area was also brought up. Robbyn Haak stated that traffic in that area is a big concern.

Bob Savage suggested to contact Mark Humphrey, he is a recognized Broadcast Engineer. He is part owner of WCJW Radio, and Bob can provide his contact information to assist with any questions.

Chairman Rick Bennett asked for a motion to close the Public Hearing. Motion to approve: M/2/C (J. Sparling/D. Andersen) Carried 5-0

Chairman Rick Bennett noted that even though the Public Hearing was closed, he will still except further questions at a later date.

Chairman Rick Bennett stated that the biggest task at hand is that the fall zone isn't as critical as the spark system. James Marshall stated that he will also look into that.

Robbyn Haak stated that traffic should be addressed. Livingston County Planning only addressed truck traffic, not the vehicles. Mr. Marshall stated that it will be 30 +/- customer vehicles a day coming in and out of the site. Robbyn Haak stated that is a lot of traffic in and out of that location. James Marshall stated that the site was built as a customer site. Robbyn Haak said however, that was very minimal traffic with the type of business that it was, and it was not anywhere near 30-40 customers per day. Chairman Rick Bennett stated that it's a lot less than you may see at Fratelli's in a day. Robbyn stated that Fratelli's is not on the curve. Robbyn asked for confirmation on the trucks bringing in the 10,000 gallons a day. James stated that delivery would be once they have everything done, and would include both fuels. In the beginning, you would see one big propane truck there once every four days. The only thing they intend to do at first is put in two tanks. The rest of the plans will follow as the business grows. Then it would be 1-2 transport trucks every day. This would be the busiest they will be once they are well established. Robbyn asked regarding the petroleum tanks, are they different types of fuel. James stated yes, they are diesel, heating oil and kerosene. Robbyn stated that means you will have a different truck coming in for each fuel. James stated that was correct, that's why sometimes there may be two trucks in a day. Robbyn stated that you are talking 60,000-gallons of propane, and one 10,000- gallon truck coming each day. James stated that potentially he would be selling 10,000-gallons of propane per day. This is because he is delivering small amounts to homeowners on a 3000-gallon truck, and there is no wholesale. Robbyn stated if you're going to be emptying 30-60 thousand gallons of propane, you're going to need more than one truck. James stated that is the reason he needs that much storage, because the limitations of propane in New York State and where it comes from. Its an insurance that they will never run out for their customers. He won't need that much storage in any one week, but if there is problem in the pipeline or the Boarder, he needs that storage to last him until that problem is solved and he gets propane again. That is why he needs so much storage. Robbyn stated that the 10,000-gallon big tanker trucks, she assumes that they have the hazard warnings label on them. James stated yes, there are hazardous label warnings on the trucks, and those warning labels are

LIVONIA JOINT PLANING BOARD

APRIL 12, 2021

on anything that the propane goes in. Robbyn asked for confirmation on the propane being hazardous material. James stated that propane is a hazardous material. Robbyn asked if the petroleum tanks will have a big tower? James stated no, as they will be bottom loading their trucks. James provided pictures for the Board's review as an example of the petroleum tanks. Since they will bottom load the trucks, there will not even be any vapor escaping. They will load through a direct connection on piping located on the bottom of the truck. There is a vapor recovery hose connected to the back of the truck that sends the vapor that comes out of the truck, back into the storage tanks, it's a closed system.

Jack Sparling asked what happens if a driver forgets to shut off a valve? James stated he wasn't sure what he was referring to. Jack stated that when you disconnect hose, isn't there some type of automatic shut off? James stated yes, there is an auto shut off. Jack asked him to explain the safety system for when a tanker is filling the on-site storage tank. James stated that the tanker truck will hook up a hose to a fitting. He will open two valves in the piping in order to push the product out of the tanker into the storage tank. If he tried to disconnect the hose with the valves open, he would be sprayed with liquid propane. He would know that long before he got the hose off, that isn't going to happen! Even if it did, all the tanks are equipped with excess flow valves. As soon as the tank senses no pressure, the valve shuts. The trucks are also equipped with the excess flow valves. Jack asked if this was for the diesel, kerosene and propane? James stated it was only for propane because it only operates under pressure for that to work. Robbyn Haak asked for clarification regarding future plans for offering air conditioning services, and asked if there will be an additional building for that. James Marshall stated that it would be a heating and air condition service, and they would operate out of the existing building. It would be a couple of employees with vans to offer the home services calls. Chairman Rick Bennett asked if they will be servicing on site. James stated that customers would be serviced by them going to their homes, no on-site customer repairs. CEO Adam Backus stated that instead of just providing them fuel, if they have a problem with their equipment, you would offer the repair service. James stated that was correct. Robbyn Haak stated that another concern was visibility. Having a 6' fence is not going to provide coverage for a 13' tall tank. James stated that if your sitting in a car driving down the road, he didn't think the tanks would be visible with the 6' high fence. Robbyn stated that she has photo's coming from the south, heading north that show that the propane and fuel oil tanks will be quite visible. When the Cell Tower in the Village was in the process, we had balloon pictures that showed how visible the tower would be at different locations. That may be a consideration if this proposal moves forward. CEO Adam Backus stated that the balloon photos were used so you could picture the elevation. Markers could be used in this situation to show the visibility of the tanks. James Marshall stated that he would be willing to provide an 8' fence, whatever works with the elevations. Jack Sparling stated that even though a tank leak has become more of a talking point, where the tanks are located now are in the fall zone of the Radio Tower, and he can't get past that. If this ever got approved, the tanks would have to be moved from the proposed location away from the fall zone. Robbyn Haak stated that the bigger issue is the sparks from the tower. Chairman Rick Bennett stated that there are a lot of other structures located in that area, businesses, residents and the Radio Tower, and there could be a considerable amount of damage done if there was an explosion. CEO Adam Backus stated that good points have been brought up and we need to find an authoritative resource to clarify and provide some answers. When the Board does make a decision, it will be based on due diligence. Chairman Rick Bennett stated that if you review the

LIVONIA JOINT PLANING BOARD
APRIL 12, 2021

response that ZCA Julie Holtje sent, and Attorney James Campbell concurred that it is a permitted use within the Code to locate the tanks at that location. Robbyn Haak stated, give the narrative. Robbyn also reminded that Mr. Marshall stated that his 10,000-gallon trucks are labeled and considered hazardous. CEO Adam Backus stated that further information is needed from Emergency Management and the Fire Chief from Lakeville. Some information was received regarding fire hydrants from Town Engineer, Clark Patter Lee. Chairman Rick Bennett asked if there was enough information at this point to compile a list of items discussed so they can be dispersed to the applicable parties for comments back to the Board. CEO Adam Backus stated that we are continuing this meeting based on the comments that were brought up. Chairman Rick Bennett agreed and stated that there are some criteria that needs to be addressed prior to any motions.

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

Chairman Rick Bennett asked Robert Bausch of Perry Veterinary to come forward for the approval of the Site Plan for a 6700 Sq. Ft. Veterinary building. Chairman Rick Bennett asked if the drawings the Board has in front of them now are complete, and have covered all items. He is aware that we are still waiting to hear back from D.O.T, and Attorney James Campbell needs to review the language for the easement. ZCA Julie Holtje stated that was correct.

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (R. Haak /J. Sparling) Carried 5-0

Chairman Rick Bennett asked for a motion to approve the proposal for the 6700 Sq. Ft. Veterinary Clinic as presented pending D.O.T approval and Easement language approved by Attorney James Campbell. Motion to approve: M/2/C (J. Sparling/D. Andersen) Carried 5-0

With no further questions, Chairman Rick Bennett asked for Motion to adjourn the meeting at 9:03 p.m... Motion to adjourn: M/2/C (R. Haak/J. Sparling) Carried 5-0

Respectfully Submitted,
Alison Houk, Recording Secretary