PLANNING BOARD MEETING MINUTES
FEBRUARY 25, 2014
The Planning Board met at 6:30 PM local time Tuesday, February 25, 2014 in the Auditorium conference room to discuss, in a meeting open to the public, tabled matters and other business that was before it.

I. CALL TO ORDER:

PRESENT: Allyn Hetzke, Jr, Chairperson
William Bastian
Jim Burton
Roseann Denoncourt
Doug McCord
Bob Kanauer
Terry Tydings

ABSENT: Katherine Kolich-Munson, Planning Board Secretary

ALSO PRESENT: Katie Evans, Planning Board Clerk
Zach Nersinger, Planning Technician
Mark Valentine, Planning Department Head
Peter Weishaar, Legal Counsel

II. APPROVAL OF MINUTES: December 12, 2013

Vote: Moved by: Tydings Seconded by: Denoncourt
Kanauer - Aye McCord - Aye Tydings - Aye

Motion was carried.

APPROVAL OF MINUTES: January 9, 2013

Vote: Moved by: Tydings Seconded by: Burton
Kanauer - Aye McCord - Aye Tydings - Aye

Motion was carried.

III. TABLED:

1. Christopher Marks, 444 East Main Street, Rochester, NY 14604/ Eastside Family YMCA, requests under Articles IX-9-2 and X-10-2 of the code for Preliminary and Final Site Plan and an expansion to an existing Conditional Use Permit, approval to construct a 20,650 +/- square foot addition to the existing building with associated site improvements, and also requests under Articles III-3-36 and X-10-2 of the code for Conditional Use Permit, approval for a Wellness Partner to operate within the proposed expansion. All located at 1835 and 1835-B Fairport Nine Mile Point Road on 50.83 +/- acres. The property is now or formerly owned by the YMCA of Greater
Rochester and is zoned RA-2. Appl# 14P-0005 SBL# 125.01-1-34.13 and 125.01-1-34.12.

The Board discussed the application and reviewed the tabling resolution dated February 21, 2014.

- Katie Evans, Planning Board Clerk, led the discussion by confirming that Board members McCord and Denoncourt had watched the video recording of the public hearing that was held on February 13, 2014 when this application went before the Planning Board. Both Board members confirmed that they had viewed the recorded video via the PCTV webpage.

- Katie Evans explained to the Board that the tabling resolution for this application was delayed in its release and was sent to the applicant on February 21, 2014. Therefore it was not expected that the applicant could provide responses to any of the items mentioned in the document due to the short time period between that date of and the time of this meeting. However, the applicant was able to provide a draft of the statements that were presented during the public hearing by Kevin Fitzpatrick of the Eastside YMCA.

- Evans reviewed the March 24, 2005 Findings Statement that had been provided to Board as a reference material to the application. The Findings Statement was a result of the SEQRA process that identifies details about the original plans for this site and any future potential expansion uses.

- Board member Bastian recalled a plan that was submitted during the original application for this site that depicted a future expansion concept that could include an “aquaplex.” Evans explained that that concept plan was never signed off for approval with the rest of the plans that were approved from the original application.

- Katie Evans, and Mark Valentine met with Doug Fox, consultant, to review the permitted conditional uses in the RA-2 zoning district under the Town’s current Zoning Ordinance, and reviewed the March 24, 2005 Findings Statement seeking a definition for “wellness.” Page 4 of this document provided some description of the definition on “wellness” at that point in time in history. Peter Weishaar, Legal Counsel, noted that similar information was conveyed in the 2004 approval resolution. Valentine, explained that the point of presenting this information for these documents is to attempt to understand the intent of the previous Planning Board with respect to this property and the anticipated uses.

- Board member Burton, cited the tabling resolution and pointed out the Board still needs to be provided with the applicant’s definition of the wellness concept and its connection to the proposed services that the primary care wellness partner will provide on the site.

- For reference purposes, Board member Bastian explained a similar service to the one that is being proposed by the applicant that his employer has incorporated into their business for employees and their families where medical services visit the campus on a routine basis for the convenience of it. The difference is that it is limited to employees and their families only, where it is expected that the applicant and the wellness partner would be open to the public rather than just members of the Eastside YMCA.
• Semantics aside, Chairperson Hetzke stated that the Board at this point must focus on what are the limits of the Board authority to which it can determine if the appropriate definition of "wellness" and if the proposed uses obey the current zoning ordinance of the Town.

• Pete Weishaar, Legal Counsel, affirmed that the Board has to consider the nature of the use of the space in the proposed expansion and that a definition needs to be provided for that to occur.

• Board member Bastian asked staff and legal counsel if we are able to evaluate the proposed intended uses of the primary care wellness partner as a separate issue, and if it was possible to compare it to a similar private practice operation. Pete Weishaar, Legal Counsel, confirmed that the Board can and will review this use separate from the site plan review process. Valentine explained that the legal description for this application was intentionally prepared to allow the Board to vote separately on the three specific aspects to this application: site plan, expansion of the existing conditional use, and the wellness partner.

• Evans, Valentine, and Pete Weishaar, Legal Counsel, explained the differences of the realities of that the 1981 Zoning Ordinance, that the Town still follows, and the demands of modern age planning. The practice of land use planning has evolved greatly since then and there are unique situations, such as this application, that could not be foreseen back in 1981 when the ordinance was adopted. As a result, the Board and the Town must interpret the ordinance as it is written today. Considering that the subject parcel is located in one of the least dense areas in the Town of Penfield, the Board and staff have to consider the precedents this application would create if it gets approved.

• Board member Burton, followed up by stating that Board will need to be provided with a proper definition of "wellness" and/or a "wellness partner" from the applicant so that the Board members have a clear understanding of what they could potentially be granting if this application is approved. Chairperson Hetzke agreed and stated that the Board needs to request that applicant describe in writing what the exact proposed uses of the wellness partner would be as part of the expansion.

• Board member Bastian, asked if this is similar to any other permitted uses in town since the current zoning ordinance does allow hospitals as a conditional use in a residential zoning district. Evans, replied that there is a significant difference between the current vision of a hospital than that of the one that was imagined in 1981 when the zoning ordinance was adopted, and the Board should keep that in mind when interpreting the zoning as it relates to this application. In addition, Valentine, shared with the Board that he had met with the Town Assessor, who had told him that other than assisted living homes, the Town of Penfield only has two dental practices under the customary home occupation permit.

• Board member Burton made reference to comments found in the PRC Memo, dated February 7, 2014, where it recommends that this application be viewed through the zoning ordinance in its whole.

• Pete Weishaar, Legal Counsel, asked staff if the conditional use permit would still apply to any new tenants of the space in the building expansion if the
wellness partner relocated off site. Evans, replied that the Board can add conditions in the resolution to address that concern.

- Board member McCord asked if conditions could be structured to limit the specific square footage of the leased space within the proposed building addition. This was part of the reason why the Board had asked about the conditions of the lease during the public hearing.
- Board member Burton added asking if the interior configurations would also be subject to conditions of approval.
- Valentine replied to the previous comments stating that the applicants still need to provide definitions and further information regarding the terms of the leased space and the wellness partner activities.
- Evans suggested that an additional question be included in the tabling resolution that asks if the wellness partner aspect of the application is denied, what would happen with the proposed 7,000 +/- square foot addition. Chairperson Hetzke advised the Board to wait for the responses to the tabling resolution in writing before going too far into the questioning.
- Valentine shared with the Board that he had met with Jim Costello and Town Supervisor Tony LaFountain about their experience with the zoning ordinance as they were the only two staff members of the Town that have first-hand knowledge of it leading up to its adoption in 1981. Both of them indicated that today’s modern medical facilities do not reflect the realities of medical practices and services in 1981. Primary care medical services was not defined back then either. Therefore a definition must be provided by the applicant and it has to meet the standards of the current code.
- Evans reviewed an email from town resident, Sue Pour, regarding concerns of traffic generation at Sweets Corners Road and the warrants for a traffic control light along Fairport Nine Mile Point Road.
- Valentine proposed two things: (1) have the Town Engineer review the traffic reports for this site with the prosed expansion and associated traffic light approval from New York State Department of Transportation and provide his response for the Boards consideration; (2) request the applicants to perform a gap analysis study along Fairport Nine Mile Point Road, showing the effects of a new signalized light at the entrance of the YMCA, specifically at the intersections of Sweets Corners Road, Glendonwood Drive and Folkestone Lane. The Board was supportive of both recommendations. These traffic requests will be included in the tabling resolution from this work session meeting.
- Evans also mentioned that as the concerns for traffic along Fairport Nine Mile Point Road continue to grow the Board may have to determine if the proposed application triggers a Type 1 SEQRA action with a supplemental EIS. Before those determinations can be made however, more data has to be provided by the applicant.
- Board member McCord asked staff what would happen if the results of the gap analysis were negative from the addition of a new traffic light at the entrance of the YMCA. Valentine stated that other traffic mitigations and speed controls would have to be considered for the study area.
- Chairperson Hetzke reviewed more details in the site plan mentioning the construction of a berm to screen residents to the south from vehicles and
traffic in the proposed parking area. The Board was comfortable with the proposed berm location.

- With regards to screening the site from neighbors, Katie Evans, Planning Board Clerk, and Mark Valentine, Planning Department Head, joined Kevin Fitzpatrick, Executive Director of the Eastside Family YMCA and Chris Marks, Vice President of Properties for the YMCA for a site walk this past fall and noted that the tree plantings around the perimeter are sufficient.

- Valentine informed the Board a phone call he had with George Romell, CEO of the YMCA of Greater Rochester regarding negotiations for potential land purchase between the YMCA and Iginio Masci, the current owner of 1865 Fairport Nine Mile Point Road. Masci had originally sold the property to the YMCA that it currently owns today. The YMCA is looking to purchase this property and keep it in its holdings until some future date.

The application was CONTINUE TABLED.

Vote: Moved by: Burton Seconded by: McCord
Kanauer - Aye McCord - Aye Tydings - Aye

Motion was carried.

IV. MISCELLANEOUS:

1. Larry Heininger, P.E., P.M.P., Marques and Associates, PC, 656 Park Avenue, Rochester, New York 14607/Sal Stalteri requests under Articles III-3-10 and IX-9-2 of the Code Preliminary and Final Site Plan and Environmental Protection Overlay District permit approval to allow the construction of a single family residence on 2.28 +/- acres at 2039 Salt Road to be known as 2039 Salt Road. The property is now or formerly owned by R Harold Greenlee is zoned RR-1. Appl# 12P-0025. SBL#’s 125.04-1-16.104.

- The applicant submitted a letter addressed to the Planning Board prior to the meeting requesting a re-approval of the site plan approval resolution from the board dated February 28, 2013. The applicant site various project delays and personal health concerns that contributed to the delay of the projects progress. Currently, the applicant has submitted revised plans to the Planning Department for final pre-mylar review, indicating that they are looking to finish this project as soon as possible.

The re-approval request for re-approval to the site plan approval resolution was APPROVED.

Vote: Moved by: McCord Seconded by: Bastian
Kanauer - Aye McCord - Aye Tydings - Aye

Motion was carried.

Article IX-9-2 of the Code for Final Site Plan approval to allow the construction of 3,250 +/- sq. ft. single story dental office on 0.51 +/- acres located at 2214 Penfield Road. The parcel was one of four lots which received preliminary overall site plan approval on January 25, 2007 under the name Eastside Medical Urgent Care/LaBella Medical Aesthetics & Day Spa. The property is now or formerly owned by H&T Development LLC, and is zoned LB and TF. Appl# 13P-0031 SBL# 140.01-1-7.4.

- The owner of the property, Dr. Manish Sanon, DDS., contacted Mark Valentine via email on February 23, 2014 with a request to alter two of the building materials that were originally proposed to be used for the exterior surfaces of the building, as the previously approved colors are on a 12 week delay. The newly proposed colors are lighter shades of the previously approved colors. The Board reviewed the material samples provided and accepted the new vertical color as Wicker by Certain Teed Weather Board, and the color for the gables as Suede by Certain Teed Weather Board.

- The Board also discussed the applicants request to change the siding from a vertical style to a shake style siding as well. The Board reviewed the materials in comparison to the approved elevation plans and the neighboring buildings.

The request to modify the exterior building materials was APPROVED

Vote: Moved by: McCord Seconded by: Denoncourt

Chairperson: Hetzke - Aye Bastian - Aye Burton - Nay Denoncourt - Aye
Kanauer - Aye McCord - Aye Tydings - Aye

Motion was carried.

3. 750 Old Penfield Road, Genesee Conservation League (GCL)

- Staff discussed their meeting with representatives from the GCL regarding proposed plans to construct a 1,200 +/- sq. ft. addition within a 20 foot +/- gap between two of the existing structures on the property. It was also noted that this application would require an expansion to a preexisting nonconforming use from the Zoning Board of Appeals. Staff asked the Board if it felt that the application would be suitable for Preliminary and Final review rather than going through the sketch plan application process. The Board stated that it would allow the application to come before the Board at a future public hearing for Preliminary and Final approval. Staff will follow up with the representatives of the GCL.

There being no further business to come before the Board, this meeting was adjourned at 8:15 PM, Tuesday, February 25, 2014.

These minutes were adopted by the Planning Board on __________________________.