

**City of Prospect Heights
Special Meeting of the Plan/Zoning Board of Appeals
August 16, 2018**

I. MEETING COMMENCEMENT:

The special meeting of the Plan/Zoning Board of Appeals was called to order at 7:01 pm by Chairman Dash, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

II. ROLL CALL:

Present: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen & Chairman Dash
Absent: Commissioner Saewert

Quorum is present.

Present at the meeting: Director of Building & Development Dan Peterson and Recording Secretary: Jennifer Myzia

III. APPROVAL OF July 26, 2018 MINUTES

Correction of date from July 28 to July 26, 2018.

Motion made by Commissioner Tammen, seconded by Commissioner DeGraf to approve the meeting minutes.

ROLL CALL VOTE:

AYES: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen & Chairman Dash

NAYS:

ABSENT: Commissioner Saewert

ABSTAIN:

Motion carried.

IV. OLD BUSINESS

V. NEW BUSINESS

1. PZBA - Public Hearing: Case No. ZBA 18-13SU

Applicant: Greenbrier Prospect Heights, LLC. Represented by Jeff Rappin

Address: 708 N. Elmhurst Rd. Prospect Heights, IL 60070

Description of Request:

The petitioner will be seeking to amend Special Use Permit #O-14-21 to approve transfer of the existing special use to Pathway Property Owner Prospect Heights, LLC which is acquiring the property, and to further amend the special use permit to run with the land per Section 5-10-9 of the City of Prospect Heights Zoning Code

Chairman Dash requests a motion to open public hearing 18-13SU at 7:03 pm

Motion by Commissioner Kempa

Second by Commissioner Tammen

VOICE VOTE:

AYES: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen and Chairman Dash

NAYS:

ABSENT: Commissioner Saewert

ABSTAIN:

Motion carried.

Chairman Dash swears in those wishing to testify.

Director Peterson briefly explains that the owner, builder, developer, Greenbrier is requesting transfer of ownership from themselves to the managing partner Pathways who has been the operator of the center since the opening. In reviewing the Ordinance O-14-21, it states the Special Use granted back then shall run with the applicant not with the land. Therefore before any transfer of property we have to have the Special Use process and that is why we are here this evening.

Lawrence Freedman, Attorney for the applicant with the firm Ash, Anos, Freedman and Logan, LLC located at 77 W. Washington St. Suite 1211 Chicago, IL. Mr. Freedman starts by thanking the board for the special meeting date to accommodate the sale date. Mr. Freedman states the way the ordinance is drawn they aren't prohibited from transferring title to the property that wouldn't be appropriate and essentially they can but because the way the Special Use is drawn it runs with Greenbrier and anybody who wanted to acquire Greenbrier's interest they could buy the land but they could not operate the facility. Mr. Freedman states he is here to ask for approval to substitute Pathway Property Owner Prospect Heights, LLC. for Greenbrier. Pathway already is an owner. They have been a minority owner from day one. They have always been the operator. There will be no change in their obligations, their familiarity or the running of the facility; it just allows them to buy Greenbrier's interest. Secondly, the Special Use should not require this kind of process to go through for a transfer of ownership. Mr. Freedman states he feels the Special Use should run with the land and whoever owns the property should be bound by the terms of the Special Use. That is something that will be discussed as part of the amendment being sought with City Council.

Chairman Dash asks to confirm that the request is asking that the amendment to the Special Use run with the land.

Director Peterson confirms it does. He further states the Planning and Zoning Board of Appeals can make a recommendation to amend this to that regard. The City Council will then have the opportunity to accept the recommendation as submitted, accept the recommendation with changes or deny the request. It is the job of the PZBA to hear the request and make a recommendation to the City Council based on testimony given at this hearing.

Mr. Freedman reiterates the request is two-fold. The first is approval of Pathway to become the party responsible under the Special Use rather than Greenbrier. Then a sale will be closed where Pathway will replace Greenbrier in that regard. Secondly, to request that the ordinance be amended so that the Special Use going forward not run with Pathway Properties but with the property and whoever owns it.

Chairman Dash requests if there is anyone who has come to speak to please step forward. No one has come to testify.

Chairman Dash requests if there are any other questions or concerns from the commissioners.

Chairman Dash requests a motion to close the public hearing on case ZBA 18-13SU

Motion by Commissioner DeGraf
Seconded by Commissioner Kempa
Voice Vote

AYES: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen and Chairman Dash
NAYS:

ABSENT: Commissioner Saewert
ABSTAIN:
Motion carried.

Public hearing closed for 18-13SU at 7:10 pm

Chairman Dash calls for a motion to receive into public record the staff review of the zoning compliance for the application with the zoning standards presented by staff this evening.

Motion by Commissioner Tammen
Second by Commissioner Mellen

VOICE VOTE:

AYES: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen and Chairman Dash

NAYS:

ABSENT: Commissioner Saewert

ABSTAIN:

Motion carried.

Chairman Dash calls for motion to vote on recommending City Council approval for the application before us which is to amend Special Use Permit #O-14-21 to approve transfer of the existing special use to Pathway Property Owner Prospect Heights, LLC which is acquiring the property, and to further amend the special use permit to run with the land per Section 5-10-9 of the City of Prospect Heights Zoning Code

Motion by Commissioner Tammen
Seconded by Commissioner Patel

Roll Call Vote

AYES: Commissioners Kempa, DeGraf, Tammen, Patel, Mellen and Chairman Dash

NAYS:

ABSENT: Commissioner Saewert

ABSTAIN:

This case shall go before City Council on Monday August 27, 2018 at 6:30pm.

VI. Communications -

Director Peterson states in September there will be a re-hearing of 18-11SU as it was discovered after the fact that the public notice was not published in the newspaper and therefore the original hearing is now null and void for no legal hearing. Director Peterson also gave an update on the progress of the Thornton's project.

VII. Adjournment: At 7:13 p.m.

Motion to Adjourn: Commissioner Kempa

Second: Commissioner DeGraf

Voice Vote: Unanimous