

AS ACTED UPON DURING A DULY NOTICED OPEN MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL AT 475 CALKINS ROAD, HENRIETTA, NEW YORK ON SEPTEMBER 14, 2022 AT 6:00 P.M.

RESOLUTION #20-276/2022 To approve Special Use Permit Application SP2022-035 for Crossroads Chiropractic.

On Motion of
Councilmember Bellanca

Seconded by
Supervisor Schultz

WHEREAS, Joseph Donnelly has applied for a Special Use Permit for a chiropractic medical office (the "Application") to be located in an Industrial District at 5152 East River Road, West Henrietta, New York 14586 (the "Property"), or as more particularly described in plans on file in the Town Clerk's Office; and

WHEREAS, a public hearing was duly advertised and held relative to the same.

THEREFORE, BE IT RESOLVED, that the Town Board has considered the Special Use Permit factors, and, based upon the record, including all materials submitted related to such Application, and based upon those reasons discussed at the public meeting related to the same, the Town Board makes the findings relative to the same, attached hereto and made a part hereof, and finds that said Special Use Permit factors favor approval of the application, given the conditions herein.

BE IT FURTHER RESOLVED, that the Town Board thus approves the Application such that a Special Use Permit for the chiropractic medical office is approved, subject to the following condition:

1. That prior to the issuance of a Certificate of Occupancy, the parking lot will be re-stripped to include at least 5 or 6 more spaces, subject to approval by the Director of Engineering and Planning.

Duly put to a vote:
Councilmember Sefranek Aye
Councilmember Bolzner Aye
Councilmember Page Aye
Councilmember Bellanca Aye
Supervisor Schultz Aye

RESOLUTION ADOPTED

Crossroads Chiropractic Special Use Permit Assessment

by Henrietta Town Board

§ 295-54 **Granting or denial of special use permits.**

In considering an application for a special use permit, the Town Board shall make its decision based upon the following factors. The Town Board may impose conditions, including in order to resolve any issues identified via its assessment of said factors.

- A. Whether the proposed use is substantially consistent in its scale and character with those uses permitted and the existing built permitted uses in the subject zoning district and neighborhood or will otherwise impair such uses due to inconsistency.

In reviewing the application, the proposed use is substantially consistent in its scale and character as this is a small mixed-use local plaza with a range of clientele in the five suites, including an ethnic-food grocery store, a convenience store and gas station, a barbershop, and a restaurant. Previously, one of the suites had contained a veterinary clinic so a chiropractic use is within the range of uses located here, either current or past.

The suite purposed to be occupied is about one-eighth of the total square footage of the plaza so the proposed chiropractic use would not overwhelm the mixed commercial use of the plaza. The level of traffic, use, and other characteristics are directly inline, and in many cases less impactful, than other commercial uses taking place in the plaza. Moreover, as the building which would house the clinic is already constructed, the scale and character of the built environment will remain unchanged.

The use is consistent with those uses more broadly permitted in the district, especially given the fact that “medical” uses are expressly permitted in the Industrial District.

- B. Whether the proposed use aligns with the vision, goals and recommendations of the Comprehensive Plan and other applicable plans and studies conducted by or on behalf of the Town.

The Comprehensive Plan identifies this area for industrial/commercial use and this area is Zoned as such. The Industrial District enumerates this “medical” use as a permitted use, thus carrying with it a presumption that the use is consistent with the character and purpose of the district.

Furthermore, when the Riverton Planned Unit Development was created, it was envisioned that the eastern portion would include industrial and commercial uses. Most of that area was instead converted to housing, but the Riverton Plaza, located on the northeast corner of East River Road and Erie Station Road, and a new plaza, proposed for the southeast corner of East River Road and Erie Station Road, provide some of that original vision from a commercial standpoint and there is a large industrial development to the east along Erie Station Road and Thruway Park, which provides the industrial portion of that original vision.

- C. Whether the proposed use aligns with the purpose, intent, and applicable design and development standards of the zoning district(s) in which the use is proposed to be located.

The proposal is simply to permit a new use in an existing, available and built space. As such, the design and development standards of the zoning district are not materially impacted since no development is proposed. That being said, as the proposed offices will be integrated into the existing built design of the existing plaza, with only a sign change differentiating it from the previous tenant, it clearly aligns with the existing design and development standards of the district and the surrounding plaza since it will not materially change the design of the area in which it is proposed.

- D. Whether the proposed use will be a nuisance in law or in fact due to its being materially noxious, offensive or injurious by reason of the production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions, or will contaminate waters.

The proposed use presents no nuisance in law or in fact with regards to any of the conditions listed. The proposed use and the impact are at the same or even lesser level than the previous tenant or adjacent tenants in the same plaza.

- E. Whether the proposed use will create material hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of vehicles, or other causes.

The proposed use presents no material hazards or dangers to the public or persons in the vicinity from any of the listed conditions or other causes.

- F. Whether the proposed use will create materially adverse impacts that cannot be adequately mitigated, such as to adversely impact natural resources or the environment, agriculture, community services or other areas required to be addressed by the State Environmental Quality Review Act (SEQRA).

The proposed use presents no materially adverse impacts under SEQR – it is a Type II action – save one identified potential impact: parking. There was a question as to whether there is sufficient parking for all of the customers of all five suites, even though the current parking field meets precisely the Town Code requirement, but with no over-capacity.

On multiple occasions, Town Board members observed at the plaza instances where all of the current parking spaces were full and at that time, the suite proposed for chiropractic use was empty. During the Public Hearing, the applicant suggested that employees could park in the rear of the building, but upon site visits, Town Board members determined that was not practicable without significant expansion and paving of the back lot as that was a small gravel lot used primarily for dumpster storage and retrieval. The Town Board believes this issue needs to be addressed and believes adding over-

capacity of about 5 or 6 spaces to the existing parking field should mitigate this issue. It is even possible that the applicant may be able to achieve this by restriping the southern portion of the parking lot, rotating the spaces parallel to Erie Station Road so as to add the required over-capacity. By offering to restripe the parking lot to add these spaces, the Town Board believes this impact to be mitigated. Beyond parking, there will be no external disturbance other than a change in the sign on the building.

- G. Whether the physical conditions and characteristics of the site are suitable for the proposed use considering site size, configuration, location, access, topography, vegetation, soils, and hydrology for effective stormwater management and, if necessary, the ability to be screened from neighboring properties and public roads.

The existing suite represents about one-eighth of the total square footage of the existing plaza, which meets most requirements save for parking – see response in Paragraph F for more details. Since the suite is an existing building and it is possible to mitigate the parking issue by simply restriping a portion of the parking lot, which involves no material development to the area the impact will be minimal. The proposed use includes no other changes to the site plan, drainage, traffic patterns, vegetation, or other item listed.

- H. Whether there are adequate utilities, public infrastructure, community facilities and emergency services, either existing or to be provided by the applicant or others, to effectively serve the proposed use. A proposed use shall not create or contribute to an existing inadequacy.

The proposed use represents a similar or lesser impact on public infrastructure, utilities, community facilities, and emergency services as compared to the prior uses or neighboring existing uses, which is to say, a minimal impact at most. There is no existing inadequacy at this site nor will the proposed use create one. See also response to “G,” above.

- I. Whether the proposed use will provide, maintain, or enhance, as necessary, safe and efficient vehicular traffic patterns, nonmotorized travel, and pedestrian circulation as well as, where feasible, access to public spaces, parks, recreation, and open space resources.

As previously discussed, with the other units plaza being occupied by tenants, including one suite holding a restaurant, one holding a grocery store, and a third holding a convenience store and gas station, there was a potential concern about the impact on available parking. However, this issue has been mitigated as discussed previously herein.

There is no adverse change to the existing vehicular traffic patterns, nonmotorized travel, or pedestrian circulation, and neither represents any kind of significant change to the site plan. The plaza is generally characterized by broad, open drive lanes, leaving plenty of space to accommodate existing vehicular traffic patterns.

There is no impact on access to public spaces, parks, recreation, or open space resources by this project.

Finally, of note is that the New York State Department of Transportation and the Monroe County Department of Transportation have plans to improve the intersection of Erie Station Road and East River Road with the improvements including signalized crosswalks across both roads so as to provide a safe pedestrian connection to the housing developments to the south and to the southwest, including connecting to the multi-modal paths that wind through the Riverton Planned Unit Development.