

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – June 26, 2014**

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 June 26, 2014, commencing at 6 p.m.

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

Also present: Matt Tomlinson, Marathon Engineering

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

Application of South Pointe Landing, LLC, 1890 S. Winton Road, Rochester, New York, for an area variance to construct a building addition to the existing Unity OB/GYN at Brockport Medical Office, located at 6668 Fourth Section Road, Brockport, New York. The area variance is for a perimeter buffer zone of 4.5 feet for ± 240 feet, along the northeastern lot line, abutting an undeveloped parcel. Town of Sweden Ordinance §175-40, B, states, "In addition to vehicular loading and parking requirements, each individual unattached principal building site shall have a perimeter buffer zone of 7 ½ feet in width." The property is owned by South Pointe Landing LLC, tax account number 083.02-1-20.114.

6668 Fourth Section Road.

Chairperson Thorpe asked the Clerk if any comments were received from the public. The Clerk stated no and that there was quite a number of notifications sent out to the public.

Mr. Matt Tomlinson addressed the Board. He stated he was the site engineer for the original building and now the addition as well. The requested variance came up during the planning of the addition, while the applicant thought it could be handled with a waiver from the Planning Board; it was referred to the ZBA for a determination.

Mr. Tomlinson explained the tenant didn't identify/understand the demand that would result for this building, which is not a bad thing. The parking and site constraints cause an issue along that north property line with the proposed addition. The applicant is asking for relief from the 7 ½ ft. perimeter buffer requirement by code to 4 ½ ft. to the back edge of curb. The tenant, in order to demonstrate that the code is met for the parking requirement, which is 5 spaces per 1000, is proposing to bank a portion of the parking or not to construct it so it would be graded as lawn, whereby the spaces could be easily constructed when there is a demand from the patients that come and visit. Otherwise, they would not build that portion of the parking on the north or 12 parking spaces. The 240 ft. along the north property line is for all the parking spaces, but really only for about half, 11 parking spaces. The 11 banked spaces are lightly colored on the plan. Mr. Tomlinson would be happy to answer any questions.

Mrs. Johnson asked when the parking spaces were calculated, did you exclude storage spaces, closet spaces and mechanical rooms. Mr. Tomlinson stated the spaces were figured on the gross floor space. Mrs. Johnson read from our code that it is 5 spaces per 1000 sq. ft. of retail space, not storage space, etc. Mr. Tomlinson stated the original building and the addition were figured on the gross floor space.

Mrs. Johnson is thinking that if the required parking spaces were less, than the variance might not be needed. Mr. Tomlinson added that while the applicant is trying to keep the minimum required spaces, what is proposed is what the tenant deems is the demand.

Mr. Tomlinson noted that one of the requests from the Planning Board and the neighbor to the west was to maintain a buffer to the stream as much as possible. While the project is self-created to a certain extent, the applicant is providing more than 7 ½ ft. of buffer on the south side, ESL. Also, the applicant wanted to maintain the natural buffer at the creek, and not go closer to the stream.

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Mrs. Johnson asked if there were confirmed tenants at this point. Mr. Tomlinson stated Unity is expanding into the addition as the sole tenant.

Mr. Sharpe clarified that the property to the north is owned by Wegmans.

Mr. Fisher questioned if changing the parking so it is parallel would make a difference. Mr. Tomlinson stated there still wouldn't be enough parking and the vehicles would have to turnaround at a dead end between two rows of stacked cars.

The Clerk explained that at the Planning Board meeting held on June 9, 2014, the Board recommended the applicant to the ZBA for the variance and that there were no issues. It has been documented in the minutes.

Planning Board Counsel agreed with the above and also recommended the applicant go to the ZBA for approval of the parking variance because the Planning Board doesn't have the authority to approve the variance.

Mr. Tomlinson reviewed the five points of approval for a variance

1. The variance is not substantial; it is vacant land to the north where there is control over how it is developed. The applicant very much wants to be a good neighbor, and has had discussions with both the Viking Apartments and the ESL Bank.
2. The applicant is trying to maintain buffers. On the south side there is about 20 ft. to the sidewalk, 55 ft. to the west where the vegetation is being maintained. The applicant is mitigating all the critical areas.
3. Other than an area variance, there isn't any feasible options to pursue, i.e., parallel parking.
4. It is self-created to a certain extent because the need for an addition could have been determined when the original building was designed. A second story is not possible because the original building wasn't designed to support another story and Unity has to stay operational during construction.

Mrs. Johnson asked if the parking lot ever really gets full. She is a regular patron of the bank, Wegmans and has three doctors at Unity, but hasn't ever seen the lot full and questions if all the parking spaces really are needed. Mr. Tomlinson stated that Unity's standard for parking is 6 spaces per 1000. Unity believes that even though there may be some extra spaces now, once the expansion is finished, Unity will be right at the limit.

Chairperson Thorpe commented with the above expansion and if the business continues, in two years Unity will have to move its business or buy land from Wegmans. Mr. Tomlinson stated the idea of buying land from Wegmans was discussed, however, it wasn't an option due to restrictions, and that it is used currently for snow storage, etc.

Mr. Johnson wanted to know if there was even 10 ft. of the Wegmans property the applicant could buy to eliminate the variance. Mr. Tomlinson could not speak to that on behalf of the applicant. He is aware that it was discussed, but that's it. Mrs. Johnson reiterated that she would like to know if the storage spaces, closets and mechanical rooms were factored in, what would be required for parking spaces.

Chairperson Thorpe explained that this Board has 62 days to make a decision. Mrs. Johnson asked when the June 9 minutes would be approved. The Clerk stated July 14.

Mr. Tomlinson added if the Board decides they would like to see any additional plantings, the applicant would be more than happy to comply.

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Chairperson Thorpe closed the public hearing.

Moved by Mr. Fisher, seconded by Mr. Sharpe, that having reviewed the application of South Pointe Landing, LLC, for an area variance for a perimeter buffer zone of 4.5 feet, 240 ft. along the northeastern lot line, to construct a building addition to the existing Unity OB/GYN at Brockport Medical Office, 6668 Fourth Section Road, Brockport, New York, will not have a significant adverse impact on the environment, which constitutes a negative declaration.

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

Moved by Mr. Fisher, seconded by Mr. Sharpe, that the application of South Pointe Landing, LLC, for an area variance for a perimeter buffer zone of 4.5 ft., 240 ft. along the northeastern lot line, to construct a building addition to the existing Unity OB/GYN at Brockport Medical Office, 6668 Fourth Section Road, Brockport, New York, *be **approved*** for *the* following reasons:

1. An undesirable change will not be produced in the character of the neighborhood and will not be a detriment to nearby properties.
2. There is no other economically feasible alternative to gain the required number of parking spaces for the building addition.
3. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.
4. The alleged difficulty is essentially self-created, but the Board believes the applicant did due diligence to design the best plan possible to achieve the required number of parking spaces.
5. No adjacent property owners appeared for or against the proposed variance.

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

The meeting was adjourned by motion at 6:45 p.m.

Clerk to Zoning Board of Appeals