

**DISCLAIMER – THE FOLLOWING ARE DRAFT MINUTES FROM THE PLAN COMMISSION
ARE SUBJECT TO CHANGE UPON APPROVAL FROM THE COMMISSION**

**PLAN COMMISSION
MEETING MINUTES
Monday, November 7th, 2022**

Meeting was called to order at 6:10 P.M. by Mr. Michalski.

1. Roll Call.

Present:

Mr. Michalski
Mrs. Schneider
Mr. Cashin
Mrs. Wynia-Smith
Mr. Kujawa
David De Angelis, Village Manager
Katherine Gehl, Assistant Village Manager/Zoning & Planning Administrator
Hector de la Mora, Village Attorney

Absent:

President Palmer
Mr. Reineke

2. Review and act on meeting minutes dated 9/14/2022.

MR. CASHIN MOTIONED TO APPROVE. MRS. WYNIA-SMITH SECONDED. MOTION CARRIED 5-0.

3. Review and act on a request for a Plan of Operation and Conditional Use Permit for The Chiropractic Loft, LLC, located in the Rs-1 Single-Family Residential District, 13640 Underwood River Parkway, pursuant to §335-85 and §335-17C(4).

Mr. Michalski introduced the item.

Mr. Chris Campbell who is the co-owner of the proposed business at 13640 Underwood River Parkway was present.

Mr. Kujawa stated that the business owners would need to provide the Village with some kind of outline showing the percentage of home that will be used for the home occupation.

Mr. Michalski noted that there were no members from the community present to speak at the meeting. Mr. Michalski recalled an application for a home occupation in a residential area that previously came before the Commission that would have produced moderate traffic and it was denied.

Mr. Kujawa asked what the expected number of patients would be. Mr. Campbell stated that they would expect 30 patients a week at the most but indicated that it would be a low-volume boutique chiropractic office with 30-45 minute appointments and his wife would be the only person working. Mr. Campbell explained that there is significant traffic from North Avenue to Tonawanda Elementary School and did not think the proposed home occupation would have an impact on traffic.

Mr. Campbell explained that the intention of the home occupation was to maintain the primary business location in Bay View but to provide easier accessibility for customers who reside further from that primary business location.

Mr. Campbell explained that the sunroom located in the back of the house, which is 20'x20', is intended to be used for the home occupation and it is intended that clients will park in the driveway, as they expect one vehicle at a time.

Attorney de la Mora noted that the business owners should provide a sketch to scale of the driveway that serves the home to detail intended parking plans.

Attorney de la Mora inquired if the homeowner had considered the hours of operation of Tonawanda Elementary School. Mr. Campbell stated he did consider the hours and thought the traffic impact would be negligible. Mr. Campbell has observed about 15-20 cars that gather for school in the morning's that he has not seen go pass the corner of Underwood Creek Parkway.

Mr. De Angelis noted that whatever is on the Plan of Operation is what the business would be subject to if approved and explained that the application for Conditional Use Permit is predicated on operating this as a Professional Home Office because there are people coming and going.

Mr. Campbell stated that there will be no business signage.

Mr. Michalski inquired if there are any Professional Home Offices in the village who see clients. Mr. De Angelis noted that there could be a number who see clients such as an architect or lawyer that are permitted; however, there may be some that are operating without a permit.

Mrs. Schneider asked if the homeowner has spoken with neighbors. Mr. Campbell explained that he wanted to bring the Plan of Operation before the Plan Commission to gauge the temperature of the Commission on the proposed home occupation.

Mr. Campbell explained that there will be no x-rays done as a part of this business operation and there will be two chiropractic tables on a regular outlet which do not fall under safety regulations. Mr. Campbell stated that the property provides for patient privacy.

Mrs. Schneider noted that the use of chiropractic home office is not specifically listed in the Code in the definition of "Professional Home Offices".

Mrs. Wynia-Smith noted that a chiropractor is a doctor.

Attorney de la Mora noted that sometimes items not mentioned are not intended to be included in the definition; however, there is a reference to professional home offices so it is a matter of first impression.

Mr. Michalski stated that he is not comfortable approving this type of use in a residential area siting the number of patients as a concern.

Mr. Kujawa does not feel the location is an issue and believes that it falls under the definition of "Professional Home Office", according to the Code.

Mrs. Wynia-Smith and Mrs. Schneider were in agreement they would be in favor of the proposal but believe that the application needs to be revised to show accurate information about hours of operation and the number of clients.

The Commission was in agreement that the item should be tabled until the applicant can present the following items: 1. sketch of the parking area and explanation of the parking plan, 2. site plan showing the percentage of the home being used for the home occupation as well as where the space is in relation to the home floorplan and what will be used as the client entryway.

MR. KUJAWA MOTIONED TO TABLE UNTIL REVISED APPLICATION IS SUBMITTED. MRS. WYNIA-SMITH SECONDED. MOTION CARRIED 5-0.

4. Review and act on a request by Mark and Annie Andres, 14625 Club Drive, for exemption from §335-88D(6)(k)[2] as it relates to the permitted location of Play Structures in residential areas.

Mr. Mark Andres who is the homeowner at 14625 Club Drive was present.

Mr. Andres explained that the current location, Location A, is about four feet off of the lot line and the play structure was placed there as it was preferred to be in the backyard for safety reasons for their children. Location B was not desirable because there would be overhead power lines but since the last meeting, the homeowner has contacted We Energies about burying the power lines. Location C was also not desirable because there is a significant berm in between the setback of the railroad and the house which would cause the play structure to be placed very close to the home. Location D is another option, but is not desirable because the homeowner sees a safety concern for his children with the play structure being placed in the front of the home.

Mr. De Angelis clarified that if a play structure is in the setback, the neighbors have to provide written permission.

Mr. Andres explained that he did not receive written permission from his neighbors because they were concerned about the close proximity of the playset as they are potentially looking to sell the home. Mr. Andres also explained that there is a history between neighbors because Mr. Andres had objected to them having storm water discharge into his property.

Mr. Michalski stated that he would be willing to grant conditional approval. Mrs. Wynia-Smith does not believe that having a play structure close to the property line would decrease property value and noted that the applicants' lot is a very strange shape, limiting the options for where the play structure can be placed.

Mr. Kujawa stated that he has seen the play structure and does not believe that it is an eyesore in its current location.

Mr. Kujawa called the question.

MR. KUJAWA MOTIONED TO GRANT CONDITIONAL APPROVAL WHEREAS THIS SITE HAS GEOGRAPHIC AND TOPOGRAPHICAL CONSTRAINTS, AND WHEREAS THE VILLAGE ENCOURAGES CHILDREN PLAYING IN THE VILLAGE, AND WHEREAS THE UNUSUAL SHAPE OF THE LOT MAKES IT DIFFICULT TO LOCATE THE PLAY STRUCTURE OUTSIDE OF SETBACK AREAS, AND WHEREAS ONLY ONE AFFILIATE OF THE NEIGHBORS TRUST OBJECTS TO THE LOCATION, AND WHEREAS ALTERNATE LOCATIONS ARE PRONE TO FLOODING, AND WHEREAS ALTERNATE LOCATIONS ARE TOO CLOSE TO THE HOUSE, AND WHEREAS ALTERNATE LOCATIONS DO NOT PROVIDE VISUAL OBSERVATION OF THE PLAY STRUCTURE FROM THE HOME FOR SAFETY. MRS. WYNIA-SMITH SECONDED. MOTION PASSED 4-0. MRS. SCHNEIDER ABSTAINED FROM VOTING AS SHE IS A NEIGHBOR.

5. Other Business.

None.

6. Adjournment.

MR. CASHIN MOTIONED TO ADJOURN. MR. KUJAWA SECONDED. MOTION CARRIED 5-0.

Meeting adjourned at 7:06 P.M.

Respectfully Submitted,

Katherine Gehl
Assistant Village Manager/
Zoning & Planning Administrator