

MINUTES OF PUBLIC HEARING ON A PETITION ON BEHALF OF  
KONSTANTIOS KASOLIS FOR AMENDMENT TO SPECIAL DEVELOPMENT  
DISTRICT DESIGNATION FOR PROPERTY AT 91 SOUTH MAIN STREET TO  
ALLOW THE USE OF THE PREMISES BY MENTAL HEALTH PROFESSIONALS

March 9, 1993

Council Chambers

1096

President Sandy F. Klebanoff called the hearing to order at 7:07 p.m.

Present were Councilors Owen Eagan, Council Zoning Alternate Robert Bouvier for Linda I. French, Tom Johnson, Sandy F. Klebanoff, Charles R. Matties, Madeline S. McKernan, Carole Mulready, Larry Price and Andy Schatz.

President Klebanoff: For the record we have the application which is dated December 31, 1992; we have a memorandum from Steven Weitz dated February 23, 1993. There is another memorandum from Steven Weitz dated February 9, 1993 and a letter from Shirley Marsh, TPZ Chairman recommending approval of the application. Mr. Feldman does the administration have a presentation?

Barry M. Feldman, Town Manager: Madam Mayor, we have a brief one.

Donald R. Foster, Town Planner: The property in question is about in the center of the screen, at the corner of Boulevard and South Main Street. It is an existing special development district. The property contains a general office building. It is a converted old Victorian home. It was renovated in the early eighties and it has been occupied for some time. The applicant is seeking relief from one of the conditions that applied to the special development district, namely a restriction against medical practitioners on the premises. The amendment request is to get relief from that provision to the extent that psychological counselors, social workers and the like would be allowed in the building. They are not seeking a complete relief of the medical restriction but only that segment and there is a detailed explanation in your application.

The area is generally offices, religious institutions, and so on along South Main Street and office to the north side of the property in question immediately to the left. You will see the sign posted in the middle of the screen on the far left hand side. This is again a shot of the south side of the property through and into the screened parking area, office conversion to the left for a legal office. There is a general office configuration in this area. Here we have gone into the parking lot and the back side. We are looking to the north and some of the vehicular parking there. There was a quite a bit of a snow problem the day I

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took these pictures, yesterday. Everybody is having snow problems right now. There were some observations that aspect in Mr. Weitz's letter where he indicated snow was not being handled and a lot of parking was being obscured, didn't seem to really be necessary the day I was there. There is a difficulty noted in Mr. Weitz's letter with regard to the dumpster and the elimination of parking spaces caused by that dumpster location. Here is the handicapped ramp into the back of the area sidewalk which is somewhat being obscured by a vehicle. That's all we have for slides.

As you know, the Town Plan and Zoning Commission, Madam Mayor, has recommended in favor of the application. They found the proposal to be a minor use change and should not cause an adverse impact on the existing parking facilities on the site and as a rule mental health practitioners are very similar to general office uses in their generated parking demand. They did suggest that you seek clarification of the dimensional concern with the Town traffic engineer regarding the size of the parking spaces on the site. He noted that the relocated dumpster should not be allowed to interfere with adequate back up clearances. Any questions?

President Klebanoff: Mrs. McKernan.

Councilor McKernan: Mr. Foster, on the February 9 memo from Mr. Weitz, 4b, he talks about over flow parking. Am I assuming correctly that there has been an agreement made with the Bethany Lutheran Church and parking?

Mr. Foster: As I understand it, there is an agreement made with the church that parking can occur during the day business hours on the site of the Bethany parking lot. It has not been formally approved as part of the SDD or by the Planning Commission as alternate parking. It is a private agreement but in fact it does exist.

President Klebanoff: Are there further questions? I guess I have a question. In Mr. Weitz's memorandum he notes that the parking spaces are short of the Town and the industry standards but he also notes that they are already there and they were there as a result of our approval of a special development district. Is that the size that we approved? I know I sat on this but I can't remember. I'm sorry.

Mr. Foster: Part of the difficulty I think here was the way the lot was drawn up for this submission and then dimensioned but I believe there are in fact twenty foot deep parking spaces but they include an overhang across the wheel stop curb face. We could go back to the slides to show what I am talking about but there is a planter area against the fence that is about three feet wide. It is actually a potential for overhang here. It is not unusual for us to

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allocate space over a curb face and partially into the planting area and that is the case here. Dimensionally, the parking space depths of eighteen are shown. We require by ordinance twenty feet. I think the twenty feet does exist there. There was a waiver given in an earlier application reducing the maximum aisle with requirement, the twenty foot from twenty three and that I think is a matter of record of prior approval. I don't think there are really any issues here other than the relocation of the dumpster. I illustrated that. It does impede one parking space and needs to be repositioned. I think that issue still is on the table and he noted that earlier as well. Everything else I believe has been dealt with previously by your design approval, no waivers were granted.

President Klebanoff: Anybody else have any questions for Mr. Foster? Mrs. Mulready.

Councilor Mulready: The reference to group counseling in the application, there was no mention of that on the TPZ's remarks. Was that testified to at the TPZ hearing?

Mr. Foster: I'm not sure I understand your question.

Councilor Mulready: In Mr. Weitz's memo, the group counseling, 4a, is alluded to in part a of the application.

Mr. Foster: The Planning Commission did discuss Mr. Weitz's recommendations in detail and looked at all the varying aspects. I think they concluded group counseling activities were likely to occur in the evening or occur on weekends when they wouldn't conflict with the office operations. There was some discussion but they chose not to make any recommendations on that. They talked about use, hours of operation, suggestions, and a lot of different issues were discussed. I think they just felt this was a really minor change that should not adversely affect the special development district and they remained silent on those issues.

President Klebanoff: Any further questions? If not, thank you Mr. Foster. Does the applicant have a presentation?

Attorney Jagel: I do have a hand out I would like to give you.

President Klebanoff: Could we have your name for the record?

Attorney Jagel: Yes, Attorney Sharon Marot Jagel for the applicant Mr. Gus Kasolis who is with me this evening. As you know, we are here this evening asking you to amend the special development district at 91 South Main Street. I would like to clarify that what we asking at first is for

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the Council to make a determination that an amendment would be necessary. We would like a determination made that actually mental health use of this type is a medical use and would therefore be prohibited. Your town regulations don't define either term. It doesn't define medical use and it doesn't define mental health use. We are talking about the type of use that would be counselors, social workers, and the like and because they are not defined we are first asking you to make that determination and say no, we would consider that a medical use and therefore it is prohibited. Obviously if you didn't feel that then that wouldn't be necessary. We wouldn't need to amend the special development district. However, in the alternative if you feel that it is part of the medical use then we are asking you only to lift the prohibition against medical and dental use to allow this type of medical use, a mental health use. Again, it is not defined. We would ask that it encompasses all types of counselors, psychiatrists and psychologists. Now psychiatrists are medical doctors but again they are within the healing arts profession.

By way of background, I would like to remind the Council that you approved the special development district at 91 South Main back in 1986. At that time, Mr. Kasolis renovated an existing single family structure. At that time they were attempting to maintain the Victorian architectural style in a way that would be least obtrusive to the bordering residential neighborhood along Boulevard but that would allow a commercial use and you approved the commercial use for office and professional use specifically prohibiting medical and dental.

Currently we have a building that is a three story Victorian structure. There is approximately 3950 square feet of usable office space. The tenants at the building, and it is fully occupied at this point, we have attorneys offices on the first floor and the lower level, approximately 1100 square feet and the rest of the building is occupied by accountants. I did want to point out that it is currently leased at this point. There is a possibility that the lawyers offices will be relocating and that as I said is about 1100, a little more than that, square feet and so that may be the space that becomes immediately available in the next few months. We don't have any definite plans about that right now.

I wanted to point that out because, unless one of the tenants leaves, then this is still something that we are asking about on paper. We don't have a specific tenant that we are talking to and therefore, some of the things that we are asking for are more general than if we had a particular tenant in mind.

If I could refer you to page 2 in the hand out, we

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specifically show the parking as it exists. There are twenty four parking spaces currently, two of those are handicapped. We do propose to eliminate one of those as handicapped and just make it a regular parking space since we don't need two handicapped spaces according to the square footage in the building for an office use. Actually, given the square footage of the building, only sixteen of those parking spaces would be required. Again, we are providing twenty four and we have found that to be adequate.

We have seen the comments submitted by Steve Weitz and we have responded to those and I think you have seen a revised plan that we submitted as well. We are certainly amenable to relining the existing spaces to show where they are. He asked that we put a sign up clearly indicating which of the spaces is handicapped and we would do that. We would also consider moving the dumpster back several feet. I understand that it is blocking the one space that we show as a corner parking space. However, we would rather not do that unless you require it. The reason is that we have more than what is required for parking and we would rather not move it unless, as I said, you would require it because we built in, Gus has built in attached to the fencing he has built in a specific place for it. I think you saw on the slides that there was like a stockade fence partition attached to the existing fencing but again that is something we certainly will consider.

As to the other concerns about the dimensions of the existing spaces, all I can say is they are the existing spaces that were approved and I think that they are adequate. I know I drive an Izuzi Trooper and I can park in any of those spaces with out jutting out into the middle of the lot and I think maybe what Don said about the overhang for the landscaping area maybe it takes care of that.

The use that we propose, the mental health use is very different than the typical medical use. Typically there is not a large staff. There aren't nurses and technicians and often there is not even a receptionist and there is certainly no examination rooms with medical equipment. Typically, it is a one on one doctor/patient, counselor/patient situation. Although there is certainly times when there may be group counseling, however, group counseling typically occurs in the evenings or Saturday mornings. The counselors we have talked to said generally from nine to twelve on Saturdays they might have group counseling or from five or six o'clock to seven o'clock at night and they generally have one hour sessions. That is the industry standard. Also because of the nature of counseling, there is a high degree of confidentiality and privacy so the counselors don't typically have patients waiting together in waiting rooms. They don't stack patient appointments and they are not typically scheduled at any

less than one hour increments so again that takes it out of the realm of the typical use that we expect with medical profession. It is also quite common in this industry for several counselors to share office space and they don't typically work a sixty or fifty hour work week like some of the accountants and attorneys who are currently at the space. Rather, two of them might share the same space and work thirty hours a week each so that one is there and the other one is not. Taking all these things into consideration, we see this use as possibly less intensive than what currently exists on the site.

My office does a lot of real estate and if you have ever been at a real estate closing you know you have your purchasers, the sellers, and one or two real estate agents and one, two or three attorneys and they are all coming in separate cars and so at any given time we can have five or six cars coming into the parking lot for one closing. Also, especially at this time of year, the accountants have their busy season and they have clients coming in and out of the parking lot. Still, we have been able to have adequate parking at 91 South Main Street and as I said if you take into consideration that this type of use will not go into effect unless one of the existing tenants leaves. You will see why we think that this would be a less intensive parking situation that there is currently at the location.

Also, I did want to point out as you had asked, we do have an informal parking agreement with the Bethany Lutheran Church and they would rather not be part of a formal special development amendment but they have said that we are free to direct our clients and patients over to their parking lot during the day if we needed that for overflow parking.

The only other thing I would like to point out to you is on the last page of the hand out what I have attempted to do is just show you the existing commercial uses along South and North Main Street from Sedgwick Road to the south all the way up to Fern Street to the north and show you what buildings currently allow medical and dental, and that is full medical and dental use either by right because of the zone or by special exceptions. We think that this would be a compatible use with the area and again any concerns about parking being more intensive I think just don't deserve merit. I think it is going to be less intensive.

We did contact our neighbors along the Boulevard. We contacted the Historical Commission for the Boulevard and the church and although they are certainly free to speak for themselves the feedback that I got was that the neighbors are happy with what Gus has done with the building. They are happy to have him as a neighbor since 1986 and there were not any specific concerns about the parking from this type of use. So we would ask that you allow us to amend the

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special development district to allow, again, just this type of medical use if you choose to call it a medical use.

President Klebanoff: Thank you. Questions from the Council?  
Mr. Price.

Councilor Price: Actually, I have a question for Marge. The applicant has kind of requested a two step process what if we ignored the first step and dealt only with the second step, that is she is asking kind of in a way to define our own definition of what medical use is. I'm not sure I really want to do that. Is that really required in order to act on this?

President Klebanoff: Mrs. Wilder.

Marjorie Wilder, Corporation Counsel: Madam Mayor, Mr. Price, I think that you can clarify the whole issue by making your condition on this particular application absolutely clear what you allow and what you don't allow and perhaps at another time deal with the issue of defining medical use.

Councilor Price: Thank you.

President Klebanoff: Mr. Matties and then Mr. Schatz.

Councilor Matties: My question was in the same direction. Specifically, the attorney raised the question, maybe they shouldn't even be here. What is your opinion?

President Klebanoff: Mrs. Wilder.

Mrs. Wilder: It is a fair question and we have a lot of things in our ordinances that aren't defined and obviously including medical use. I have no special knowledge or ability to help you define medical use, although at some time in the future I would be happy to share any cases and/or other definitions that might help us look at that issue better than I can do off the top of my head.

Councilor Matties: So we have to complete the hearing?

Mrs. Wilder: I think so, yes. If I might add...

President Klebanoff: Mrs. Wilder.

Mrs. Wilder: Clearly, you are always welcome to ask me to keep the hearing open and ask me the question and to report back to you at a future time but again I don't think it is necessary to do that in order to act on this particular application.

President Klebanoff: Thank you. Mr. Schatz.

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Vice President Schatz: Marge, one other question that is raised by the comment made by the applicant, has there ever been any determination in any other context as to whether or not psychiatric, psychological, clinical social worker, whoever perform those services, considered part as medical?

President Klebanoff: Mrs. Wilder.

Mrs. Wilder: Madam Mayor, Mr. Schatz, ever in any other circumstance? I don't know. I don't recall a specific finding since I have been associated with the town but I also do recall that normally the Council has treated psychiatric, psychological, I'm not even sure about social work, kinds of activities as medical office building. It has come up before in general discussion at other hearings and we generally treat those like medical uses.

President Klebanoff: Thank you. Are there further questions? Mrs. Mulready.

Councilor Mulready: It is sort of a thinking process here about the M.D. and the applicant's attorney did mention that psychiatrists are considered medical people and I wonder if without going through this whole process and saying we don't need to go forward because of the nature of it, we open the door to somebody then claiming that medical is psychiatry and then opens up the door for other kinds of medical because it sets a precedent.

President Klebanoff: Mrs. Wilder, I know that specifically in the application the applicant has stated that there would be no other types of medical personnel.

Councilor Mulready: No, I'm just saying would it set a precedent for other people who have an M.D. whether it is, to come to you and say we now have a medical doctor that is in something you haven't gone through a hearing, would it open it up to other medical?

President Klebanoff: Mrs. Wilder, do you want to respond?

Mrs. Wilder: Madam Mayor, if I understand the question correctly and please feel free to correct me, I think we can make the condition very clear exactly what is permitted and what is not permitted so that there wouldn't be a concern that other people with an M.D. degree would say I fall within that definition. I think what you could do if you choose to agree to the amendment is simply say that only psychiatrists, psychologists and social workers and similar kinds of counselors shall be permitted and no other medical use or something like that.

President Klebanoff: Mr. Schatz.

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Vice President Schatz: And also I think that by doing it this way if anything it will simply be more restrictive rather than less. To follow a different focus or question though, in Mr. Weitz's second memo he again raises certain issues one of which was the group counseling issue and I know Don had mentioned, Mr. Foster mentioned that there was some discussion about well that generally takes place at night or on weekends when there is not so much traffic, is that something that you have thought about and care to address?

Attorney Jagel: We have thought about it and one of the problems and I sort of alluded to it before is that we don't have a specific tenant in mind and we are very concerned with saying sure we don't have to have group counseling and then find out that anyone who would look to this location would need that as part of what they do in their practice. We have spoken to a lot of people in the field who said to us that typically that type of group counseling takes place after regular business hours and we felt that the only concern with group counseling would be an inordinate amount of parking being used at one time and that if it is after regular business hours or on Saturday it wouldn't be a concern. If there ever was a lunch time meeting or something that had ten people coming in, that we could certainly in a lease situation we could take care of that by requiring that the practitioner counselor direct their patients over across the street. We would like that to be an allowed part of this type of use.

President Klebanoff: Mr. Schatz.

Vice President Schatz: A follow up to that, the other thing that Mr. Weitz had suggested was a sign being posted to direct any over flow traffic to the church across the street. Is that something you would do?

Attorney Jagel: We don't have a problem with that if you felt that that would be necessary. I have to say that I haven't spoken to the people at Bethany Lutheran and I don't know if they would have a concern and the only thing that I think about there is that I know there are times or I have heard after looking into this matter that there are times when we have people parking in our lot from 80 South Main and I don't know how Bethany Lutheran would feel if we do have, and I don't know what type of numbers we are talking about but I have been told that we have people who are crossing Boulevard on foot because they have an appointment in the other building. I don't know how Bethany Lutheran would feel about us having a sign there with their name on it and possibly directing other people over to their lot.

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President Klebanoff: Are there further questions? If not, thank you. Is there a sign up sheet for this public hearing, Mr. Eagan?

Councilor Eagan: No, Madam Mayor, there is not.

President Klebanoff: Is there any member of the public who wishes to address the Council on this application? If not, last chance for questions. Does the applicant wish to sum up, Attorney Jagel?

Attorney Jagel: No, thank you.

President Klebanoff: Hearing no more questions I will close the public hearing.

The hearing adjourned at 7:35 p.m.

Norma W. Cronin  
Recording Secretary