



*Village of Colonie*  
VILLAGE HALL  
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**EDWARD SIM**  
DEPUTY MAYOR  
**PATTY SCHWARZ LOCKART**  
TRUSTEE  
**JAMES M. RUBINO**  
TRUSTEE  
**ART WHITE**  
TRUSTEE  
**JAMIE BLOT**  
CLERK

**Minutes**  
**Tuesday, June 6, 2023**  
**6:30 P.M.**

The regularly scheduled meeting of the Village of Colonie Planning Commission was held at Village Hall, 2 Thunder Road Albany, NY 12205 on Tuesday, June 6, 2023.

**ROLL CALL:** Chairman: Chris Dennis-absent

Commissioners: John Martin  
Brittany Kendall  
Kenny Hart-absent  
Jim Splonskowski  
Brian Curran  
Kerry Bytner-absent

Village Attorney: Victor Caponera  
Village Engineer: R.J. Laberge

Liaison: Patty Schwarz Lockart

Acting Chairman Martin opened the meeting at 6:30 p.m. Acting Chairman Martin led the Pledge of Allegiance and requested that all electronic devices be turned off or muted. The Commission reviewed

the regular meeting minutes from May 16, 2023. Commissioner Splonskowski made a motion to approve the minutes as amended. Commissioner Curran seconded the motion.

**VOTE:** unanimous to approve

**Change of Occupancy**  
**12 Jupiter Lane Bldg. 1**  
**Kaba Fusion LLC**

Mr. Brian Eskew, Senior Director of Operations Kaba Fusion and Kurt Bedore, of KB Engineering & Consulting appeared before the Commission.

Mr. Elliott Feinman, owner of the property, was present as well.

Kaba Fusion will be renting the western portion of Building 1 at approximately 14,885 square feet of space. They will be mixing and compounding pharmaceuticals for infusion services to patients on and off site. The previous tenant was Coram CVS which was also an infusion type of service that provided similar services as Kaba Fusion.

The space is being taken as is without any change to the interior footprint. It is considered move in ready only requiring possible painting. It has a clean room, and a floor plan has been provided showing room functions, points of egress, and fire safety equipment. Mr. Bedore stated the site has been evaluated for lighting, the external layout, functionality, accessibility, sewers, drainage, utilities and is fine and functional. The landscaping has matured since the building was constructed. The property is in the Commercial D zoning district.

Acting Chairman Martin asked Village attorney Caponera if Commercial D zone allows for on site infusion for medical injections. Village attorney Caponera read the Code for Commercial D zone. There is

nothing in the code that states anything for this specific use. Initially Acting Chairman Martin stated, based on the lack of code guidance in-house injection of medical use may not be permitted on this site. They would be able to mix and distribute but would need to go to zoning for a variance for the in-house injection. Village attorney Caponera stated, in-house infusion therapy could be considered an accessory use if it's conducted as a clear subordinate part of the permitted principal use similar to the ruling previously used for Fiden's. Mr. Eskew stated that in-house infusion therapy is less than 5% of the business and if there were a patient a day, they would be lucky. Mr. Feinman, property owner, stated that Coram CVS had three infusion rooms for more than ten years. Acting Chairman Martin stated that the previous tenant did not have approval for on-site infusion. This would be considered a subordinate use of "similar services" of the prior tenant.

Mr. Eskew stated that Kaba Fusion takes FDA approved medications in vials or bags and mixes them professionally in a clean room for use by patients. They then refrigerate and send them along with all needed tubing, syringes, needles, etc. to patients' homes. A nurse then goes to administer daily or once a week. It is considered mostly distribution. Their current location at 57 Karner Road does not offer a suite for infusion therapy. Mr. Eskew stated that one out of every twenty to thirty patients need an infusion suite approximately every three months. The infusion suite at 12 Jupiter Lane Bldg. 1 is approximately 5% of the entire building at less than 1,000 square feet. Mr. Eskew stated that two other companies, Optima and Coram had offered the infusion services, and both closed unexpectedly last year leaving Kaba Fusion as the only service provider of infusion therapy.

Commissioner Martin asked Mr. Eskew to explain "in keeping with NYS requirements" to the Commission. Mr. Eskew stated that Kaba Fusion is licensed under DOH Article 17 Home Nursing Facility which allows nurses to see patients in their homes, OSHA requires a Biological Safety

Program where nurses are trained for biological products, blood born pathogen precautions, clean room use and disposal of sharps. Patients receive a container and return box for the disposal of sharps. They are licensed under the Department of Education for pharmacy. It is considered an FDA 503A Compounding facility.

The parking sheet provided did not reflect the office/warehouse split and parking requirements for all the tenants in the building. Mr. Bedore will resubmit the parking sheet with the required information.

Village attorney Caponera stated that the application was an acceptable use as it is mainly distribution, and if the applicant can demonstrate the in-house infusion therapy is an accessory use.

No motion was made to approve the application. Mr. Eskew needs to check with company officials regarding the acceptable percentage of in-house infusion therapy to be offered or provide a maximum of daily patient treatment. Mr. Bedore will be presenting a new parking sheet. A vote will be taken when this information is provided.

**Change of Occupancy**  
**16 Jupiter Lane Suite 1**  
**Eternal Scents LLC**

Mr. Elliott Feinman, the property owner, appeared before the Commission.

Mr. Feinman stated that Eternal Scents takes bulk perfume bottle packages and breaks them down to individual packages to distribute. They sell to the Family Dollar and Dollar General type stores. There is no mixing, just repackaging. There is no office space used and no retail at this site.

Acting Chairman Martin made a motion to approve the Change of Occupancy for Eternal Scents LLC located at 16 Jupiter Way Suite 1. Commissioner Splonskowski seconded the motion.

**VOTE:** unanimous to approve

**Change of Occupancy**  
**30 Wolf Road**  
**Spirit of Halloween**

This application had been received by Coordinator Rueckert and discussed with Acting Chairman Martin. Acting Chairman Martin stated that the application could be presented without a representative. The company has used the same site for several years and the floor plan, hours of operations, and duration of occupancy from July 1, 2023, to November 15, 2023, were included in the application.

Acting Chairman Martin made a motion to approve the Change of Occupancy for Spirit of Halloween located at 30 Wolf Road. Motion was seconded by Commissioner Curran.

**VOTE:** unanimous to approve

**Discussion:**

Village engineer Laberge stated that he had been at the Cabinets to Go site. The site plan shows an existing fence that has been taken down. The applicant stated that they have no intention of replacing the fence. The Commission agreed that the fence needs to be replaced. The applicant would like the dumpster fence to be stockade instead of chain link. The Commission stated that the fence should be a chain link. Village engineer Laberge will notify the applicant.

Village attorney Caponera stated that he has spoken to Mr. Clark's lawyer regarding the easement for 10 and 12 Walker Way and 12 and 14 Walker Way as stated during the last Commission meeting. Attorney Caponera stated that he has reviewed them, however, he does not know if they have been recorded yet.

Commissioner Splonskowski made a motion to adjourn the meeting at 7:20 pm. Commissioner Curran seconded the motion.

Respectfully Submitted,

Joan Rueckert - Planning Coordinator