

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – May 8, 2013**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on May 8, 2013, commencing at 6 p.m.

Members present: Frank Fisher, Pauline Johnson, Kevin Johnson, Mary Ann Thorpe.

Absent: Peter Sharpe.

Also present: Hany Nissiem, M.D.

Chairperson Thorpe called the meeting to order, and read the notice of public hearing for:

Application of Hany Nissiem, M.D., 6565 Fourth Section Road, Brockport, New York, for an area variance for the proposed ASAP Medical Care facility located at 6565 Fourth Section Road, Brockport, New York, to have 41 parking spaces instead of the required 54 parking spaces. Per Town of Sweden Ordinance Chapter 175-41, E, 9 (a), states a minimum of five ten-feet-by-twenty-foot parking spaces shall be provided for each 1,000 square feet of retail floor space. The property is owned by Brockport Group Associates, tax account number 083.02-1-12.22.

6565 Fourth Section Road

Chairperson Thorpe asked the Clerk if anyone has contacted her for or against this project. The Clerk stated no one contacted her for or against this project.

Dr. Nissiem introduced himself and thanked the Board for the opportunity to come before the Board.

He explained that he is in the process of combining two suites into one large suite for after hour care. Dr. Nissiem stated he has been in the building since 2005 and has never run short on parking spaces. The intention is to provide a quick service so that people are in and out, which should result in less parking being needed than what is needed now.

Dr. Nissiem summarized this project by stating he attempted to obtain an agreement from the owner of Friendly's, but she was reluctant because she plans to put the property up for sale once the lease is up. The original 41 parking spaces were approved by the Planning Board in 1996.

Mrs. Johnson asked if Dr. Nissiem was looking to purchase any of the land. He stated no, just wanted to have use of the parking spaces. There is an ingress/egress easement only. The Sleep Center's patients come at night so the parking is balanced.

Mrs. Johnson asked who is part of the Brockport Group Associates, applicant. Dr. Nissiem stated the association includes himself and his wife as the owners.

Mrs. Johnson asked for clarification regarding the parking spaces, which were never installed. Dr. Nissiem explained on the south side of the building there were parking spaces approved with the original site plan that were never installed.

Chairperson Thorpe asked if the entire building will be used for the urgent care. Dr. Nissiem stated that only the former ACM Lab and 424 Hair Salon areas will be used. The other offices include a podiatrist, sleep center, doctor's office and a vacant office.

Mrs. Johnson asked what the hours of operation are. Dr. Nissiem stated Monday through Friday, 11 a.m. to 9 p.m. and Saturday and Sunday, 11 a.m. to 5 p.m.

Chairperson Thorpe asked if there were any other questions. There were none.

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Chairperson Thorpe closed the public hearing.

Moved by Mrs. Johnson, seconded by Mr. Fisher, that having reviewed the application of Hany Nissiem, M.D., Brockport Group Associates, for an area variance for the proposed ASAP Medical Care facility located at 6565 Fourth Section Road, Brockport, New York, to have 41 parking spaces instead of the required 54 parking spaces will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Mr. Fisher – Aye
Mrs. Johnson – Aye
Mr. Johnson – Aye
Chairperson Thorpe – Aye

Moved by Mrs. Johnson, seconded by Mr. Johnson, that the application of Hany Nissiem, M.D., Brockport Group Associates for an area variance for the proposed ASAP Medical Care facility located at 6565 Fourth Section Road, Brockport, New York, to have 41 parking spaces instead of the required 54 parking spaces. *be **approved*** for *the* following reasons:

1. An undesirable change will not be produced in the character of the nearby properties.. The proposed number of parking spaces is within the character of the surrounding properties.
2. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood. The proposed number of parking spaces is within the character of the surrounding properties.
3. The alleged difficulty was not self-created. The applicant has attempted to enter in an agreement with the adjacent property owners in order to use the adjacent parking spaces to meet Town code. His offer was rejected by the adjacent property owners.
4. No adjacent property owners appeared for or against the proposed variance.

Mr. Fisher – Aye
Mrs. Johnson - Aye
Mr. Johnson – Aye
Chairperson Thorpe – Aye

Moved by Mrs. Johnson, seconded by Mr. Fisher, to approve the minutes of the April 10, 2013, meeting.

Mr. Fisher – Aye
Mrs. Johnson - Aye
Mr. Johnson – Aye
Chairperson Thorpe – Aye

The meeting was adjourned by motion at 6:35 p.m.

Clerk to Zoning Board of Appeals