

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS**

SHAWN RYLATT, LISA RYLATT,)
JANET SAVAIANO, and)
AMIE LOTZER,)
)
Plaintiffs,)
)
vs.)
)
DR. DENNIS D. CHRISTENSEN,)
ROCKFORD FAMILY PLANNING)
CENTER, LLC, CITY OF ROCKFORD,)
and ROCKFORD ZONING BOARD OF)
APPEALS,)
)
Defendants.)

Case No.
2023-MR-0000038

COMPLAINT

Now comes the Plaintiffs and residents of the City of Rockford, SHAWN RYLATT, LISA RYLATT, JANET SAVAIANO, and AMIE LOTZER (collectively “Plaintiffs”), by and through their attorneys, Lindell & Tessitore P.C. and the Thomas More Society, and complain of the Defendants, DR. DENNIS D. CHRISTENSEN (“Dr. Christensen”), ROCKFORD FAMILY PLANNING CENTER, LLC (“RFPC”), CITY OF ROCKFORD (“Rockford”), and the ROCKFORD ZONING BOARD OF APPEALS (“ZBA”), as follows:

NATURE OF ACTION

1. This dispute presents an unusual and disturbing case of a Rockford zoning officer (the “Zoning Officer”) and the ZBA abdicating their solemn duty to enforce the City of Rockford Zoning Ordinance (the “RZO”). This case is not complex and comes down to the simple fact that a medical clinic is not allowed as a home business under the RZO, and that the Zoning Officer has illogically and quite absurdly concluded that a “home business” can be a “non-home

business”. More specifically, the Zoning Officer concluded that Dr. Christensen, who undisputedly does not live at the subject property, could nonetheless operate a home business out of the subject property as long as he had one of his employees live there. In other words, the zoning officer decided that Dr. Christensen could have a home based business at the site even though it’s not his home.

2. The subject property is owned by Dr. Christensen and is located at 611 Auburn Street, Rockford, IL (the “Subject Property”). The Subject property is a one and a half story single family home zoned R1, Single-Family Residential, and is located in a typical residential neighborhood where it is surrounded in all directions by single family residential homes. Dr. Christensen’s business, as stated on his website, is a “*private practice medical clinic that provides medication abortions in Northern Illinois*” (hereafter the “Medical Clinic”). See Exhibit A (printed from <https://www.rfd-familyplanning.com/who-we-are>). Medical clinics are expressly prohibited as a home business by Section 53-004-K of the RZO.

3. Contrary to the RZO and sound reasoning, the Zoning Officer determined that the Medical Clinic is allowed pursuant to a special use permit issued over forty years ago that allowed a chiropractor to operate his chiropractic business on the first floor. In coming to this conclusion, the Zoning Officer acknowledged that the actual special use permit could not be found and that Dr. Christensen would not be living at the Subject Property, but nonetheless somehow concluded that the allowed use of a chiropractic business whose owner lives in the home also means that a medical clinic is allowed by an owner of the business who does not live in the home.

4. Perhaps even more disturbing is that the ZBA did not reverse this decision on appeal. As a result, the enforcement of the RZO has been left to Plaintiffs, aggrieved private

citizens who live within 1200 feet of the subject site, and who are here seeking judicial review of the ZBA's decision pursuant 65 ILCS 5-11-13-13, and to enforce the RZO pursuant 65 ILCS 5-11-13-15.

PARTIES

5. Plaintiffs, Shawn Rylatt and Lisa Rylatt, are husband and wife who reside in Rockford, IL, in a single family home which is within 1200 feet of the Subject Property.

6. Plaintiff, Janet Savaiano, is an individual who resides in Rockford, IL, in a single family home which is within 1200 feet of the Subject Property.

7. Plaintiff, Amie Lotzer, is an individual who resides in Rockford, IL, in a single family home which is within 1200 feet of the Subject Property.

8. Defendant Dr. Christensen is the owner of the Subject Property and upon information and belief is a resident of the State of Wisconsin.

9. Defendant RFPC is an Illinois limited liability company whose principal office is located at the Subject Property and, upon information and belief, is an entity owned by Dr. Christensen which operates the business located at the Subject Property. Dr. Christensen is also the manager of RFPC.

10. Defendant Rockford is a non-home rule municipal corporation organized and existing under the laws of the State of Illinois.

11. Defendant ZBA is an administrative agency established by Rockford to review, among other things, decisions of Rockford's Zoning Officer. Pursuant to the provisions of Rockford's administrative review proceedings, administrative decisions by the ZBA such as those made in this case are subject to judicial review in accordance with 735 ILCS 5/3-101 et. seq. and 65 ILCS 5-11-13-13.

JURISDICTION AND VENUE

12. This Court has jurisdiction over the instant matter pursuant to 735 ILCS 5/2-209 because, among other things, the Defendants transact business in this State and the instant matter involves the use of real property within this State.

13. Venue is proper in this Court pursuant to 735 ILCS 5/2-101 because, among other things, the transactions from which this action arises, or significant parts thereof, took place in Winnebago County, Illinois.

FACTUAL BACKGROUND

14. Over forty years ago the Subject Property was purchased by a Chiropractor named Dr. Sam Chin (“Dr. Chin”). At some point in 1981 Dr. Chin was granted a special use permit (the “Special Use Permit”) to operate his chiropractic business at his home, located at the Subject Property.

15. The Zoning Officer has acknowledged that he has been unable to find the Special Use Permit.

16. On or about September 15, 1981, Dr. Chin submitted an application to Rockford for registration of his home occupation, a copy of which is attached hereto as Exhibit B (the “Registration Application”). In it, Dr. Chin states that his occupation is “Chiropractic Physician” and that the type of equipment used will be a “Chiropractic Adjustment Table.”

17. On or about October 26, 1981, Dr. Chin submitted an application to Rockford requesting the following variances (the “Variance Application”): (1) allowing him to use four signs totaling 28 square feet to identify his name and profession; and (2) allowing him to reduce a landscaping strip along the east property line from 8 feet to 2 feet in order to incorporate a

fence. Although the Variance Application sought to continue, or re-establish, the non-conforming use granted by the Special Use Permit, it did not seek to change the use of the property. The Variance Application stated that the existing uses on the Subject Property are ‘*Chiropractic physician office and home under ‘Home Occupation License’.*’ A copy of the Variance Application, including the ZBA’s actions taken pursuant thereto on or about November 25, 1981, is attached hereto as Exhibit C and incorporated herein.

18. On or about November 25, 1981, the ZBA granted the continued use of the Special Use Permit for Dr. Chin’s chiropractic business, subject to all provisions of the Home Occupation Ordinance, and referenced in a parenthetical that such use falls under the category of “a Home Occupation of a medical nature”. See Ex. B. At the same time, the ZBA also granted Dr. Chin’s requested landscaping strip variances.

19. At no time did the ZBA or Rockford grant a special use permit for the Medical Clinic or any other type of home business other than the aforementioned chiropractic business.

20. On June 12, 2020, Rockford Land Use Planner Brenda Muniz issued a Zoning Confirmation letter to a realtor regarding the Subject Property, a copy of which is attached hereto as Exhibit D. The letter summarized that the Subject Property is in the R-1 Single-Family Residential District and that a special use permit had been granted for a home occupation with the aforementioned landscaping variations. The letter further references that on January 4, 1982 a variation was granted to allow the employment of one person at the home business who is not a member of the household.

21. On or about June 10, 2022, Dr. Christensen purchased the Subject Property.

22. In August and September of 2022, Dr. Christensen’s attorney sent a series of three letters seeking the Zoning Officer’s confirmation that the Medical Clinic is allowed pursuant to

the lost Special Use Permit. Each of the three letters described the Medical Clinic in a different way in an effort to gain confirmation of compliance with the lost Special Use Permit.

23. In the first letter dated August 9, 2022, Dr. Christensen's attorney stated, among other things, that the Medical Clinic would dispense medication and provide basic medical treatment. Although the letter curiously fails to mention that chemical abortions will be performed, the description is consistent with the description of the Medical Clinic on Dr. Christensen's website which describes it, as aforementioned, as a medical clinic.

24. The August 9, 2022 letter also stated that the Medical Clinic would staff two persons and occasionally other medical personnel, and that Dr. Christensen would use the Subject Property "*as his secondary residence which he will use on occasion.*" *Id.*

25. The August 9, 2022 letter also set forth the proposed hours of the Abortion business, including potential operations on Saturday mornings from 9 a.m. thru 12:00 p.m.. *Id.*

26. It is commonplace for Special Use Permits to limit hours of operation as a condition of the permit being granted. Given that the Special Use Permit could not be found by the Zoning Officer, at all relevant times he did not know whether there was a restriction on hours of operation for the Special Use Permit.

27. On August 25, 2022 the Zoning Officer responded to Dr. Christensen's attorney explaining that the hours of operation were acceptable, but that the proposed use does not conform to the Special Use Permit because there would be more than one non-household person employed at the location and the Special Use Permit does not allow more than one such employee. The Zoning Officer's letter makes no mention of the fact that the RZO requires Christensen, the operator of the business, to live at the Subject Property as his primary residence. A copy of this letter is attached hereto as Exhibit E and incorporated herein.

28. On September 13, 2022, Dr. Christensen's attorney sent a response letter, this time stating that the Medical Clinic will operate with only one employee and reinforcing that Dr. Christensen will use the Subject Property as his "*permanent secondary residence*" residing there "*on occasion when working at the Property*". A copy of this letter is attached hereto as Exhibit F and incorporated herein. This letter also states that RFPC will operate the Medical Clinic and that Dr. Dr. Christensen, as an alleged member of the household, will be employed by RFPC. The letter goes on to state that RFPC will employ a second individual who is a registered nurse who is not a member of the household, and that an "independent consultant" will handle the "administrative needs of the medical office" working there 20-35 hours per week such that, in the reasoning of Dr. Christensen's attorney, there would be one household member employee, one non-household member employee, and an independent consultant who is not an employee running the Medical Clinic.

29. On September 28, 2022, Dr. Christensen's attorney wrote a third letter to the Zoning Administrator seeking to withdraw her September 13, 2022 letter and this time stating that "new information provided" reveals that the person handling the administrative aspects of the Medical Clinic (previously described as an "independent consultant" in the September 13, 2022 letter), will now be an "employee" of RFPC and will reside at the Subject Property as her home pursuant to a lease with Dr. Christensen. The letter goes on to describe that a non-household employee would also be working at the Subject Property as a registered nurse. A copy of this letter is attached hereto as Exhibit G and incorporated herein.

30. The September 28, 2022 correspondence is curiously silent about Dr. Christensen's role in the Medical Clinic, but the September 13, 2022 correspondence stated that he would be working there as an employee and meeting with patients with the registered nurse

only seeing patients when he was not present. Read in concert, these two letters, combined with the fact that Dr. Christensen is the owner and manager of RFPC and RFPC operates the Medical Clinic at the Subject Property, plainly indicate that Dr. Christensen is a second non-household employee working at the Subject Property in violation of the Special Use Permit.

31. On October 3, 2022, the Zoning Officer responded to the September 28, 2022 letter stating that the description of the use of the Subject Property set forth therein conforms with the lost Special Use Permit. A copy of this letter is attached hereto as Exhibit H and incorporated herein.

32. The October 3, 2022 decision of the Zoning Officer was timely appealed to the ZBA in accordance with the RZO on November 17, 2022 by Plaintiffs, Shawn Rylatt, Lisa Rylatt, and Amie Lotzer, as well as a non-party by the name of Rockford Family Initiative. A copy of their appeal is attached hereto as Exhibit I.

33. In decisions dated December 20, 2022 and served upon the appellants on December 27, 2022, the ZBA decided that the appellants did not have standing and that the proposed use of the Subject Property by Dr. Christensen is consistent with the Special Use Permit. The decisions each state that they are a final determination subject to review under 65 ILCS 5/11-13-13. A copy of the ZBA decisions is attached hereto as Group Exhibit J.

34. Dr. Christensen has never applied for a special use permit for the Subject Property.

35. On or about January 6, 2023, the Medical Clinic opened and commenced operations.

36. Due to the controversial nature of Dr. Christensen's business as a provider of chemical abortions, the neighborhood surrounding the Subject Property has been substantially

and negatively impacted. Prior to and since the Medical Clinic opened, neighborhood residents, including the Plaintiffs, have suffered the following: (1) several hundred individuals have flooded the neighborhood to protest on multiple occasions; (2) on at least two occasions a protester was battered by another angered individual; (3) threats of violence and angry outbursts have been made against the protesters leading to an increased threat to overall safety and an increased police presence; (4) traffic congestion has gotten so bad that the police have had to stop cars on Auburn Street for neighborhood residents to come and go; (5) on one occasion the increased traffic even led to a police car crashing into another car; (6) loud speakers have been used by protesters in violation of Rockford noise ordinances; and (7) the property values of Plaintiffs and others in the neighborhood have decreased.

COUNT I
(Seeking Judicial Review of Administrative Decisions)

37. Plaintiffs reallege and incorporate paragraphs 1 through 36 as though fully set forth herein.

38. Plaintiffs timely bring this Complaint for judicial review within thirty-five days of the ZBA decisions being served by the Zoning Officer in this matter.

39. The Special Use Permit was issued to Dr. Chin for his use as a chiropractor.

40. Dr. Chin did not operate a medical clinic at the Subject Property.

41. Upon information and belief, the Subject Property was Dr. Chin's primary residence at the time he applied for the Special Use Permit and while he operated his business at the Subject Property subsequent thereto.

42. Dr. Christensen's use of the Subject Property is substantially different from Dr. Chin's use of the Subject Property.

43. Chiropractic clinics are not prohibited from being a home business by the RZO.
44. Medical and dental clinics are prohibited from being a home business by the RZO.
45. The use by Dr. Christensen of the Medical Clinic violates RZO Ordinance Numbers 53-003, 91-059, 53-004, 90-003-H, and Article 63 et. seq..
46. It is undisputed that the home business use of the Subject Property pursuant to the Special Use Permit must comply with all provisions of Rockford's Home Occupation Ordinance, which is set forth in Ordinance No. 53-003 of the RZO. See Ex. B, ZBA decision on November 25, 1981.
47. Subsection 53-003-A of the Home Occupation Ordinance states as follows:
- 53-003-A.** Home businesses may be conducted only within the residence and not in accessory structures.
48. Section 91-059 of the RZO defines a "Home Business" as follows:
- Any business, profession, occupation or trade carried out for gain or support by a resident of a dwelling that can be conducted as a customary, incidental, and accessory use to the resident's dwelling consistent with the limits of Article 53.
49. In violation of sections 53-003-A and 90-059 of the RZO, the Medical Clinic is not being carried out for gain by a resident of the Subject Property. Rather, such business is being carried out by Dr. Christensen, as the Manager and owner of RFPC, and Dr. Christensen is not a resident of the Subject Property.
50. Subsection 53-003-B of the RZO's Home Occupation Section states as follows:
- No more than 20% of the total floor area of the dwelling unit may be used for both the business and related storage.
51. The letter dated August 9, 2022 from Dr. Christensen's attorney states that "*all*

medical services will be provided on the first floor of the building consistent with the past use.”

Upon information and belief, the first floor of the Subject Property is greater than 20% of the total floor area of the dwelling and as a result the Medical Clinic is also in violation of Section 53-003-B of the RZO.

52. Sections 53-004 and sub-section 53-004-K of the RZO state as follows:

53-004 USES PROHIBITED AS HOME BUSINESSES

Home businesses that fail to meet the requirements of Section 53-003 are not permitted and the following activities are expressly prohibited:

53-004-K. *medical or dental clinics;*

53. Section 90-003-H of the RZO defines a medical or dental clinic as follows:

90-003-H. CLINIC, MEDICAL OR DENTAL

An office building or complex for the care, diagnosis and treatment of out-patients; may include laboratory facilities.

54. Dr. Christensen, the Zoning Officer, and Dr. Christensen’s attorney are all consistent in describing Dr. Christensen’s business use as that of a medical clinic.

55. In response to the appeal by Plaintiffs to the ZBA, the Zoning Officer prepared a memorandum to the ZBA dated December 16, 2022 (the “ZO Memo”), a copy of which is attached hereto as Exhibit K. In the ZO Memo, the Zoning Officer points out that the proposed use of the Subject Property is a “*general medical office for patients.*”

56. In the three aforementioned letters to the Zoning Officer, Dr. Christensen’s attorney describes his proposed use as follows:

(1) *The Property will be used as a general medical office for patients. The medical office will dispense medication and provide basic medical treatment. See Ex. D, 8/9/22 letter.*

(2) *The Employer, Rockford Family Planning Center, LLC (“LLC”) will operate the medical office..... Dr. Christensen is employed by the LLC. The operation of*

the medical office requires at least one additional employee. The LLC employs a registered nurse who will be responsible for dispensing medication. She will also meet with patients when Dr. Christensen is not present. See Ex. F, 9/13/22 letter.

(3) *The permanent resident will be working at the Property and there will be one additional person employed who is not a member of the household. That person will be a registered nurse who will be responsible for all patient care at the Property including dispensing medication and maintaining patient charts and records. See Ex. H, 8/9/22 letter.*

57. Dr. Christensen's use, as stated on his website, is a "*private practice medical clinic that provides medication abortions in Northern Illinois*". See Exhibit A.

58. The plain and ordinary meaning of the description of Dr. Christensen's use of the Subject Property as explained by his attorney and the Zoning Officer is that of a medical clinic. Dr. Christensen's use also meets the definition of "Medical Clinic" under Section 90-003-H of the RZO (*the care, diagnosis and treatment of out-patients*). Moreover Dr. Christensen refers to his use in exact terms as a "medical clinic" on his website. Medical clinics are prohibited by Section 53-004 of the RZO and as a result Dr. Christensen is unlawfully operating the Medical Clinic as a home business.

59. The Medical Clinic also violates Section 53-003-C of the RZO as the Medical Clinic sells chemical abortion drugs to its patients. Section 53-003-C provides that retail sales are prohibited in a home business except for the sale of goods or products produced on the premises. The abortion drugs sold by RFPC are not produced on the premises.

60. The Medical Clinic is also in violation of the Special Use Permits section of the RZO found at Article 63 *et. seq.*.

61. Section 63-001 of the RZO plainly provides that special uses must go through Rockford's special use approval process because such uses "*need to be carefully regulated in terms of location and/or operation for purposes of protecting the community.*"

62. Sections 63-002 thru 63-006 set forth the approval process for a special use and provide, in part, that: (1) an application for a special use permit containing certain information, including a written description of the use, must be submitted to the Zoning Office; (2) the ZBA shall hold at least one public hearing on the proposed special use; (3) Rockford staff must submit a report with recommendations to the ZBA at the time of the public hearing; (4) the ZBA must make certain findings of fact; and (5) the ZBA may include conditions or restrictions on the special use. The findings of fact that the ZBA must make are as follows:

63-005 FINDINGS OF FACT AND RECOMMENDATION BY ZONING BOARD OF APPEALS

For the Zoning Board of Appeals to recommend approval of an application for any requested special use permit, it must find that each of the following items is met:

63-005-A. The establishment, maintenance or operation of the special use permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

63-005-B. The special use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish or impair property values within the neighborhood.

63-005-C. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.

63-005-D. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.

63-005-E. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public *streets*.

63-005-F. The special use must, in all other respects, conform to the applicable regulations of the district in which it is located, except in those instances wherein either the use of the property is nonconforming, in which case, exceptions may be made as appropriate to result in the *nonconforming use*, or property becoming more compatible with the existing character of the area.

63. Dr. Christensen's Medical Clinic use of the Subject Property is plainly,

unequivocally, and substantially different than the chiropractic use for which the Special Use Permit was issued over forty years ago.

64. In violation of Article 63 of the RZO, Dr. Christensen did not submit an application for his special use, there was no public hearing, the ZBA did not make the required findings concerning his Medical Clinic use of the Subject Property, and the ZBA was not given the opportunity to place conditions or restrictions on the Medical Clinic use.

65. A copy of all RZO ordinances cited herein is attached hereto as Group Exhibit L.

66. Because the Medical Clinic use violates numerous provisions of the RZO, the ZBA's decision that Dr. Christensen's Medical Clinic use "*is consistent with the previous legally established non-conforming use*" is in error.

67. The ZBA's decision that Plaintiffs, Shawn Rylatt, Lisa Rylatt, and Amie Lotzer do not have standing to appeal the Zoning Officer's decision is also in error.

68. Section 66-001 of the RZO states that an appeal to the ZBA may be taken by "any person aggrieved". In their appeal, these individuals set forth they live within 2.5 blocks of the Subject Property, they have an interest in protecting their property values and the peaceful and quiet enjoyment of their neighborhood, and that abortion clinics are known for bringing disturbances, loud protests and counter-protests, decreases in property values, significant traffic impacts, and increased threats to the quiet enjoyment, safety and wellness of others. *See Ex. I, at Par. 6-9.*

69. The allegations of these individuals are more than sufficient to qualify them as aggrieved parties under the RZO and Illinois law.

70. In his memo to the ZBA dated December 16, 2022, the Zoning Officer's reasoning for determining that these individuals were not aggrieved was as follows:

“... although Rylatt and Lotzer reside in a neighborhood near the property, there is no evidence that continuing the established use will negatively impact their neighborhood. For example, there is no evidence that the continuance of a medical office as a home occupation with one employee not a member of the household will increase traffic, decrease property values, jeopardize the safety and wellness of themselves and their families, or the peaceful enjoyment of their neighborhood. See Ex. K, ZO Memo, Page 3.

71. These conclusions by the Zoning Officer were made without conducting any sort of evidentiary hearing or any other investigation. Moreover, the Zoning Officer was simply wrong on all counts. As aforementioned, due to the controversial nature of Dr. Christensen’s business as a provider of chemical abortions, the neighborhood surrounding the Subject Property has been substantially and negatively impacted. Prior to and since the Medical Clinic opened on or about January 6, 2023, neighborhood residents, including the Plaintiffs, have suffered the following: (1) several hundred individuals have flooded the neighborhood to protest on multiple occasions; (2) on at least two occasions a protester was battered by another angered individual; (3) threats of violence and angry outbursts have been made against the protesters leading to an increased threat to overall safety and an increased police presence; (4) traffic congestion has gotten so bad that the police have had to stop cars on Auburn Street for neighborhood residents to come and go; (5) on one occasion the increased traffic even led to a police car crashing into another car; (6) loud speakers have been used by protesters in violation of Rockford noise ordinances; and (7) the property values of Plaintiffs and others in the neighborhood have decreased.

72. Plaintiffs specify as part of the record to be furnished with the answer of Rockford and the ZBA the following: their entire file concerning the Special Use Permit, including all documents and records of Rockford, the ZBA, and the Zoning Officer, and further including but

not limited to the following:

- (a) A transcript of the ZBA proceedings on December 20, 2022;
- (b) A copy of the Special Use Permit, and all minutes and transcripts of any proceedings had in connection with its issuance and in connection with any subsequent matters concerning the Special Use Permit through the present day;
- (c) All correspondence, including emails and text messages, and records of telephone conversations, among the Zoning Officer, all members of the ZBA, Dr. Christensen and anyone acting on his behalf, RFPC and anyone acting on their behalf, and any other employee or official of Rockford or the ZBA concerning the Special Use Permit and the subject matter of this Complaint; and
- (d) A copy of the Rockford Zoning Ordinance in effect when the Special Use Permit was issued in 1981 and a copy of all other Rockford ordinances in effect at that time governing special uses and home businesses.
- (e) Copies of all annual home business inspection reports for the Subject Property from the year 1982 until the present, and all records, documents and correspondence relative thereto.

73. Pursuant to 735 ILCS 5/3-111, the Court has the authority in this matter to stay the decisions of the ZBA pending the final disposition of this case. An immediate stay should be granted in order to protect the safety and well being of the Plaintiffs and others living near the Subject Property, and to prevent a further decline in the property values of Plaintiffs and other surrounding homeowners.

WHEREFORE, the Plaintiffs respectfully request that the ZBA decisions and record of the proceedings that led thereto be reviewed by the Court and that said decisions be reversed,

that the ZBA decisions be stayed pending the final disposition of this case, for their reasonable attorney's fees, and for such other and further relief as the Court shall deem just and equitable.

COUNT II
(Christensen and RFPC's Violations of the RZO)

74. Plaintiffs reallege and incorporate paragraphs 1 through 36, and paragraphs 39-63 as though fully set forth herein.

75. At all times relevant hereto, 65 ILCS 5/11-13-15 was in full force and effect.

76. In relevant part, it provides as follows:

In case any building or structure, including fixtures, is constructed, reconstructed, altered, repaired, converted, or maintained, or any building or structure, including fixtures, or land, is used in violation of an ordinance or ordinances adopted under Division 13, 31 or 31.1 of the Illinois Municipal Code, or of any ordinance or other regulation made under the authority conferred thereby, the proper local authorities of the municipality, or any owner or tenant of real property, within 1200 feet in any direction of the property on which the building or structure in question is located who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding (1) to prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use, (2) to prevent the occupancy of the building, structure, or land, (3) to prevent any illegal act, conduct, business, or use in or about the premises, or (4) to restrain, correct, or abate the violation.

In any action or proceeding for a purpose mentioned in this section, the court with jurisdiction of such action or proceeding has the power and in its discretion may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purposes set forth above.

If an owner or tenant files suit hereunder and the court finds that the defendant has engaged in any of the foregoing prohibited activities, then the court shall allow the plaintiff a reasonable sum of money for the services of the plaintiff's attorney. This allowance shall be a part of the costs of the litigation assessed

against the defendant, and may be recovered as such.

An owner or tenant need not prove any specific, special or unique damages to himself or his property or any adverse effect upon his property from the alleged violation in order to maintain a suit under the foregoing provisions.

77. The Plaintiffs are owners of real property located within 1200 feet of the Subject Property.

78. Dr. Christensen and RFPC's unlawful operation of the Medical Clinic at the Subject Property has been ongoing since on or about January 6, 2023 and continues to the present day.

79. Due to the controversial nature of Dr. Christensen's business as a provider of chemical abortions, the neighborhood surrounding the Subject Property has been substantially and negatively impacted. Prior to and since the Medical Clinic opened on or about January 6, 2023, neighborhood residents, including the Plaintiffs, have suffered the following: (1) several hundred individuals have flooded the neighborhood to protest on multiple occasions; (2) on at least two occasions a protester was battered by another angered individual; (3) threats of violence and angry outbursts have been made against the protesters leading to an increased threat to overall safety and an increased police presence; (4) traffic congestion has gotten so bad that the police have had to stop cars on Auburn Street for neighborhood residents to come and go; (5) on one occasion the increased traffic even led to a police car crashing into another car; (6) loud speakers have been used by protesters in violation of Rockford noise ordinances; and (7) the property values of Plaintiffs and others in the neighborhood have decreased.

WHEREFORE, pursuant to 65 ILCS 5/11-13-15, Plaintiffs hereby respectfully request that this Court enter an order and judgment in their favor and against the Defendants, Dr.

Christensen and RFPC, as follows:

- (a) Temporarily and permanently enjoin Dr. Christensen and RFPC from operating the Medical Clinic at the Subject Property;
- (b) Award Plaintiffs' counsel reasonable attorneys' fees and costs; and
- (c) Award any other relief that the Court deems just and equitable.

Dated: January 30, 2023

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SHAWN RYLATT, LISA RYLATT, JANET
SAVAIANO, and AMIE LOTZER,

Plaintiffs,



By: _____
Vincent Tessitore, One of Its Attorneys

EXHIBIT A

Rockford Family Planning Center

[Home](#) [Who We Are](#) [Medication Abortion](#) [After Your Abortion](#) [Financial Support](#)
[Make An Appointment](#) [Plan Your Visit](#) [Contact](#)

Who We Are

The Rockford Family Planning Center is a private practice medical clinic that provides medication abortions in Northern Illinois. Our health care staff is here to answer questions and provide care in a safe and supportive environment.

The Rockford Family Planning Center:

- Believes that every person has the right to make their own health care decisions.



EXHIBIT B

NEW CERT #081-203
DATE: 9-22-81

Exhibit 2

DEPARTMENT OF BUILDINGS
City of Rockford, Illinois

Sept 22, 1981
Tuesday
9:30 AM

APPLICATION FOR REGISTRATION FOR HOME OCCUPATION

This blank form must be correctly filled out and all questions answered. All answers must be in ink. The statements must be attested by a Notary Public. Failure to comply with above will delay action on this application.

This form, when completely filled out, must be presented to the Department of Buildings, City Hall Building. Registration fee must accompany this application.

To Be Filled Out By the Applicant For Registration

Address: 611 Auburn St

Type of Occupation: Chiropractic Physician

Type of Equipment to be used: Chiropractic Adjustment table

Location Within Premises: 1st Floor

Method of Operation: By appointment only

Signature of Applicant: DR. Sam K. Chin D.C.

Address: 611 Auburn St. Telephone No.

Approval by City of Rockford Home Occupation Inspector: Nena L. Ward

Approval by City of Rockford Building Official: [Signature]

Date: Fee Paid

DR. Sam K. Chin D.C.
Person applying for registration

By

STATE OF ILLINOIS }
COUNTY OF WINNEBAGO } ss.

DR. SAM K. CHIN D.C. a legal resident of Rockford
(Name of person signing application)

County of Winnebago, and state of Illinois

being sworn before me, declares that he is the lawful representative of the person described in the foregoing application, and that all statements are true to the best of his knowledge and belief.

Sworn and subscribed to before me this 15 day of Sept 19 81, at

Rockford, County of Winnebago
and state of Illinois

Eugenia M. Malnowski
Notary Public

EXHIBIT C

OCT 23 1981

office copy

APPLICATION FOR ONE OR MORE OF THE FOLLOWING:
(Applicant is to complete the space at the right of and below, the one(s) desired, and submit in triplicate.)

ZONING MAP AMENDMENT, from _____ to _____

SPECIAL USE PERMIT, for ~~Establishing~~ **RE-ESTABLISH** a Non-Conforming use in **R1** Residential district in ~~193B~~ **R1** Zoning District.

VARIATION, to **① use 4 signs of 28 SQ FT** to identify Name and Profession **SERVICES** **② To reduce Landscaping strip along East Property Line from 8' to 2' in order to incorporate fence in 193B Zoning District. IN PLACE OF LANDSCAPING, R1**

1. Date of Application: Oct 26 19 81

2. Applicant's name: DR. SAM K. CHIN D.C.

Address 611 Auburn St Zip 61103 Tel. No. 962-6363

3. Applicant's interest in the property is (agent, contractor, owner, realtor, etc.) Doctor's office

4. The owner of record of the property is: Name: DR. SAM K. CHIN

Address 611 Auburn St Zip 61103 Tel. No. 962-6363

5. The address of the property for which this application is being filed is: Please

611 AUBURN ST Zip 61103; and the legal description is: see attached description

Lot _____, Block *** LEGAL ATTACHED**, Tract _____

(If there is no Lot, Block, and Tract, then attach a metes and bounds description.)

6. The property is located on the North side of Auburn N, E, S, or W (Avenue, Street, etc.)

about 100 feet West from Melrose St.; and has a width N, E, S, or W (nearest intersecting street)

of 50 feet, a length of 140 ± feet, and an area of 7,000 square feet (If more than five acres, then indicate the area in acres.)

7. All existing uses on the property are: Chiropractic physician office and home under "Home occupation Licence".

611 AUBURN ST.

* Legal Description: The Westerty Fifty (50) feet of Lots Eight (8), Nine (9) and Ten (10) in Block Thirty-five (35) as designated upon the Plat of Harlem Park Subdivision of a part of the N₂ of Section 13, T. 44 N., R 1E., of the 3rd P.M., the Easterly line of said tract being parallel with the westerly lines of said respective lots, situated in Winnebago County, State of Illinois.

8. The proposed use(s) on the property if this application is approved, is/are: _____

Chiropractic physician office

9. In addition to the proposed use(s) indicated above, another purpose of the application is to enable the applicant to (Applicant is to place a check mark in front of those applicable):

- _____ Alter an existing structure
- _____ Build on vacant land
- _____ Change an open land use
- _____ Change a use in an existing structure
- _____ Enlarge an existing structure
- _____ Erect a sign
- _____ Establish a new open land use
- _____ Establish a new use in a new building
- _____ Other (Describe what is proposed) _____

10. The owners of record of all properties (If property is held in Trust, give Trust No.) located adjacent to and across the street or alley from the property for which this application is being filed are:

Lot No. or Tax Code of property adjacent or across the street	Name	OWNER'S Mailing Address	Zip
✓ 193 B.- 602	Wanninger, Ronald	1714 Melrose St., Rockford,	61103
✓ 603	Means, LORAIN	1712 Melrose St, Rockford,	61103
✓ 604	DORSEY, Louis JR & Kathryn	1708 Melrose St, Rockford	61103
✓ 605	Collins, Eugene	12336 North Ledges Dr, Roscoe,	61073
✓ 607	Nelson, ROSS	615 Auburn St, Rockford	61103
✓ 610	Parke, FRANK	1711 Douglas St, Rockford	61103
193C-48	CITY OF ROCKFORD		

18-11-11

THE APPLICANT IS TO FURNISH ALL OF THE ABOVE INFORMATION; AND SHALL SUBMIT A SITE PLAN IN TRIPLICATE SHOWING ALL PROPERTIES AND PUBLIC WAYS LOCATED WITHIN THREE HUNDRED (300) FEET OF THE PERIMETER OF THE PROPERTY FOR WHICH THIS APPLICATION IS BEING SUBMITTED, AND, ALSO, SHOWING THE DIMENSIONS AND LOCATIONS OF ALL EXISTING AND PROPOSED BUILDINGS ON THE PROPERTY FOR WHICH THIS APPLICATION IS BEING FILED.

IN ADDITION, THE APPLICANT SHALL SUBMIT EIGHT (8) COPIES OF MAPS FROM THE COUNTY RECORDER'S PLAT BOOK SHOWING THE ZONING CLASSIFICATION OF ALL PROPERTIES LOCATED WITHIN THREE HUNDRED (300) FEET FROM THE PERIMETER OF THE PROPERTY FOR WHICH THE APPLICATION IS BEING FILED.

THE APPLICANT'S SIGNATURE BELOW INDICATES THE INFORMATION CONTAINED IN THIS APPLICATION AND ON ANY ACCOMPANYING DOCUMENTS IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

DR. Sam K. Chen
(Signature of Applicant)

THIS PART OF THE APPLICATION IS TO BE COMPLETED BY PERSONNEL IN THE ZONING OFFICE.

11. The property for which this application was filed is shown on Zoning Map 18 and is in a RI Zoning District.

12. This application for a SUP + VAR was accepted for (Zoning Map Amendment, S.U.P. or VAR.) filing on October 23, 1981, a filing fee in the amount of \$75.00 has been paid, and the application number assigned is 3859.

Special Use Permit to re-establish a non conforming use (Home Occupation of a medical type) and Variations to permit:

1. Four (4) signs totaling 28 square feet attached to the building and advertising the business
2. Employment of non member of household.
3. Reduce the required landscaped strip along the east side of parking area from 8 feet to 2 feet and permit a 5 feet side obscuring fence in lieu of landscaping.
4. All setbacks of existing house to remain "as is".

This application, together with my report, is being referred to the City-County Planning Commission Office.

_____, 19_____
(Date application is referred to C.C.P.C.O.)

(Signature of Zoning Officer or his authorized representative)

Accepted by: _____

Checked at: _____

Date: _____ by: _____

SUBSEQUENT ACTION TAKEN

15. The public hearing by the Zoning Board of Appeals was held on _____, 19____.

16. The action taken by the Zoning Board of Appeals on 11-17-81, 1981

was to GRANT a Special Use Permit to re-establish a non-conforming use (a Home Occupation of a medical nature), subject to compliance with all provisions of the Home Occupation Ordinance.

17. The Board also GRANTED Variations to reduce the required landscaping strip along the east side of the parking area from the required eight feet (8') to two feet (2'), and to permit a five foot (5') site-obscuring fence to be installed in lieu of landscaping; and to allow all existing setbacks to remain "as is", in an "R-1", Single-family Residential Zoning District.

s Committee

Said motion PASSED by a unanimous vote of five (5) members present.

11/25, 1981.

NO ACTION was taken by the Board on the requested Variations pertaining to advertising signs or the employment of persons NOT residing on the property because these two (2) items are covered by the provisions of the Home Occupation Ordinance, and

11/25, 1981.

18. the Board has no authority to act on exceptions or variations therefrom.

Committee, their final

19. If this application was either referred to the Property Regulations Committee or appealed to City Council, the final action taken by Council, Item Number _____ of the Minutes of the City Council meeting held on _____, 19_____

was to _____

This action became effective on _____, 19_____.

20. Any zoning map changes and/or recordings required because of the above actions were made on Zoning Map number 18 on November 24, 1981

by J.B. Lander

21. Additional Remarks:

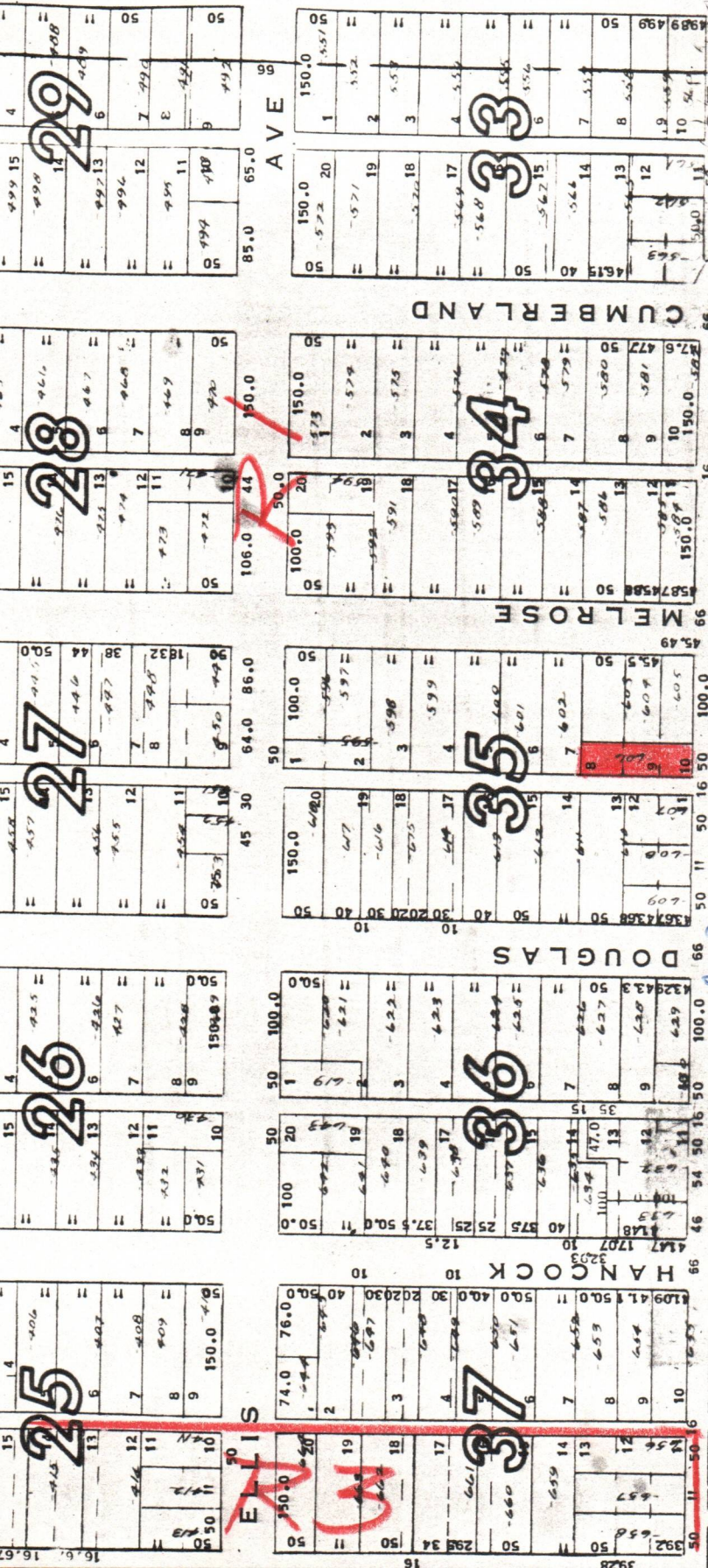
12/14 - CR read to grant appeal
12/21 - L.O.
12/28 - Ref Back to Committee.
1/4/82 - L.O.

#6 #3859 611 Auburn Street (Sup-Van)

OCT 23 1981

CHARLES T. JACKSON
PLUMBER

A



N

#6 #3859

611 Auburn Street

陳健雄醫師

DR. SAM K. CHIN

CHIROPRACTIC PHYSICIAN
CHINESE ACUPUNCTURIST

611 AUBURN STREET • 815/962-6363 • ROCKFORD, IL 61103

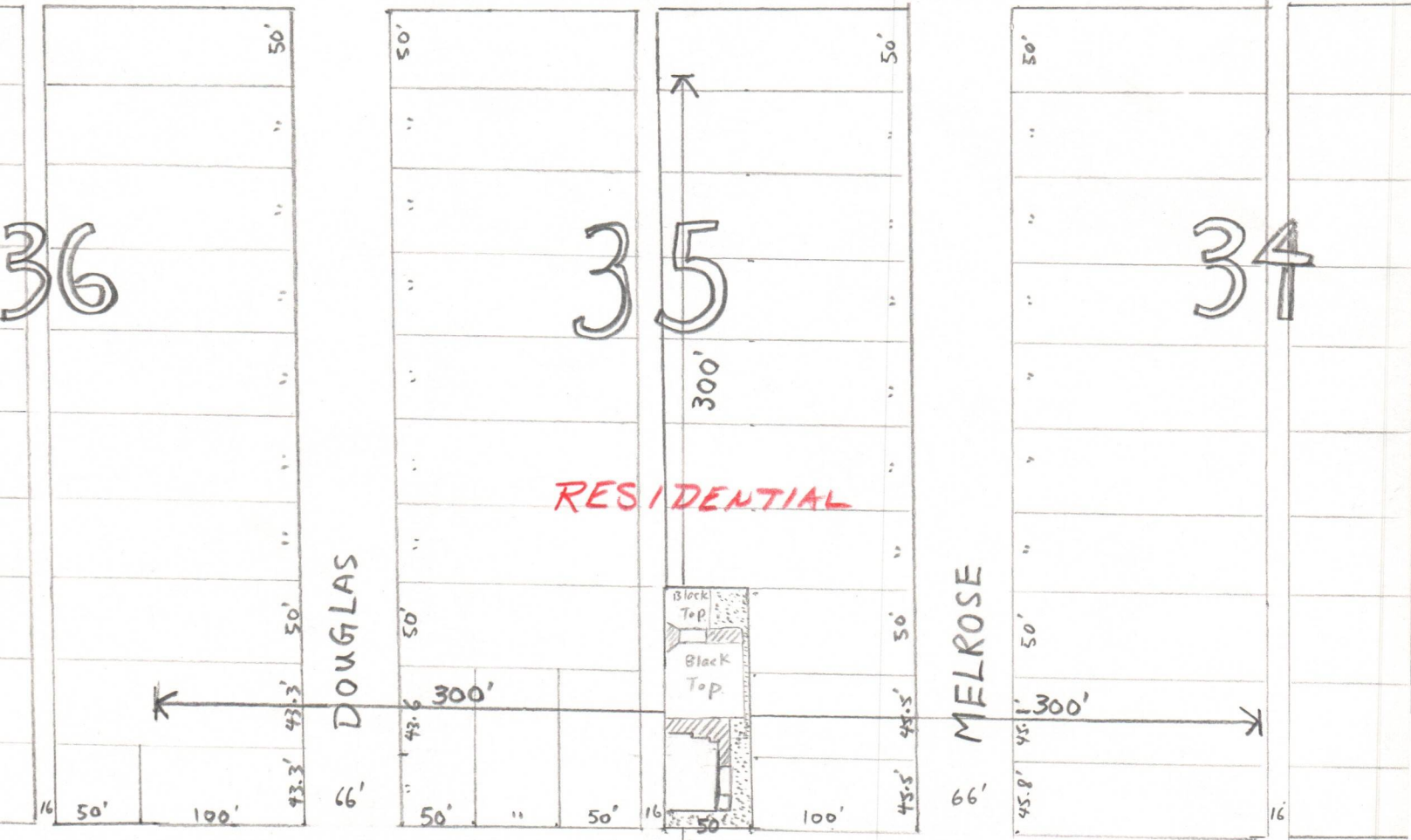
Sup - Don OCT 21 1981

SCALE office copies

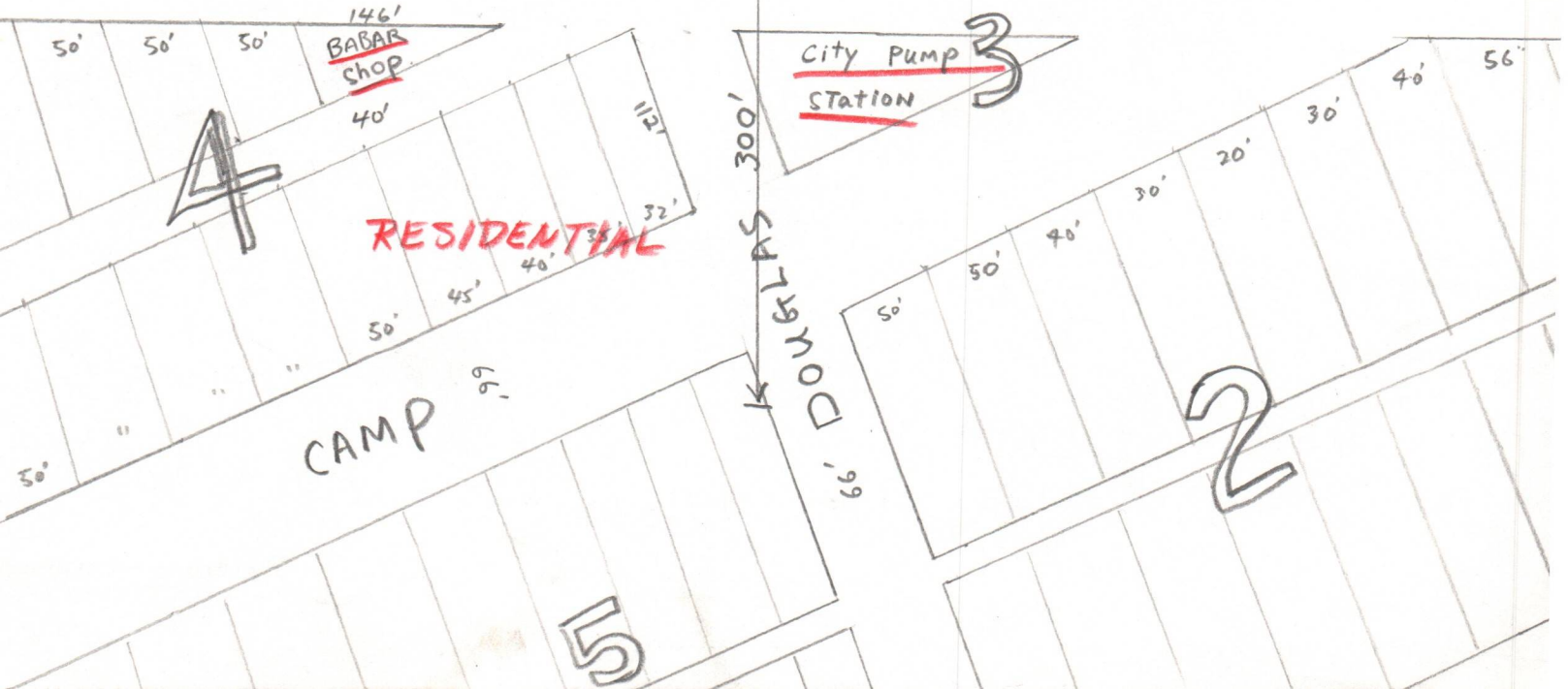
1" = 100'

ELLIS

AVE.



901 AUBURN



#6 #3859

611 Auburn Street

SUP-
Van

OCT 23 1981

(4)

office
copy

陳健雄醫師

DR. SAM K. CHIN

CHIROPRACTIC PHYSICIAN
CHINESE ACUPUNCTURIST

611 AUBURN STREET • 815/962-6363 • ROCKFORD, IL 61103

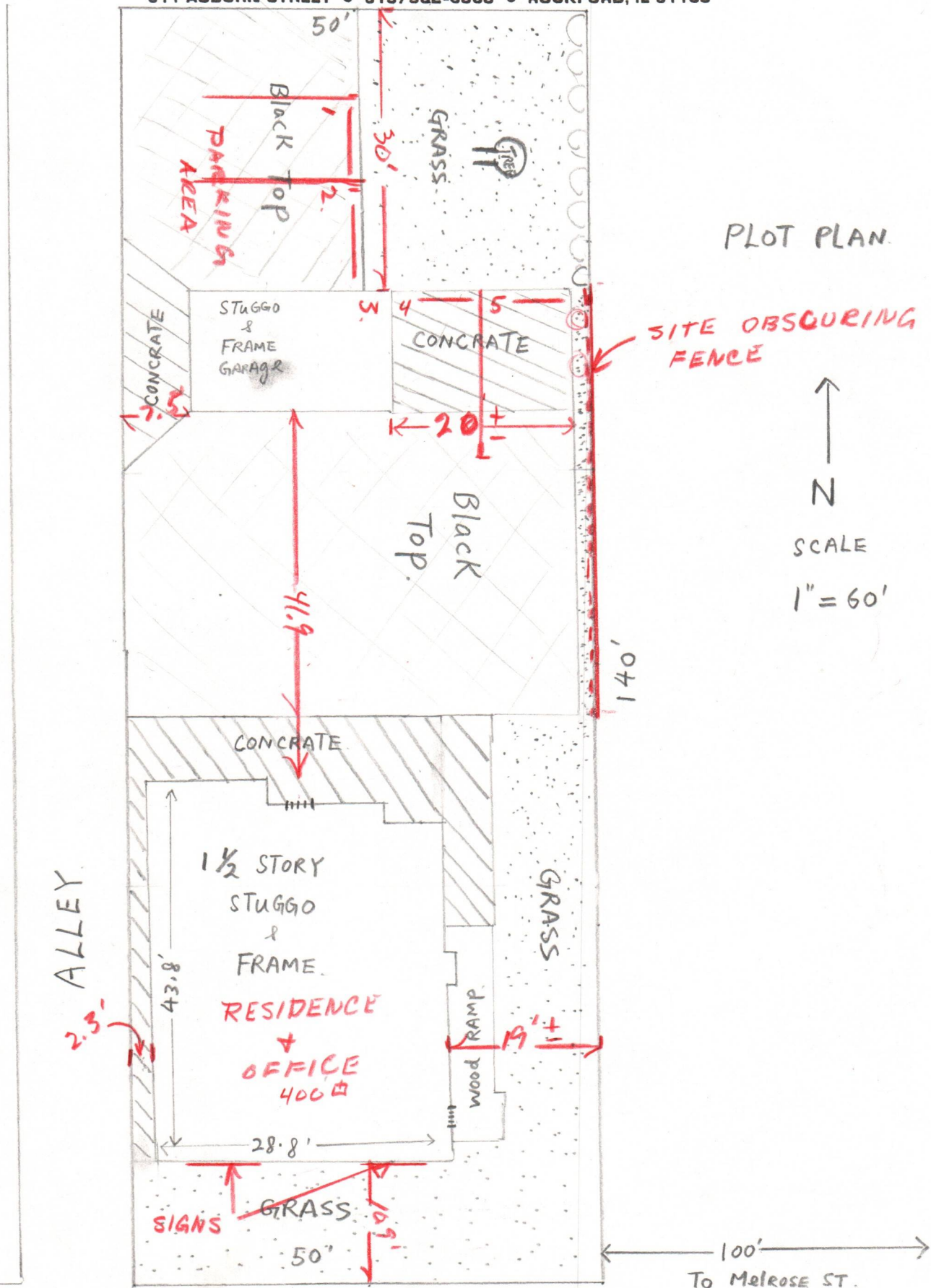


EXHIBIT D



Karl F. Franzen, Director
Community and Economic
Development Department

June 12, 2020

RE/MAX Property Source
Attn: Molly Webster
6072 Brynwood Drive
Rockford, IL 61114

Re: 611 Auburn St., Property Code: 11-13-182-026

Dear Molly:

This office has received your request of Zoning Confirmation, and as per your request the zoning of the property listed above is R-1, Single-Family Residential District. A Single-family detached dwelling with a maximum gross density of 5.65 dwelling units per acre is permitted in this district.

A Special Use Permit was granted to re-establish a home occupation as a non-conforming use, with Variations to reduce the landscaping strips, permit a 5-foot fence and to allow the existing setbacks to remain "as is". The Variation to allow 4 advertising signs totaling 28 sq. ft. to be attached to the building and allow the employment of a person not a member of the household was approved on January 4, 1982 with conditions. See attached.

The Zoning Ordinance text and maps are available to the public free of charge online at www.rockfordil.gov. A copy of the text is \$22 and maps are \$33. If you have any questions or would like additional information, please feel free to contact me at the City of Rockford Planning Office (779) 348-7421, I will be happy to assist you.

Sincerely,


Brenda Muñiz
Land Use Planner

cc: file

EXHIBIT E



Karl F. Franzen, Director
Community and Economic
Development Department

August 25, 2022

Attorney Ann Dempsey
Oliver Close, LLC
124 North Water Street, Suite 300
Rockford, IL 61107-3974

Re: 611 Auburn Street; PIN 11-13-182-026

Dear Attorney Dempsey:

This office has received your request for a Zoning Determination for the proposed re-use of the above-referenced property. The property is located within the R-1, Single-family District and was granted a Special Use Permit to re-establish a non-conforming use (home occupation of a medical nature) in 1982. In 1982, Section 33-29(II)(A) of the City of Rockford Code of Ordinances outlined the required conditions which must be met in all cases of home occupations one of which is "(3) Only members of the immediate family permanently residing on the premises shall be employed in the home occupation." This is consistent with the current City of Rockford Zoning Ordinance, Section 53-003-D, which only allows permanent residents of the home to be employed in the conduct of a home business.

However, the 1982 Special Use Permit also allowed the employment of a person not a member of the household.

Pursuant to the Special Use Permit, only members of the immediately family permanently residing on the premises and one (1) person not a member of the household can be employed at the premises.

As presented in your August 9 letter, the description of the use of the property would not conform to the Special Use Permit, as there would be more than one non-household person employed at this location. However, the office hours you have indicated would be acceptable per the home occupation ordinance.

Therefore, as the Zoning Officer for the City of Rockford, I have made the determination that in order to allow continuation of this lawfully established non-conforming use in the R-1, Single-family Zoning District, a resident of this home must live permanently and work in this facility and only one person that is not a member of the household can be employed at this business. If you can meet this business model as approved in 1982, the business would be allowed to proceed and operate at this location.

If you have any questions or would like additional information, please feel free to contact me at the City of Rockford Planning Office (779) 348-7447.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Capovilla".

Scott Capovilla
Planning & Zoning Manager

City of Rockford, Illinois USA

425 East State Street Rockford, Illinois 61104-1068 USA
(779) 348-7300 (815) 967-4243 fax www.rockfordil.gov

EXHIBIT F

Oliver | Close LLC

Attorneys at Law

John Rearden, Jr.*
Ann T. Dempsey*
Debra A. Delia
Scott R. Hall

*Admitted to practice
in Illinois & Wisconsin

Suite 300 Waterside Center
124 North Water Street
Rockford, IL 61107-3974
TEL (815) 963-0009
FAX (815) 963-0339

mailing address:
Post Office Box 4749
Rockford, IL 61110-4749

Robert J. Oliver (1932-2020)
Henry J. Close (1936-2021)
Karl F. Winkler (1942-2022)

September 13, 2022

Sent US Mail and Email

Mr. Scott Capovilla
City of Rockford
425 E. State. St.
Rockford, IL 61104

***Re: 611 Auburn Street, Rockford ("Property")
Zoning Approval for Continuation of Special Use Permit***

Dear Mr. Capovilla:

Thank you for the letter dated August 25, 2022. We appreciate your analysis regarding the proposed use compared to the existing Special Use Permit. Although we disagree that "a" person limits the employer to only one person who is not a member of the household, the medical office will operate with one employee.

My client is confident that the proposed use can and will comply with the existing Special Use Permit. Dr. Christensen proposes to use the Property as his permanent secondary residence. He will reside at the Property on occasion when working at the Property. The employer, Rockford Family Planning Center, LLC ("LLC") will operate the medical office. As a member of the household, Dr. Christensen is employed by the LLC. The operation of the medical office requires at least one additional employee. The LLC employs a registered nurse who will be responsible for dispensing medication. She will also meet with patients when Dr. Christensen is not present. The registered nurse is and will be the person who is "employed" and not a member of the household.

The registered nurse will do some administrative work as time allows. However, the administrative needs of the medical office will be performed by an independent consultant. The Administrative Consultant will be an independent contractor who may work 20-35 hours a week, as needed. She will set her own schedule and not be accountable to the LLC or Dr. Christensen for specific hours. Many of her hours may be performed remotely such as accounting and bookkeeping functions. She will perform her work when and where she chooses and will not be employed by the LLC under any circumstances.

Additionally, and only if needed, volunteers may be trained to answer the telephone. It is not clear if such additional assistance will be required. However, volunteers have been identified and are willing to help, if needed. If that occurs, the volunteers would be temporary and not employed by the LLC.



City of Rockford
September 13, 2022
Page 2

The medical clinic can clearly continue to operate under the existing Special Use Permit with the employment of a single person not a member of the household. We respectfully request that the City reconsider the decision based on this additional information provided. If you have questions, please feel free to call me.

Very truly yours,

OLIVER CLOSE, LLC


Ann Dempsey

cc: Dr. Dennis Christensen

EXHIBIT G

Oliver | Close LLC

Attorneys at Law

John Rearden, Jr.*
Ann T. Dempsey*
Debra A. Delia
Scott R. Hall

*Admitted to practice
in Illinois & Wisconsin

Suite 300 Waterside Center
124 North Water Street
Rockford, IL 61107-3974
TEL (815) 963-0009
FAX (815) 963-0339

mailing address:
Post Office Box 4749
Rockford, IL 61110-4749

Robert J. Oliver (1932-2020)
Henry J. Close (1936-2021)
Karl F. Winkler (1942-2022)

September 28, 2022

Sent US Mail and Email

Mr. Scott Capovilla
City of Rockford
425 E. State. St.
Rockford, IL 61104

***Re: 611 Auburn Street, Rockford ("Property")
Zoning Approval for Continuation of Special Use Permit***

Dear Mr. Capovilla:

As a result of additional information, I would like to withdraw my September 13, 2022 letter to the City requesting approval for continuation of the special use permit on the Property. Please consider this letter the request for continuation of the special use permit based on the new information provided.

There is a strong desire by one of the "employees" to reside at the Property as her permanent residence. Previously, I was not aware of her preference to make the residential portion of the Property her home. This person will be providing administrative services and basically all managerial and financial work to operate the business and comply with all regulations. As a permanent tenant resident, she will be residing at the Property as her home. There will be a residential lease with the owner to reflect the terms of her occupancy as a household.

The permanent resident will be working at the Property and there will be one additional person employed who is not a member of the household. That person will be a registered nurse who will be responsible for all patient care at the Property including dispensing medication and maintaining patient charts and records.

After I learned of this information, I wanted to update the previously provided information to correct the actual current intent of the home occupation. Since the permanent resident will be constantly present, it is not anticipated that the business will require additional assistance from volunteers or otherwise. We remain confident that the proposed use complies with the existing special use permit.

City of Rockford
September 28, 2022
Page 2

We respectfully request that the City confirm that the proposed use, based on this additional information, complies with the current special use permit.

Very truly yours,

OLIVER, CLOSE, LLC


Ann Dempsey

cc: Dr. Dennis Christensen

EXHIBIT H



*Karl F. Franzen, Director
Community and Economic
Development Department*

October 3, 2022

Attorney Ann Dempsey
Oliver Close, LLC
124 North Water Street, Suite 300
Rockford, IL 61107-3974

Re: 611 Auburn Street; PIN 11-13-182-026

Dear Attorney Dempsey:

I have received your letter dated September 28, 2022 responding to my Zoning Determination for the above-referenced property. We will consider your September 13, 2022 letter withdrawn per your request.

As presented in your follow-up September 28 letter, the description of the use of the property would conform to the Special Use Permit, as there would be one employee permanently residing at the residence and no more than one non-household person employed at this location. Once again, the property is located within the R-1, Single-family District and was granted a Special Use Permit to re-establish a non-conforming use (home occupation of a medical nature) in 1982. Based on the information provided within your September 28 letter, the business would be allowed to proceed and operate at this location.

If you have any questions or would like additional information, please feel free to contact me at the City of Rockford Planning Office (779) 348-7447.

Sincerely,

A handwritten signature in black ink that reads "Scott Capovilla". The signature is written in a cursive style.

Scott Capovilla
Planning & Zoning Manager

EXHIBIT I

Zoning Board of Appeals
City of Rockford, IL

Rockford Family Initiative, association;)
Shawn and Lisa Rylatt, individuals;)
Amie Lotzer, individual,)
)
Petitioners,)
)
v.)
)
Scott Capovilla, Rockford, Illinois Zoning)
Officer)
)
Respondent.)

Appeal

Rockford Family Initiative, Shawn and Lisa Rylatt, and Amie Lotzer (Petitioners) file this appeal from the Oct. 3, 2022 Certificate of Zoning Compliance as mentioned in ¶ 1 of this appeal, pursuant to Art. 66 of the City of Rockford Zoning Ordinances. In support of this Appeal, Petitioners state the following:

1. In a letter (Certificate of Zoning Compliance) to Ann Dempsey on Oct. 3, 2022, Scott Capovilla (Zoning Officer) approved the proposed use at 611 Auburn Street, Rockford, IL (Auburn Location)¹ as a home business, place of retail sales of products produced off the premises, warehouse, medical office, medicine dispensary, and abortion clinic with one non-household person employed at the Auburn Location (Proposed Use).²
2. On September 28, 2022, Ann Dempsey, Attorney for Auburn Location Owner Dennis Christensen, sent a letter to the Zoning Officer requesting a certificate of zoning compliance for the Proposed Use at the Auburn Location (Request for Zoning Compliance).³
3. The Request for Zoning Compliance was not accompanied by a plat legally recorded under the laws of the State of Illinois and Winnebago County giving a legal description.⁴

¹ See Exhibit E.

² See Exhibit A.

³ See Exhibit B.

⁴ 60-001-G Rockford Zoning Ordinance.

4. The Request for Zoning Compliance was not accompanied by a plot plan drawn to scale in such form as may be prescribed by the Zoning Officer.⁵
5. Rockford Family Initiative (RFI) was established more than three years ago as an organization dedicated to promoting family values in the greater Rockford, IL area. RFI is made up of residents who live in the greater Rockford, IL area.
6. Shawn and Lisa Rylatt live and own property within 2.5 blocks of the Auburn Location and frequently uses the area near the Auburn Location.
7. Amie Lotzer lives and owns property within 2.5 blocks of the Auburn Location and frequently uses the area near the Auburn Location.
8. The RFI and Shawn and Lisa Rylatt have an interest in the proper governance and execution of the Rockford Zoning Ordinances, their property values, the safety and wellness of themselves and their families, and the peaceful and quiet enjoyment of their city and neighborhood.⁶
9. Abortion clinics are known for bringing disturbances, loud protests and counter-protests, decreases in nearby property values, significant traffic impacts, and increased threats to the quiet enjoyment, safety and wellness of others.
10. The Auburn Location is zoned as R1, Single-Family Residential.
11. **Article 20.** Article 20 of the Rockford Zoning Ordinances expressly prohibits the Proposed Use.⁷
12. On or about January 4, 1982, City of Rockford Alderman Johnson moved the adoption of a Public Services committee report recommending that the City Council grant appeal #81/23 thereby sustaining the Zoning Board of Appeals decision which was to grant a special use permit to re-establish a home occupation as a non-conforming use, with variations to ... permit 4 advertising signs totaling 28 sq. ft. to be attached to the building, and allow the employment of a person not a member of the household at 611 Auburn Street, Rockford, IL.⁸

⁵ 60-001-H Rockford Zoning Ordinance.

⁶ "These regulations are intended to ensure that permitted and special uses are compatible within each district. They are intended to maintain and protect residential property values and to promote the peace, quiet, and enjoyment of the city's residential areas" 20-001 Rockford Zoning Ordinance.

⁷ 20-004-G Rockford Zoning Ordinance.

⁸ See Exhibit C.

13. The City of Rockford, IL is unable to find any special use permit for the Auburn Location.⁹
14. A special use permit for the Auburn Location does not exist and is not active.
15. If a Special Use Permit for the Auburn Location exists and is active for the special use mentioned in ¶ 12, the special use is substantially different than the Proposed Use, so there is clear intent of the owner to abandon the special use.¹⁰
16. No application for a special use permit has been made by Auburn Location owner Dennis Christensen.
17. **ARTICLE 63.** Under Article 63 of the Rockford Zoning Ordinances, for the Zoning Board of Appeals to recommend approval of an application or modification for a special use permit, it must find, among other things that:
- a. [T]he operation of the special use permit will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 - b. The special use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish or impair property values within the neighborhood;
 - c. The establishment of the Special use will not impede the normal or orderly development and improvement of the surrounding property;
 - d. The special use must, in all other respects, conform to the applicable regulations of the district in which it is located, except in those instances wherein either the use of the property is nonconforming, in which case, exceptions may be made as appropriate to result in the *nonconforming use*, or property becoming more compatible with the existing character of the area.¹¹
18. The Zoning Board of Appeals has not made a finding that the Proposed Use complies with any of the requirements under ¶ 17.
19. The Proposed Use does not conform to applicable regulations of the district in which it is located nor is it compatible with the existing character of the area.
20. The existing character of the surrounding Auburn Location is a quiet and peaceful residential area.

⁹ See Exhibit D.

¹⁰ 63-012-C Rockford Zoning Ordinance.

¹¹ 63-005 Rockford Zoning Ordinance.

21. **ARTICLE 53.** Regardless of any special use permits that may allow exceptions from R1 zoning restrictions for the Auburn Location, Article 53 of the Rockford Zoning Ordinances expressly prohibits the Proposed Use because:

- a. "Retail sales are prohibited except for the sale of goods or products produced on the premises";¹²
- b. "No more than 20% of the total floor area of the dwelling unit may be used for both the business and related storage";¹³
- c. "Only permanent residents of the home may be employed in the conduct of the business";¹⁴
- d. "[M]edical or dental clinics" are expressly prohibited as a home business;¹⁵
- e. "Warehousing" is expressly prohibited as a home business;¹⁶
- f. A Home Business Permit has not been approved for the Auburn Location for owner Dennis Christensen.¹⁷

COUNT I

Certificate of Zoning Compliance is Void

22. Paragraphs 1 through 21 are incorporated into Count I.

23. All officials, departments and employees of the City of Rockford vested with the authority or duty to issue permits, certificates and licenses must comply with the provisions of the Rockford Zoning Ordinances and must issue no permit, certificate or license that conflicts with the provisions of the Rockford Zoning Ordinances. Any permit, certificate or license issued in conflict with the provisions of this Ordinance is void.¹⁸

¹² 53-003-C Rockford Zoning Ordinance.

¹³ 53-003-B Rockford Zoning Ordinance. The Request for Zoning Compliance Aug. 9, 2022 letter states that the upper half of the building will be used for residential space while the lower half of the building will be used for office space. See Exhibit B.

¹⁴ 53-003-D Rockford Zoning Ordinance. "Staff endorses the Special Use Permit ... subject to the following conditions: 1. No non-household members may be allowed to be employed on the site..." See Exhibit C (Zoning Recommendation, 3)

¹⁵ 53-004-k Rockford Zoning Ordinance.

¹⁶ 53-004-O Rockford Zoning Ordinance. Warehousing is defined as "storage, wholesale sales and distribution of materials and equipment." 90-005-G Rockford Zoning Ordinance.

¹⁷ 53-005 Rockford Zoning Ordinance.

¹⁸ 71-001 Rockford Zoning Ordinance.

24. The October 3, 2022 letter from the Zoning Officer approving of the Proposed Use is a certificate of zoning compliance.¹⁹

25. The October 3, 2022 Certificate of Zoning Compliance is void because it conflicts with the provisions of this ordinance as it was issued:

- a. without a request for zoning compliance that was accompanied by a plat and plot plan;
- b. without a special use permit existing or active for the Auburn Location;
- c. despite the Proposed Use not complying with Article 20 of the Rockford Zoning Ordinances;
- d. despite the Proposed Use not complying with Article 53 of the Rockford Zoning Ordinances; and
- e. despite the Proposed Use not complying with Article 63 of the Rockford Zoning Ordinances.

COUNT II

Any Existent Special Use Permits at the Auburn Location are Void

26. Paragraphs 1 through 21 are incorporated into Count II.

27. Dr. Sam Chin, owner of the Auburn Location from at least 1982 to 2022, specially used the Auburn Location for chiropractic and acupuncture services.

28. There is clear evidence of the intent of Owner Dennis Christensen to abandon the special use of Dr. Sam Chin at the Auburn Location.²⁰

29. Any special use permits issued for the special use under Dr. Sam Chin at the Auburn Location have lapsed and are void.

¹⁹ "A Certificate of Zoning Compliance is a written statement issued by the Zoning Officer stating to the best of the Officer's ability that existing *buildings* or structures and the proposed use of said *buildings* or structures and/or the proposed use of subject property is in compliance with all of the provisions of this Zoning Ordinance and any amendments, variations, special use permits granted, or any other Zoning Board of Appeals, City Council or court action related thereto." 60-001-B(2) Rockford Zoning Ordinance.

²⁰ 63-012-C Rockford Zoning Ordinance.

COUNT III

Certifying the Proposed Use Negates the Purpose of Special Use Permits

30. Paragraphs 1 through 21 are incorporated into Count III.

31. The Proposed Use should have an independent review because of its very unique characteristics, traffic impacts, and effects on the neighborhood and community surrounding the subject site.²¹

32. Certifying the Proposed Use at the Auburn Location without an independent review of a Special Use Permit for the unique Proposed Use negates the purpose of Special Use Permits under 63-001 of the Rockford Zoning Ordinances.

Wherefore, the Petitioners request that the Zoning Board of Appeals:

- A. Declare that the Certificate of Zoning Compliance is void;
- B. Declare that any Special Use Permits for special use under Dr. Sam Chin at the Auburn Location are void;
- C. Prevent the Proposed Use at the Auburn Location until an independent review of a special use permit for the Proposed Use is completed; and
- D. Any other just order the Zoning Board of Appeals deems appropriate.

Respectfully submitted,

Shawn Rylatt

Kevin Rilott
Representative of Rockford Family Initiative

Lisa Rylatt

Amie Lotzer

Dated: _____

²¹ 63-001 – 63-001-D Rockford Zoning Ordinance.



*Karl F. Franzen, Director
Community and Economic
Development Department*

October 3, 2022

Attorney Ann Dempsey
Oliver Close, LLC
124 North Water Street, Suite 300
Rockford, IL 61107-3974

Re: 611 Auburn Street; PIN 11-13-182-026

Dear Attorney Dempsey:

I have received your letter dated September 28, 2022 responding to my Zoning Determination for the above-referenced property. We will consider your September 13, 2022 letter withdrawn per your request.

As presented in your follow-up September 28 letter, the description of the use of the property would conform to the Special Use Permit, as there would be one employee permanently residing at the residence and no more than one non-household person employed at this location. Once again, the property is located within the R-1, Single-family District and was granted a Special Use Permit to re-establish a non-conforming use (home occupation of a medical nature) in 1982. Based on the information provided within your September 28 letter, the business would be allowed to proceed and operate at this location.

If you have any questions or would like additional information, please feel free to contact me at the City of Rockford Planning Office (779) 348-7447.

Sincerely,

Scott Capovilla
Planning & Zoning Manager

John Rearden, Jr.*
Ann T. Dempsey*
Debra A. Delia
Scott R. Hall

*Admitted to practice
in Illinois & Wisconsin



Oliver | Close LLC
Attorneys at Law

August 9, 2022

Suite 300 Waterside Center
124 North Water Street
Rockford, IL 61107-3974
TEL (815) 963-0009
FAX (815) 963-0339

mailing address:
Post Office Box 4749
Rockford, IL 61110-4749

Robert J. Oliver (1932-2020)
Henry J. Close (1936-2021)
Karl F. Winkler (1942-2022)

Sent US Mail and Email

Mr. Scott Capovilla
City of Rockford
425 E. State. St.
Rockford, IL 61104

***Re: 611 Auburn Street, Rockford ("Property")
Zoning Approval for Continuation of Special Use Permit***

Dear Mr. Capovilla:

Please accept this letter as a request for zoning confirmation of the continued use of a special use permit (SUP) by a new owner. I represent the owner of 611 Auburn Street.

It is my understanding that the existing SUP allows for a medical office as a home occupation. This SUP was initially approved in 1982 and the Property has been continuously used as a medical office for over 40 years. We request the continuation of the existing use and provide the following plan of operation for zoning approval.

Description of Use. The Property will be used as a general medical office for patients. The medical office will dispense medication and provide basic medical treatment. There will be two (2) staff persons and occasionally other medical personnel. The office hours will be 8:00 to 4:30 or 9:00 to 5:00, Monday through Friday. It may be necessary to open on Saturday mornings from 9:00 to 12:00 in the future. All medical services will be provided on the first floor of the building consistent with the past use. Patients may park in the parking lot behind building. It is anticipated there will be approximately one patient per hour.

Residential Use. There is residential space on the second floor will remain residential space. My client intends to use the Property as his secondary residence which he will use on occasion.

We respectfully request zoning confirmation that the proposed use conforms to the SUP and is consistent with the past 40-year use of the Property. Please contact me with any questions. We look forward to your response.

Very truly yours,

OLIVER CLOSE LLC

Ann Dempsey

cc: Dr. Dennis Christensen



John Rearden, Jr.*
Ann T. Dempsey*
Debra A. Delia
Scott R. Hall

*Admitted to practice
in Illinois & Wisconsin

Oliver | Close LLC

Attorneys at Law

Suite 300 Waterside Center
124 North Water Street
Rockford, IL 61107-3974
TEL (815) 963-0009
FAX (815) 963-0339

mailing address:
Post Office Box 4749
Rockford, IL 61110-4749

Robert J. Oliver (1932-2020)
Henry J. Close (1936-2021)
Karl F. Winkler (1942-2022)

September 28, 2022

Sent US Mail and Email

Mr. Scott Capovilla
City of Rockford
425 E. State. St.
Rockford, IL 61104

***Re: 611 Auburn Street, Rockford ("Property")
Zoning Approval for Continuation of Special Use Permit***

Dear Mr. Capovilla:

As a result of additional information, I would like to withdraw my September 13, 2022 letter to the City requesting approval for continuation of the special use permit on the Property. Please consider this letter the request for continuation of the special use permit based on the new information provided.

There is a strong desire by one of the "employees" to reside at the Property as her permanent residence. Previously, I was not aware of her preference to make the residential portion of the Property her home. This person will be providing administrative services and basically all managerial and financial work to operate the business and comply with all regulations. As a permanent tenant resident, she will be residing at the Property as her home. There will be a residential lease with the owner to reflect the terms of her occupancy as a household.

The permanent resident will be working at the Property and there will be one additional person employed who is not a member of the household. That person will be a registered nurse who will be responsible for all patient care at the Property including dispensing medication and maintaining patient charts and records.

After I learned of this information, I wanted to update the previously provided information to correct the actual current intent of the home occupation. Since the permanent resident will be constantly present, it is not anticipated that the business will require additional assistance from volunteers or otherwise. We remain confident that the proposed use complies with the existing special use permit.

City of Rockford
September 28, 2022
Page 2

We respectfully request that the City confirm that the proposed use, based on this additional information, complies with the current special use permit.

Very truly yours,

OLIVER, CLOSE, LLC

Ann Dempsey

cc: Dr. Dennis Christensen



ZONING RECOMMENDATION

To the Zoning Board of Appeals

November 17, 1981

SUBJECT: A recommendation on a Special Use Permit to allow the reestablishment of a non-conforming use and variations in an R-1 District located at 611 Auburn Street to permit four (4) business signs, totalling 28 square feet attached to the building; to permit employment of a non-member of the household; to reduce the required landscaping strip along the east side of the parking area from 8 feet to 2 feet; and permit a 5-foot site-obscuring fence; and to allow existing setbacks to remain as is.

PETITIONER: Dr. Sam K. Chiu

<u>ADJACENT ZONING</u>	<u>LAND USE</u>
North: R-1	- Single-Family Dwelling
East: R-1	- Single-Family Dwelling
South: R-1	- Well
West: R-1	- Single-Family Dwelling

GENERAL PLAN: Single-family residential.

SOILS: Review does not apply.

REVIEW COMMENTS: The applicant is requesting a number of variations in an R-1 District, many of which would make this parcel more commercial than residential.

The first request is for four signs totalling 28 square feet attached to the building and advertising the business. The Home Occupation Ordinance states that: "there shall be no exterior indication of the home occupation or variation from the residential character of the principal building." A sign of the size and type proposed is not compatible with surrounding residential uses and should be denied. Staff recommends that a sign no greater than two (2) square feet in size be approved, and that this sign be limited to the physician's name only.

A variation is also being requested to allow a non-household member to be employed on the premises in a home occupation. Staff would not endorse non-household members to be employed since it is not allowed by ordinance. Any expansion of these requirements would definitely allow a use which is not compatible with the surrounding neighborhood.

The third variation is to reduce the required landscaping strip along the east side of the parking area from 8 feet to 2 feet and permit a 5-foot site-obscuring fence in lieu of landscaping. The site plan indicates that this will only be placed along the parking area between the garage and the house. It is assumed

- 1-4-82
23. Alderman Johnson moved the adoption of a Public Services committee report recommending that the City Council grant Appeal #81/23, thereby sustaining the Zoning Board of Appeals/ decision which was to grant a special use permit to re-establish a home occupation as a non-conforming use, with variations to reduce the landscaping strips, permit a 5 foot fence, and to allow the existing setbacks to remain "as is". The Committee also recommended that Council approve the remaining requests of the applicant which are to permit 4 advertising signs totaling 28 sq. ft. to be attached to the building, and allow the employment of a person not a member of the household. Property located at 611 Auburn St. Alderman James read a Memo from Dennis Leahy,

1/4/82

Zoning Recommendation
200-81-R
Page Two

that the remaining spaces will be adequately landscaped and this should be required.

The variation for setbacks to remain as is needs no review by staff, since the setbacks are existing and no change is being proposed.

RECOMMENDATION: Staff endorses the Special Use Permit to reestablish a Home Occupation for a medical office, subject to the following conditions:

1. No non-household members may be allowed to be employed on site; and
2. Signs on-site shall be limited to one (1) sign no greater than two (2) square feet in area, identifying the doctor's name only.

All other variations should be approved as requested.



FOIA Request

Fri, Nov 4, 2022 at 1:15 PM

To: Jacob.Rubin@rockfordil.gov, LGFOIA@rockfordil.gov

Jacob,

Please see attached and below my FOIA request:

Please provide records relating to all permits applied for, denied, and received for 611 Auburn Street, Rockford, IL, 61103, including any special use permits.

Sincerely,

--

FOIARquest Auburn Street.pdf
150K



CITY OF ROCKFORD

NOTICE OF APPROVAL OF REQUEST FOR PUBLIC RECORDS

To: [REDACTED]

On 11/7/2022, the City of Rockford received your written request for the inspection or copying of certain City public records.

1. Decision on Request

- Your Request is hereby approved in its entirety.
- Your Request is hereby approved in its entirety, however no such records exist.

2. Specified Records

You will receive the following records: 611 AUBURN STREET – FINDINGS ATTACHED

Availability of Records

Your Request is approved for the above-mentioned public records (the “Specified Records”), subject to payment of any required fees pursuant to Section below.

- Copies available handed to requestor at
- E-mailed to [REDACTED]
- Available for review at [Click or tap here to enter text.](#)
- Mailed to
- Faxed to [Click or tap here to enter text.](#)

3. Appointment for Inspection or Pick-up

The Specified Records will be made available for inspection or pick-up at [Click or tap here to enter text.](#) You must call the Freedom of Information Office at the City of Rockford Legal Department at [Click or tap here to enter text.](#) To schedule an appointment for inspection or pick up of the Specified Records.

If, within five Business Days after the date of this Notice of Approval, you have not made an appointment to inspect or pick up the Specified Records, then the Specified Records will be refiled and will be made available to you only upon filing of a new Request for records.

Pursuant to Sections 2(c-10) and 3.1 of the Illinois Freedom of Information Act, 5ilcs 140/2(c-10) and 140/3.1, the City has determined that Your Request is a request made for commercial purposes, The Specified Records will be available for inspection or pick-up on or after [Click or tap to enter a date.](#) If, within five Business Days after the Availability Date, you have not made an appointment to inspect or pick up the Specified Records, then the Specified Records will be re-filed and will be made available to you only upon the filing of a new Request for records.

4. **Copying and Certification Fees**

No copies or certified copies of the Specified Records will be provided to you until the following applicable fees have been paid. Fees must be paid in cash, by cashier's or certified check or by money order.

8 ½ x 11 or 8 ½ x 14 Black and White Copy Cost:

First 50 Pages : Free

Additional Pages: \$.15 per page

Reproduction of Electronic Medium Cost: \$Click or tap here to enter text.

Outside Vendor Cost: \$Click or tap here to enter text.

Other Actual Reproduction Cost: \$Click or tap here to enter text.

Cost as Fixed by Statute: \$Click or tap here to enter text.

Total Fee: \$Click or tap here to enter text.

The following provisions marked with an "X" apply to your request:

There were no fees for this request.

Your fees have been paid in full.

Your request for a fee waiver or reduction has been approved in the following amount: \$Click or tap here to enter text..

Your request for a fee waiver or reduction has been denied.

You have previously deposited the following amount: \$Click or tap here to enter text..

A balance is now due in the following amount: \$Click or tap here to enter text..

5. **Mailing of Records**

Your request that the City mail the Specified Records to you has been denied on the basis that you have not shown that it would be unduly burdensome for you to arrange to pick up the Specified Records.

Your request that the City mail the Specified Records to you has been approved. However, before the City will mail the Specified Records, you must pay the balance, if any, indicated in Section V above and the following additional amount to cover the cost of the postage:

Dated: 11/14/2022

CITY OF ROCKFORD

By: *Christina Hargrove*

Freedom of Information Liaison Officer

STATE OF ILLINOIS)

) SS.

COUNTY OF WINNEBAGO)

PROOF OF SERVICE

I, Christina Hargrove, being duly sworn on oath, state that on the 14th day of November, 2022, on or about the hour of 09:11 AM. I personally delivered or mailed the foregoing document entitled "**NOTICE OF APPROVAL OF REQUEST FOR PUBLIC RECORDS**" by:

Personally handing it to the person to whom it is addressed.

E-mailing it to the following email address: [REDACTED]

Faxing it to: [Click or tap here to enter text.](#)

Placing it in an envelope addressed to the person to whom it is addressed at the address to which it is addressed and depositing said envelope, with proper postage affixed, in the United States post office or mail box located at:

Signed: CHRISTINA HARGROVE

Subscribed and sworn before me this

_____ day of _____, 20____.

NOTARY PUBLIC

City of Rockford, Illinois

Community & Economic Development Department
Construction and Development Services
425 East State Street, Rockford, IL 61104
Phone: (779) 348-7158 Fax: (815) 967-4243 TDD: (815) 987-5718
Web: www.rockfordil.gov



PERMIT

Electrical Permits - Remodel and Alter Comm

Date Issued: 6/30/2022 2:02:18 PM

Permit #: ELECT20221651

PROPERTY INFORMATION

Address: 611 AUBURN ST ROCKFORD, IL 61103
Occupancy Type: B
Permit Type: Electrical Permits
Valuation: \$16,000.00

Pin #: 11-13-182-026
District:
Group Type: B_Business
Square Feet: 1,600

OWNER INFORMATION

CONTRACTOR INFORMATION

MGM-K CONTRACTORS INC
Contractors, Mgm-k
3261 FOREST VIEW RD
ROCKFORD IL, 61109
(815)243-0873

DESCRIPTION OF WORK

Remodel - Paint walls, Vinyl floors , ramp build 3' x 30", lighting + receptacles -Counter permit per nelson
06/30/2022

FEES

Total Fees: \$0.00

Total Paid: \$0.00

Balance: \$0.00

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

COMMENTS:

auto generated since it was over a year since permit was issued

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

City of Rockford, Illinois

Community & Economic Development Department
Construction and Development Services
425 East State Street, Rockford, IL 61104
Phone: (779) 348-7158 Fax: (815) 967-4243 TDD: (815) 987-5718
Web: www.rockfordil.gov



PERMIT

Mechanical Permits - FurnaceAC for Commercial

Date Issued: 7/26/2022 3:23:08 PM

Permit #: MECH20222058

PROPERTY INFORMATION

Address: 611 AUBURN ST ROCKFORD, IL 61103
Occupancy Type: B
Permit Type: Mechanical Permits
Valuation: \$3,200.00

Pin #: 11-13-182-026
District:
Group Type: B_Business
Square Feet: 1

OWNER INFORMATION

CONTRACTOR INFORMATION

DESCRIPTION OF WORK

FURNACE OF 80 % EFFICIENCY 80,000 BTU

Latino Heating & Cooling
Latino Heating & Cooling
Manzanarez, Victor
701 Wood Ave
Machesney Park IL, 61115
(815)519-1542

FEES

Total Fees: \$93.72

Total Paid: \$93.72

Balance: \$0.00

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

COMMENTS:

auto generated since it was over a year since permit was issued

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

City of Rockford, Illinois

Community & Economic Development Department
Construction and Development Services
425 East State Street, Rockford, IL 61104
Phone: (779) 348-7158 Fax: (815) 967-4243 TDD: (815) 987-5718
Web: www.rockfordil.gov



PERMIT

Multifamily/Commercial Permits - Remodel and Alter Comm

Date Issued: 6/30/2022 2:03:43 PM

Permit #: MULCOM20221613

PROPERTY INFORMATION

Address: 611 AUBURN ST ROCKFORD, IL 61103
Occupancy Type: B
Permit Type: Multifamily/Commercial Permits
Valuation: \$16,000.00

Pin #: 11-13-182-026
District:
Group Type: B_Business
Square Feet: 1,600

OWNER INFORMATION

CONTRACTOR INFORMATION

CHRISTENSEN, DENNIS
5620 LAKE MENDOTA DRIVE
MADISON WI, 53705
(608)575-5959

DESCRIPTION OF WORK

Remodel - Paint walls, Vinyl floors , ramp build 3' x 30", lighting + receptacles -Counter permit per nelson
06/30/2022

FEES

Total Fees: \$305.80

Total Paid: \$305.80

Balance: \$0.00

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

COMMENTS:

auto generated since it was over a year since permit was issued

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

City of Rockford, Illinois

Community & Economic Development Department
Construction and Development Services
425 East State Street, Rockford, IL 61104
Phone: (779) 348-7158 Fax: (815) 967-4243 TDD: (815) 987-5718
Web: www.rockfordil.gov



PERMIT

Plumbing Permits - Remodel and Alter Comm

Date Issued: 7/5/2022 4:52:27 PM

Permit #: PLUM20222006

PROPERTY INFORMATION

Address: 611 AUBURN ST ROCKFORD, IL 61103
Occupancy Type: B
Permit Type: Plumbing Permits
Valuation: \$800.00

Pin #: 11-13-182-026
District:
Group Type: B_Business
Square Feet: 1,600

OWNER INFORMATION

CONTRACTOR INFORMATION

Leon Foster
FOSTER'S PLUMBING
Foster, Leon
2603 CUSTER
Rockford IL, 61108
(815)509-3537

DESCRIPTION OF WORK

ZGR 7/01/22 - JIM SAWDEY BROUGHT IT BACK TO THE COUNTER AND SAID IT WAS OKAY TO ISSUE AS IS. NO CHANGES NECESSARY. Do not issue-per Nelson 07/01/2022 JHAZGR 6/30/22 - OK PER JIM SAWDEY; FIX EXISTING PLUMBING FITING WATER HEATER. BE SURE IT IS DONE PROPERLY. FIX PLUMMBING BATHROOM. FIX PLUMBING KITCHEN AREA. 40 GAL WATER HEAR. LAV, SINK.

FEES

Total Fees: \$78.10

Total Paid: \$78.10

Balance: \$0.00

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

COMMENTS:

auto generated since it was over a year since permit was issued

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

City of Rockford, Illinois

Community & Economic Development Department
Construction and Development Services
425 East State Street, Rockford, IL 61104
Phone: (779) 348-7158 Fax: (815) 967-4243 TDD: (815) 987-5718
Web: www.rockfordil.gov



PERMIT

Single Family Dwelling - Renew Home Occupation

Date Issued: 2/4/2022 12:08:22 PM

Permit #: SFD20221091

PROPERTY INFORMATION

Address: 611 AUBURN ST ROCKFORD, IL 61103
Occupancy Type: R-3
Permit Type: Single Family Dwelling
Valuation: \$1.00

Pin #: 11-13-182-026
District:
Group Type: R-3_1-2 fam Residential and
Square Feet: 0

OWNER INFORMATION

CONTRACTOR INFORMATION

CHIN, D.C., DR. SAM
611 AUBURN ST
ROCKFORD IL, 61103
(815)962-6363

DESCRIPTION OF WORK

2021 HOME OCCUPATION RENEWAL FOR CHIROPRACTIC

FEES

Total Fees: \$59.40

Total Paid: \$59.40

Balance: \$0.00

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

ANY AND ALL SUBCONTRACTORS MUST OBTAIN THEIR OWN PERMITS AND CALL FOR THEIR OWN INSPECTIONS. FAILURE TO DO SO MAY RESULT IN FINES

ROCKFORD TOWNSHIP PROPERTY INFORMATION

- Property
- Aerial
- Values & Exemptions
- Tax Bills

Property Location

Legal Description

Parcel Number: 11-13-182-026

HARLEM PARK SUB PT N1/2 SEC 13-44-1 (EXC S 3 FT TO CITY BY 05-43921) W 50 FT LOTS 8-9 &10 BLK 35

Property Code:

Address: 611 AUBURN ST
Rockford, IL 61103

SEC / TWP / [LOT] / RNG [BLK] / ACRES

000 000 000 0.00

Taxpayer: CHRISTENSEN , DENNIS
5620 LAKE MENDOTA DR
MADISON , WI 53705



Improvement Information

NBHD: 05806

Class: COMMERCIAL

Land Use: OFFICE

Building Name: DR CHIN

Zoning: R1

Year Built: 1925

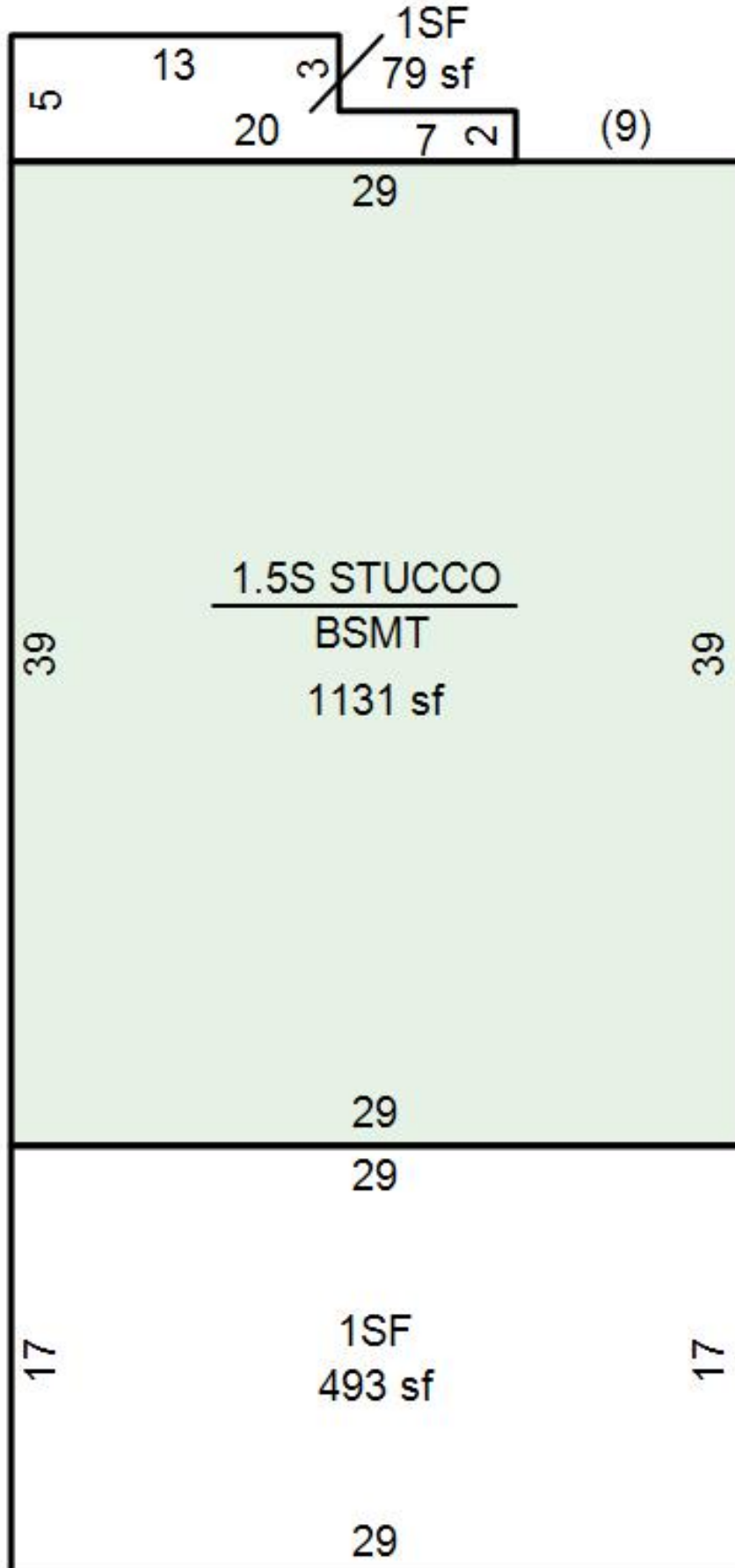
Exterior Wall Height: 8

Exterior Walls: STUCCO

Gross Building SF: 1,680

Land SF: 6,813

Sketch



Building Permits

Pick-Up Year	BP Amount	Purpose
2011	4,000.00	TEAR OFF+RE-ROOF
	16,000.00	Remodel Paint walls Vinyl floors ramp build 3' x 30 lighting + receptacles Counter permit per nelson 06/30/2022
	16,000.00	Remodel Paint walls Vinyl floors ramp build 3' x 30 lighting + receptacles Counter permit per nelson 06/30/2022
	3,200.00	FURNACE OF 80 % EFFICIENCY 80000 BTU
	800.00	ZGR 7/01/22 JIM SAWDEY BROUGHT IT BACK TO THE COUNTER AND SAID IT WAS OKAY TO ISSUE AS IS. NO CHANGES NECESSARY. Do not issueper Nelson 07/01/2022 JHAZGR 6/30/22 OK PER JIM SAWDEY FIX EXISTING PLUMBING FITING WATER HEATER. BE SURE IT IS DONE PROPERLY. FIX PLUMMBING BATHROOM. FIX PLUMBING KITCHEN AREA. 40 GAL WATER HEAR. LAV SINK.

Sales History

Date	Type	Amount	Notes	Deleted
2022		\$75,000		N

Notes

SDR HOUSE CONVERTED TO OFFICE +APT UP,1 CAR DET GARAGE 10 BP DONE FOR 1/11-NO AV

Information on this site was derived from data which was compiled by the Rockford Township Assessor's office solely for the governmental purpose of property assessment. This information should not be relied upon by anyone as a determination of ownership of property or market value. No warranties, expressed or implied, are provided for the accuracy of data herein, its use, or its interpretation.

Although it is periodically updated, this information may not reflect the data currently on file in the Assessor's office. The assessed values may NOT be certified values and therefore may be subject to change before being finalized for ad valorem assessment purposes.

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**GROUP
EXHIBIT J**

**CITY OF ROCKFORD
ZONING BOARD OF APPEALS
ROCKFORD, ILLINOIS**

IN RE: Rockford Family Initiative, Association;)
Shawn and Lisa Rylatt, Individuals,)
Amie Lotzer, Individual,)
Petitioners,)

ZBA FILE NUMBER: 057-22

v.)
City of Rockford Zoning Officer)
Respondent.)

PROPERTY ADDRESS:)
611 Auburn Street)

DECISION

This matter before the Zoning Board of Appeals on Petitioners' request for a reversal of a determination made by the City of Rockford Zoning Officer, after argument and testimony before the Board, the Board being duly advised, hereby finds the following:

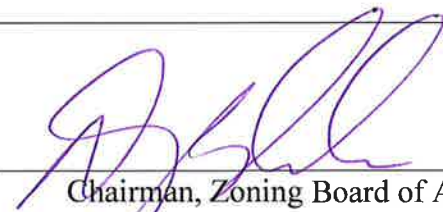
The proposed use of the Property at 611 Auburn Street by the owner **IS/IS NOT** consistent with the previous legally established non-conforming use (home occupation of a medical nature).

Said findings being made, and upon a vote of 6 to 0 in this matter is hereby:

Affirmed

Reversed

Reversed and Modified to the Following:

SO ORDERED:  Date: 12/20/22
Chairman, Zoning Board of Appeals

**THIS DECISION IS A FINAL DETERMINATION SUBJECT TO REVIEW UNDER THE ILLINOIS
ADMINISTRATIVE REVIEW LAW 65 ILCS 5/11-13-13.**

EXHIBIT K



MEMORANDUM

DATE: December 16, 2022

TO: Zoning Board of Appeals

CC: Petitioners, Rockford Family Initiative, Shawn and Lisa Rylatt, and Amie Lotzer
Attorney Ann Dempsey for Rockford Family Planning Center, LLC

FROM: Scott Capovilla, Planning and Zoning Manager (“Zoning Officer”)

RE: ZBA Item 057-22, 611 Auburn Street Appeal of Zoning Determination

Appeal

In response to the appeal application (Appeal) filed by Rockford Family Initiative (RFI), Shawn and Lisa Rylatt, and Amie Lotzer (“Petitioners”), this item comes before the Board for disposition on the Zoning Officer’s Determination on the proposed re-use of 611 Auburn Street, PIN 11-13-182-026, (“Property”). In a letter dated October 3, 2022, the Zoning Officer made a determination that the proposed use of the Property by Rockford Family Planning Center was consistent with the Special Use Permit (SUP) to re-establish a non-conforming use (home occupation of a medical nature) dating back to 1982.

Procedure

Attached is a copy of Article 66, “Appeals of Administrative Decisions” of the City of Rockford Zoning Ordinance (“Zoning Ordinance”) for your review.

Section 66-004 in its pertinent part states:

...The concurring vote of 4 members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement or decision, or determination of the administration official.

A copy of the Zoning Board of Appeals Rules of Procedure is also attached.

Background

The Zoning Officer believes that Dr. Kenneth Daub owned the Property and was operating a home occupation of a medical nature at the Property in 1981 and prior. (Exhibit 1) Dr. Sam Chin purchased the Property in 1981 and made an application to the City for a home occupation permit (Exhibit 2) and special use permit (SUP) to re-establish a home occupation of a medical nature as non-conforming use. (Exhibit 3) Thereafter, Dr. Chin was operating a home occupation of a medical nature out of the Property for 40 years with one non-resident employee until approximately June, 2022 when Dr. Dennis Christensen purchased the Property.

On June 12, 2020, City Land Use Planner Brenda Muniz, issued a Zoning Confirmation regarding the Property. (Exhibit 4) The letter stated that a special use permit (SUP) was granted to re-establish a home occupation as non-conforming use, with Variations to reduce the landscaping strips, permit a 5-foot fence and allow the existing setbacks to remain “as is.” The Variation to allow 4 advertising signs totaling 28 sq. ft. to be attached to the building and allow the employment of a person not a member of the household was approved on January 4, 1982 with conditions.”

On August 9, 2022 the Zoning Officer received a request from Attorney Ann Dempsey for zoning confirmation of the continued use of a SUP by a new owner of 611 Auburn Street in Rockford, Illinois. (Exhibit 5) The letter stated that the Property will be used as a general medical office for patients, have 2 staff persons and occasionally other medical personnel. Additionally, there is residential space on the second floor that will remain residential space. The owner of the Property, Dr. Christensen, intended to use the Property as his secondary residence. The letter stated that the proposed use conforms to the SUP and is consistent with the past 40-year use of the Property. *Id.*

On August 25, 2022, the City’s Zoning Officer issued a response letter to Attorney Dempsey’s zoning confirmation request. (Exhibit 6) The response stated that the Property is located within the R-1, Single-family District and was granted a SUP to re-establish a non-conforming use (home occupation of a medical nature) in 1982. In 1982, Section 33-29(II)(A) of the City of Rockford Code of Ordinances outlined the required conditions which must be met in all cases of home occupations one of which is “(3) Only members of the immediate family permanently residing on the premises shall be employed in the home occupation.” This is consistent with the current City of Rockford Zoning Ordinance, Section 53-003-D, which only allows permanent residents of the home to be employed in the conduct of a home business. The Zoning Officer made the determination that in order to allow continuation of this lawfully established non-conforming use in the R-1, Single-family Zoning District, a resident of this home must live permanently and work in this facility and only one person that is not a member of the household can be employed at this business. *Id.*

On September 28, 2022, Attorney Dempsey sent a follow up letter (Exhibit 7), withdrawing a September 13, 2022 letter. (Exhibit 8) Attorney Dempsey clarified that one

of the employees of Rockford Family Planning Center desires to permanently reside at the Property. Additionally, there will be one additional person employed who is not a member of the household. The September 28, 2022 letter is intended to correct the actual current intent of the home occupation. *Id.*

On October 3, 2022, the Zoning Officer responded to Attorney Dempsey's September 28, 2022 letter stating that the description of the use of the Property would conform to the SUP granted in 1982 to re-establish a non-conforming use (home occupation of a medical nature), as there would be one employee permanently residing at the residence and no more than one non-household person employed at the Property. (Exhibit 9)

Petitioners filed this appeal on of the Zoning Officer's determination on November 17, 2022.

Staff Position

1. Rockford Family Initiative, Shawn and Lisa Rylatt, and Amie Lotzer are not aggrieved by the Zoning Officer's Determination that the proposed use is consistent with the previous use as a home occupation as a medical office with one employee not a member of the household because they don't have any special damages as a result of the continued use and the Zoning Officer's Determination will not result in changes that will impact their neighborhood.

The Zoning Officer's Determination was simply that the proposed use of a home occupation of a medical nature with one additional non-household person as an employee is consistent with the previous use at the Property dating back to 1982. The Petitioners are not "aggrieved parties" for a variety reasons. First, RFI is not an aggrieved party because it does own property near the establishment and is merely an entity with a self-proclaimed interest in the issue, which is insufficient to establish standing. Second, although Rylatt and Lotzer reside in a neighborhood near the property, there is no evidence that continuing the established use will negatively impact their neighborhood. For example, there is no evidence that the continuance of a medical office as a home occupation with one employee not a member of the household will increase traffic, decrease property values, jeopardize the safety and wellness of themselves and their families, or the peaceful enjoyment of their neighborhood.

Petitioners' Appeal is based upon Section 11-13-12 of the Illinois Municipal Code, which states that "an appeal to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality." 65 *ILCS* 5/11-13-12; *see also* Section 66-001 of the City of Rockford Zoning Ordinance.

The term "aggrieved" is not defined within the Illinois Municipal Code. The Board must then consider how the term has been defined by the courts of the State of Illinois in order to determine whether Petitioners have standing. Neither individuals nor associations have standing as "aggrieved parties" simply because they do not agree with a zoning

officer's decision. The appellants must show that they have some legally cognizable interest. *Village of Chatham v. County of Sangamon*, 216 Ill. App. 2d 296 (2005). In general, in order to establish standing, a neighboring property owner must present evidence showing that he or she will sustain special damage different from damage sustained by the public generally. *Treadway v. City of Rockford*, 28 Ill. 2d 370, 192 N.E.2d 351, 355 (Ill. 1963).

A party cannot declare themselves an aggrieved party merely through a self-proclaimed concern about an issue, no matter how sincere. *Landmarks Preservation Council v. City of Chicago*, 125 Ill. App. 2d 164, 175 (1988). *Westwood Forum v. City of Springfield*, 261 Ill. App. 3d 911, 921 (4th Dist 1994). In addition, mere proximity to the contested property without proof of actual damage to the property is not sufficient. *222 East Chestnut St. Corp. v. Board of Appeals of City of Chicago* 10 Ill.2d 130, 132 (1956). Petitioners must allege that the proposed structure has an adverse effect on their properties as to light and air, traffic congestion, or real estate values. *Id.*

RFI does not have standing as an aggrieved party. RFI has not provided any evidence whatsoever that it will sustain special damage different from damage, if any, sustained by the public generally due to the continued legal non-conforming use (home occupation of a medical nature). RFI is not an adjacent property owner. In fact, the Petitioner's Application to Appeal lists the address of Rockford Family Initiative as 4688 Quarry Ridge Trail in Rockford, Illinois which is 5.8 miles away from the Property. Paragraph 8 of the Appeal states, "The RFI and Shawn and Lisa Rylatt have an interest in the proper governance and execution of the Rockford Zoning Ordinances, their property values, the safety and wellness of themselves and their families, and the peaceful and quiet enjoyment of their city and neighborhood." (Appeal, ¶8). General interest in the governance of zoning ordinances is insufficient to establish any party as "specially" aggrieved. All residents in Rockford share the same interest. In addition, the Zoning Officer's determination will in no way affect the property value of 4688 Quarry Ridge Trail, the safety and wellness of RFI, and the peaceful and quiet enjoyment of its neighborhood.

Similarly, Shawn and Lisa Rylatt and Amie Lotzer also lack standing as aggrieved parties who will sustain special damage different from damage, if any, sustained by the public generally. It is worth continuing to point out that the Property has been used as a home occupation of a medical nature for decades. In 1982 (Section 33-29(II) (1982)) and today (Article 53), the Rockford Zoning Ordinance permits home occupations (Exhibit 10 and Exhibit 11) within a R-1 Single-family District. Additionally, the previous owner, Dr. Chin, employed one nonresident employee during the 40 years he operated his business at the Property. Therefore, the proposed re-use is consistent with the use for the last 40 years. Petitioners must show how a consistent use is now somehow going to cause them special damage in order to have standing on this appeal.

While the Appeal asserts that these parties live within 2.5 blocks of the Property (Appeal, ¶6 and ¶7), absolutely no evidence has been provided to show that there will be any effect on these residences or individuals due to the continued legal non-conforming

use (home occupation of a medical nature). The Appeal makes unfounded statements such as, “[a]bortion clinics are known for bringing disturbances, loud protests and counter-protests, decreases in nearby property values, significant traffic impacts, and increased threats to the quiet enjoyment, safety and wellness of others.” (Appeal, ¶9). However, Petitioners have provided no factual evidence to show that the continued legal non-conforming use (home occupation of a medical nature) will lead to any of these things. In fact, with respect to Shawn and Lisa Rylatt and Ms. Lotzer, the Appeal simply states, without more, that the individuals live and own property within 2.5 blocks of the Property and frequently uses the area near the Property. The Rylatts and Ms. Lotzer do not even reside on Auburn Street. In fact, they reside across Auburn Street and down Harlem Boulevard to the Rylatt’s and then up Hancock Street to Ms. Lotzer’s property. In no way does simply residing at a property somewhat nearby equate to special damage.

It is clear that the Petitioners’ have not and cannot present any factual evidence showing that they will sustain special damage different from damage sustained by the public generally by the Zoning Officer’s Determination to allow the proposed re-use at the Property. The Board should rule as such. If the Board, for some reason, rules that any one of the Petitioner’s does have standing, the Zoning Officer has also addressed the Petitioners’ Counts I through III of the Appeal below.

2. Response to Petitioner’s Count I (“Certificate of Zoning Compliance is Void”)

Count I of Petitioner’s Appeal contends that the Zoning Officer’s Determination is void because it conflicts with the provisions of the Zoning Ordinance. (Appeal, ¶25) Petitioners’ state the Zoning Officer’s Determination was not accompanied by a plat and plot plan pursuant to Section 60-001-G and Section 60-001-G of the Zoning Ordinance. The lack of a plat and plot plan does not void the Zoning Officer’s Determination. Section 60-001-C of the Zoning Ordinance clearly states that “[t]he Zoning Officer shall determine the information and plans necessary to demonstrate compliance with the ordinance.” The Zoning Officer determined that the conditions of the Property (landscaping, parking, building site) have not changed and are not proposed to change, therefore, the Zoning Officer did not require that a plat and plot plan be attached to the request.

Petitioners claim the Zoning Officer’s Determination is void because there is no SUP existing or active for the Auburn Location. While the Zoning Officer was not able to find the SUP in the City’s archived files, he based his determination on the totality of the circumstances with the information he had to draw a conclusion that the City has been operating as if an SUP existed for the last 40 years. At the time of the Zoning Officer’s Determination, there were city council minutes from 1982 indicating that Dr. Chin had appealed to city council to allow one additional person not a member of the household to work at the Property. City council minutes available to the Zoning Officer at the time of his determination indicated that the request was granted. (Exhibit 12) Subsequent search of council records after the Zoning Officer’s Determination indicate that Dr. Chin withdrew his appeal with the intent to refile based on pending council legislation. (Exhibit 13) Although City Staff has been unable to find the SUP, a 1983 letter from City Staff to Dr.

Chin states that all of Dr. Chin's zoning appeals were granted. (Exhibit 14) In addition, the Property was being used by Dr. Chin as a home occupation of a medical nature with one additional employee not a member of the household since 1982. Dr. Chin bought the Property from another doctor who the Zoning Officer believes was also operating a home occupation of a medical nature at the Property, for years prior. Dr. Chin indicated to City Staff that during the 40 year time period he operated his medical office on the Property, he had 2 different non-resident employees working for him at separate times. City Staff also has records of annual home occupation permits for the Property which also indicates that the legal non-conforming use (home occupation of a medical nature) continued for decades. (Exhibit 15) All of the above indicates again that the City was operating as if a SUP existed that authorized deviations from the home occupation requirements of the Zoning Ordinance for 40 years.

The Petitioner next incorrectly claims the proposed use does not comply with Article 20, Article 53, and Article 63 of the Zoning Ordinance. It is irrelevant that the proposed use does not comply with Article 20 (Residential Districts), Article 53 (Home Businesses), and Article 63 (Special Use Permits) of the Zoning Ordinance because the Zoning Officer's Determination is based on the existing legal non-conforming use pursuant to Article 80 (Nonconformities) of the Zoning Ordinance. Therefore, the proposed use does not need to comply with these Articles of the Zoning Ordinance.

3. Response to Petitioners' Count II ("Any Existent Special Use Permits at the Auburn Location are Void")

Count II of Petitioners' Appeal incorrectly contends that there is evidence of the intent of the Property owner, Dr. Christensen, to abandon the special use of Dr. Chin at the Property. (Appeal, ¶28) Petitioners also incorrectly contend that the SUP for the Property has lapsed and is void. (Appeal, ¶29) There is no evidence of a clear intent on the part of the owner, Dr. Christensen, to abandon the special use on the Property. A zoning confirmation was sought by the real estate agent for Dr. Christensen prior to his purchase of the property. (Exhibit 4) Then, Attorney Dempsey corresponded with the Zoning Officer regarding the continued re-use in her August 9, 2022 letter and follow up letters (Exhibits 5, 7, 8) thereby commencing a request to continue the reuse of the Property. Given such, at no time was the SUP discontinued for a period of 12 to 23 months causing it to lapse. (*see* Section 63-012-C of the Zoning Ordinance) In fact, there was clear record that Dr. Christensen's intent was *not* to abandon the use. Further, the City has records that Dr. Chin paid the annual renewal fee for a home occupation permit for 2022, which indicates that there has been no evidence that the special use under Dr. Chin has lapsed and/or is void under Section 63-012-C of the Zoning Ordinance because the use was not discontinued for a period of 24 consecutive months.

4. Response to Petitioner's Count III ("Certifying the Proposed Use Negates the Purpose of Special Use Permits")

Petitioners incorrectly contend that the proposed use should have an independent review pursuant to Article 63 of the Zoning Ordinance because of its very unique

characteristics, traffic impacts, and effects on the neighborhood and community surrounding the Property. Petitioners also incorrectly contend that a lack of an independent review of a SUP for the proposed use the purpose of SUPs negates the purpose of Section 63-001 of the Zoning Ordinance. Section 70-002-B outlines the Powers and Duties of the Zoning Officer. Subsection 8 gives the Zoning Officer the authority to “[i]ssue a certificate of zoning compliance upon request for *nonconforming uses* existing at the time of passage of this Ordinance or any amendment thereto.”

Additionally, Section 60-001-B(2) of the Zoning Ordinance, gives the Zoning Officer the authority to issue certificates of zoning compliance:

A Certificate of Zoning Compliance is a written statement issued by the Zoning Officer stating to the best of the Officer’s ability that existing buildings or structures and the proposed use of said buildings or structures and/or the proposed use of subject property is in compliance with all of the provisions of this Zoning Ordinance and any amendments, variations, *special use permits granted*, or any other Zoning Board of Appeals, City Council or court action related thereto.

(Id.) (emphasis added)

Additionally, as was done in this case, aggrieved parties have the right to appeal a Zoning Officer’s Determination pursuant to Article 66 of the Zoning Ordinance. It follows that the clear intent of the Zoning Ordinance is to give the Zoning Officer authority to issue Certificates of Zoning Compliance in situations such as the request for confirmation of the legal non-conforming use at the Property. Further, as previously stated, the proposed re-use is consistent with the previous use by Dr. Chin (home occupation of a medical nature) and therefore, there are no new unique characteristics, traffic impacts, and effects on the neighborhood and community surrounding the Property. In fact, the Zoning Ordinance does not distinguish between specialized fields within medical practices.

Zoning Officer’s Recommendation

It is the Zoning Officer’s recommendation that the Board determine that the Petitioners do not have standing to bring this Appeal in that they are not aggrieved parties and have presented no evidence showing that they will sustain special damage different from damage sustained by the public generally, because of the proposed re-use of the legal nonconforming use.

Notwithstanding the issue that the Petitioners have not established that they are aggrieved parties, the Zoning Officer further recommends that the Board affirm the Zoning Officer’s Determination that the proposed legal non-conforming use is consistent with the previous use (home occupation of a medical nature). The City has been operating as if a SUP existed for the last 40 years and believes the use dates back even years prior. The City issued a letter in 1983 to Dr. Chin which stated that all of Dr. Chin’s zoning appeals were granted. Lastly, the City has records of annual home occupation permits for the Property

which also indicates that the legal non-conforming use (home occupation of a medical nature) continued for decades. Therefore, the Board should affirm the Zoning Officer's Determination and deny all Petitioners' requests in this Appeal.

**GROUP
EXHIBIT L**

Article 53 | HOME BUSINESSES

53-001 PURPOSE

This section provides for certain types of restricted home businesses within residential districts that are a benefit to both the community and the resident but that are incidental to the use of the home as a residence. The restrictions are intended to preserve the residential character of a neighborhood.

53-002 EXEMPTIONS FOR CERTAIN BUSINESSES

Home businesses in which the business consists entirely of communication via correspondence, telephone, fax or computer modem, and that involve no deliveries to the property by semi-tractor/trailer trucks, and where no clients, customers or students come to the premises for goods and services, shall not be required to obtain a *home business* permit.

53-003 GENERAL REGULATIONS

- 53-003-A. *Home businesses* may be conducted only within the residence and not in accessory structures.
- 53-003-B. No more than 20% of the total floor area of the *dwelling unit* may be used for both the business and related storage.
- 53-003-C. Retail sales are prohibited except for the sale of goods or products produced on the premises.
- 53-003-D. Only permanent residents of the home may be employed in the conduct of the business. Department of Children and Family Services-licensed group and *family* day- care homes are exempt from this limitation.
- 53-003-E. Business hours for customer services are limited to between 8:00 A.M. and 8:00 P.M.
- 53-003-F. There shall be no exterior indication of a *home business* and no exterior storage of materials to be used in conjunction with a *home business*.
- 53-003-G. Any *sign* is limited to a 2 square-foot *sign* indicating only the name of the resident and the address.
- 53-003-H. Deliveries by semi-tractor/trailer trucks are prohibited.
- 53-003-I. *Home businesses* shall produce no offensive noise, vibration, smoke, dust, odors, heat, electrical interference or stray lighting beyond the walls of the *dwelling unit*.
- 53-003-J. *Home businesses* that attract clients or students for services are not permitted in *multifamily dwelling* units of 3 units or more.
- 53-003-K. Total traffic generation for *home businesses* is limited to 20 vehicles per day.
- 53-003-L. Beekeeping subject to the regulations contained in Section **Error! Reference source not found.**

53-004 USES PROHIBITED AS HOME BUSINESSES

Home businesses that fail to meet the requirements of Section [53-003](#) are not permitted and the following activities are expressly prohibited:

- 53-004-A. any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, or small engine repair;
- 53-004-B. animal hospitals;

- 53-004-C. *kennels* and stables;
- 53-004-D. bird keeping facilities;
- 53-004-E. barber shops or beauty shops with more than one chair;
- 53-004-F. dancing schools;
- 53-004-G. restaurants;
- 53-004-H. funeral chapels or homes;
- 53-004-I. crematoria;
- 53-004-J. mausoleums;
- 53-004-K. *medical or dental clinics*;
- 53-004-L. any entertainment or assembly use;
- 53-004-M. the sale of firearms or ammunition;
- 53-004-N. construction businesses or *landscaping* businesses that provide the storage of goods and materials to be used in the operation of the business;
- 53-004-O. warehousing; and
- 53-004-P. welding or machine shops.

53-005 HOME BUSINESS PERMITS AND FEES

- 53-005-A. Permits are required and application may be made in the Zoning Office of the City of Rockford. A period of 15 days should be allowed for staff review of the request for a permit. Should the Zoning Officer make an unfavorable decision, the applicant may appeal this decision in accordance with the appeal procedures set forth in [Article 66](#) of this ordinance.

53-006 INSPECTIONS

Home businesses are subject to annual inspections by the city staff personnel. Inspections will be conducted during the working day. The person to whom the permit was issued shall be present when the inspection takes place.

53-007 REVOCATION OF PERMITS AND FINES

- 53-007-A. Revocation of a *home business* permit may be made for the following reasons:
 1. Any change in the use for which the permit was issued;
 2. Failure to allow annual inspections;
 3. Failure to remit the annual renewal fee within 30 days of the date due;
 4. Noncompliance with any of the provisions herein; or
 5. Violation of any city ordinance or State or federal law.

Article 63 | SPECIAL USE PERMITS



63-001 PURPOSE

The formulation and enactment of a comprehensive Zoning Ordinance is based on the division of the entire City into districts, within which are permitted specified uses that are mutually compatible. In addition to such permitted, compatible uses, however, it is recognized that there are other uses which may be necessary or desirable to allow in a given district, but which, because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated in terms of location and/or operation for the purposes of protecting the community. Such uses are classified in this ordinance as "special uses" and fall into the following general categories:

- 63-001-A.** Uses that have special impacts, unique characteristics, or potentially adverse effects on the neighborhood surrounding the subject site.
- 63-001-B.** Uses that because of their unique characteristics benefit from a case-by- case review of their compatibility with both the existing and planned land uses in the area. This case-by- case assessment allows for review of the design, location, size, and operating characteristics of the proposed use. The process allows the City to judge whether the proposed use will create significant noise, traffic, environmental, or other impacts that may be objectionable or detrimental to other permitted uses in the vicinity.
- 63-001-C.** Uses that have significant visual impacts (e.g. outdoor storage or operations), unique traffic impacts (e.g. drive-through businesses or entertainment facilities), significant environmental impacts (e.g. waste-handling facilities and certain heavy industrial uses) that benefit from an individual assessment of whether the proposed site is suitable for the development and whether the proposed location would have any adverse impacts on adjoining roads or other *public services* or facilities.
- 63-001-D.** It is the presumption of this Ordinance that special uses are not appropriate in a location unless the City determines that all criteria for granting a special use permit have been satisfied either with or without conditions.

63-002 APPLICATION FOR A SPECIAL USE

An application for a special use permit shall be filed on a prescribed form with the Zoning Office. The applicant must include a written description of the proposed use and statements describing how the proposed use conforms to the standards set forth in this Ordinance. In addition, each application must include the following information and material:

- 63-002-A.** Name and address of applicant.
- 63-002-B.** Statement that the applicant is the owner or the authorized agent of the owner of the property for which the special use permit is proposed. If an authorized agent of the owner is the applicant, the agent must also submit the written statement of the owner authorizing the agent to submit the application.
- 63-002-C.** Address, property tax code number and accurate legal description of the property.

- 63-002-D.** An accurate scale drawing of the site showing existing and proposed locations of *streets*, property lines, setback lines, uses, structures, *driveways*, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- 63-002-E.** A list of the names and addresses of the owner of record of each property located adjacent to and/or directly across a *street* or *alley* from the property and the property tax code number for each property.
- 63-002-F.** The application shall be accompanied by the prescribed fee as adopted by the Rockford City Council.
- 63-002-G.** Detailed *landscaping* plans whenever the use involves a parking area which is required to be landscaped; such plans must identified the required landscape areas and should specify plant materials, trees, and other improvements planned. The submission of any landscape plan will be at the discretion of the Zoning Officer and such plans will not be required for projects where the Zoning Officer determines there is a minimal landscaping requirement or in the case of projects where the City is providing financial assistance for redevelopment, and for other projects where the City has the necessary guarantees or assurances that the required landscaping will be installed.
- 63-002-H.** Soil and Water Conservation District report.
- 63-002-I.** An application for a *bed and breakfast* establishment shall also include the following: a floor plan drawn to customary engineering or architectural scale of the proposed *bed and breakfast* establishment showing all rooms and a designation of the room's use, including guest rooms, owners rooms, kitchen and common use rooms; and photographs of the proposed *bed and breakfast building*, *accessory buildings* and the *zoning lot*.
- 63-002-J.** A statement setting forth the nature and extent of this request and explaining how the request satisfies the standards for a special use permit.
- 63-002-K.** Such other information as the zoning officer may determine to be relevant to the request.

63-003 HEARING OF APPLICATION

Upon receipt in proper form of the application and statement, the Zoning Board of Appeals shall hold at least 1 public hearing on the proposed special use permit. The hearing shall be conducted and a record filed in the Zoning Office. Hearings will be conducted in compliance with the rules of procedure adopted by the Zoning Board of Appeals. Notice of the date, time, place and subject matter of the hearing shall be given by:

- 63-003-A.** Posting notice on the property not less than 10 days prior to the hearing; and
- 63-003-B.** Sending written notice via the United States mail, first class, addressed to the person or persons to whom the general real estate taxes for the last preceding year were billed for each lot or tract adjacent to the subject property and delivering notice to the alderman of the ward. Failure of property owners to receive said notice because of change of mailing address, or other reasons beyond the Zoning Officer's control, will not invalidate the proceedings; and
- 63-003-C.** Publishing a notice at least once in one or more newspapers published in the City of Rockford, not more than 30 nor less than 15 days before the hearing, containing the particular location for the request and a brief statement of what the special use permit request consists.

63-004 STAFF REPORT AND RECOMMENDATION

The Zoning Officer or his designated staff shall submit a report and recommendation to the Zoning Board of Appeals on the proposed special use at the time of the public hearing.

63-005 FINDINGS OF FACT AND RECOMMENDATION BY ZONING BOARD OF APPEALS

For the Zoning Board of Appeals to recommend approval of an application for any requested special use permit, it must find that each of the following items is met:

- 63-005-A.** The establishment, maintenance or operation of the special use permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- 63-005-B.** The special use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish or impair property values within the neighborhood.
- 63-005-C.** The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
- 63-005-D.** Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
- 63-005-E.** Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public *streets*.
- 63-005-F.** The special use must, in all other respects, conform to the applicable regulations of the district in which it is located, except in those instances wherein either the use of the property is nonconforming, in which case, exceptions may be made as appropriate to result in the *nonconforming use*, or property becoming more compatible with the existing character of the area.

63-006 ZONING BOARD OF APPEALS MAY CONDITION ITS RECOMMENDATIONS FOR APPROVAL OF A SPECIAL USE PERMIT

The Zoning Board of Appeals may include as part of its recommendation such conditions or restrictions upon the construction, location and operation of a special use as deemed necessary to secure the general objective of this Ordinance. Such conditions or restrictions shall include, but not be limited to, provisions for the protection of adjacent property, the expiration of said special use permit after a specified period of time, and off-street parking and loading provisions. Any special use permit approved with a condition limiting the period during which the special use permit will remain in force will automatically be subject to the renewal provisions of [63-013](#).

63-007 DEADLINE FOR ZONING BOARD OF APPEALS RECOMMENDATIONS

Within 35 days after the close of a public hearing on a proposed special use permit, the Zoning Board of Appeals shall make a recommendation accompanied by findings of fact in accordance with the provisions of Section [63-005](#) of this Ordinance and submit it to the Zoning Officer. If the Zoning Board of Appeals fails to make findings and a recommendation within 35 days, then it will be assumed that the Board's recommendation is denial of the application.

63-008 SUBMISSION TO COUNCIL

Within 10 days following the date of a recommendation by the Zoning Board of Appeals on a special use permit application, the Zoning Officer shall transmit, or cause to be transmitted, written notice of said recommendation with findings of fact to the City Council and the Mayor.

Article 66 | APPEALS OF ADMINISTRATIVE DECISIONS



66-001 SCOPE OF APPEAL

An appeal to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Rockford. The appeal shall be taken within 45 days of the alleged grievance or judgment in question. The appeal shall be filed in the Zoning Office on forms furnished by the Officer. Within 10 days of filing, the Officer shall, forthwith, transmit the appeal to the Zoning Board of Appeals, along with all papers constituting the record upon which the action appealed was taken.

66-002 STAY OF PROCEEDINGS

The appeal shall stay all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such a case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals, or by a Circuit Court on the application, with notice to the Officer from whom the appeal is taken and on due cause shown.

66-003 HEARING OF APPEALS

The Zoning Board of Appeals shall fix a reasonable time, not more than 45 days from the date of filing, for the hearing of an appeal and shall give due notice thereof to all the parties involved. At the hearing, any person, including elected officials, may appear in person, or by agent or by attorney. Hearings will be conducted consistent with the rules of procedure adopted by the Zoning Board of Appeals.

66-004 DISPOSITION OF APPEALS

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as it deems necessary. The concurring vote of 4 members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the administrative official. In all cases, the Zoning Board of Appeals shall render its decision within 35 days of the hearing adjournment. If the Zoning Board of Appeals fails to make findings and a recommendation within 35 days, then it will be assumed that the Board's recommendation is denial of the application. All dispositions must be in writing and served upon the parties that participated in the appeal.

66-005 SERVICE OF DECISION ON APPEAL

After the Zoning Board of Appeals has reached decision and issued it, the Zoning Officer shall notify all parties of the Board's decision within 10 days after action by the Zoning Board of Appeals.

66-006 REVIEW OF BOARD'S DECISION

The Zoning Board of Appeals' decision is a final administrative decision and shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, as provided by 65 ILCS 5/11-13-13.

3. **VETERINARY**
Typical uses include pet clinics, dog and cat hospitals, and animal hospitals.
4. **STABLES**
Stables and boarding facilities for horses and similar large animals.

90-003-B. ARTIST WORK OR SALES SPACE

Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries and artist studios, but not including art museums. Art museums are classified in the “Cultural Exhibits and Libraries” use category.

90-003-C. BED AND BREAKFAST

An owner-occupied residence with 4 or fewer guest rooms provided for compensation for a period not to exceed 3 consecutive weeks in which the only meal served is breakfast

90-003-D. BODY ART SERVICES

Provision of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Illinois Medical Board, which may not be performed in a body art services establishment.

90-003-E. BUILDING MAINTENANCE SERVICES

Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications.

90-003-F. BUSINESS EQUIPMENT SALES AND SERVICES

Sale, rental, or repair of office, professional, and service equipment and supplies to the firms themselves rather than to individuals. Excludes automotive, construction, and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.

90-003-G. BUSINESS SUPPORT SERVICES

The provision of clerical, employment, protective, or minor processing services to firms rather than individuals. These businesses provide services rather than goods. Typical uses include secretarial services, temporary employment services, telephone answering services, and blueprint services. This category also includes business or trade schools that do not involve any outdoor storage, training or manufacturing activities. Business or trade schools that include outdoor storage, training or manufacturing processes must be located within an industrial zoning district.

90-003-H. CLINIC, MEDICAL OR DENTAL

An office building or complex for the care, diagnosis and treatment of out-patients; may include laboratory facilities.

90-003-I. COMMERCIAL ACTIVITY CENTER

A mixed-use development containing residential, retail, office, and public uses within a center designed to promote walkability and pedestrian activity. Commercial activity centers may involve the redevelopment of existing retail shopping centers with moderate density housing including senior housing.

90-003-J. COMMUNICATION SERVICE ESTABLISHMENTS

Broadcasting and other information relay services accomplished through the use of electronic or telephonic mechanisms. Excludes services classified as major or minor utilities. Typical uses include

91-051 FENCE, NON-SIGHT -OBSTRUCTING

A *fence* not more than one inch thick in width or depth, excluding posts and rails, that is at least 75 percent open when viewed from an angle perpendicular to the *fence*.

91-052 FLOOR AREA, GROSS

The total square footage of all floors in a building and *accessory buildings* that are devoted to a specific use, measured from the exterior walls.

91-053 FLOOR AREA RATIO (F.A.R.)

The floor area of the *building* (as calculated pursuant to Section [92-005](#)) divided by the total gross area of the *zoning lot* upon which the *building* is located. In the case of a planned unit developments and townhouse developments, the *floor area ratio* of a *building* site is the floor area of all *buildings* on the site divided by the net site area of the *building* site.

91-054 FRONT WALL

In buildings that do not contain more than one dwelling unit or more than one dwelling unit per floor, the front wall is that wall that is generally parallel and closest to the front property line. In buildings with multiple units on a single floor, the front wall is the wall generally perpendicular to the party walls between dwelling units.

91-055 GRADE

The elevation of a lot as measured at the midpoint of the front lot line.

91-056 GROUND COVER PLANT

A low-growing *perennial*, *shrub* or vine that will spread rapidly, grow close to the ground and create a thick, low-maintenance covering that binds and protects the soil. May be *deciduous* or *evergreen*, and generally less than 18 inches in *height*.

91-057 HARD SURFACE

Hard surface is defined as concrete, blacktop (asphalt) or masonry for the purposes of this Ordinance.

91-058 HEIGHT (SEE BUILDING HEIGHT, SIGN HEIGHT)**91-059 HOME BUSINESS**

Any business, profession, occupation or trade carried out for gain or support by a resident of a dwelling that can be conducted as a customary, incidental, and accessory use to the resident's dwelling consistent with the limits of [Article 53](#).

91-060 IMPERVIOUS SURFACE AREA

The area of ground covered by any part of a building, vehicular use area, or any other improvement which prevents or severely restricts natural percolation of moisture. All asphalt, concrete and brick surfaces and areas devoted to any outdoor storage and/or display of materials and merchandise shall be included. Decks that allow rainwater to filter into the ground will not be considered an impervious surface.

91-061 IMPERIOUS SURFACE RATIO (ISR)

The *Impervious Surface Area* divided by the *zoning lot* area.

91-062 KENNEL, COMMERCIAL

The keeping of more than 4 animals, dogs, cats, or other domestic pets over the age of 4 months.