

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
JULY 16, 2015
MINUTES**

Present: Robert Olewine; Shirley Hicks; Charles E. Cramer, Jr.; James Cooney; Lisa M. Blackson, Esq., Legal Counsel; Charles A. Bromwell, Director, Building & Zoning

Absent: Dawn Schwartz

Mr. Olewine called the meeting to order at 7:00 p.m.

ACTION: Motion was made by Ms. Hicks to approve the minutes from the May 21, 2015 meeting. The motion was unanimously approved.

CASE # 1476 – REQUEST OF WENDY & LEONARD KIEBLER, 251 LOCUST LANE FOR A THIRTY EIGHT (38) FOOT REAR SETBACK VARIANCE TO CONSTRUCT A DECK. THIS ACTION CONCERNS PROPERTY LOCATED AT 251 LOCUST LANE, ELKTON, MARYLAND, TAX MAP 311, PARCEL 2032, ZONED R-2

Mr. & Mrs. Kiebler were in attendance to address this request. They were sworn in and presented their case. Mr. Kiebler stated that when they purchased their house they did not realize the empty lot to the rear of their property did not belong to them. They are requesting to replace the existing landing with a 12' x 12' deck. Mr. Olewine inquired about the location of the steps. Mr. Kiebler stated they wished to move the steps from the side to the rear of the deck. Mr. Bromwell interjected that due to the distance to their property line they would be unable to relocate the steps anywhere other than off the side of the proposed deck. Discussion ensued regarding the location of the property line and Mr. Bromwell revealed that they only have about two (2) feet at the rear of the property before they are into the required setback.

Ms. Hicks asked if they would be replacing an existing deck and Mr. Kiebler stated they would only be replacing a landing. She inquired whether the deck would be on the ground floor or on the second floor. Mr. Kiebler stated that because they have a bi-level the deck will come out on the upper floor of the bi-level and is approximately six (6) feet off the ground.

Ms. Hicks asked if any of their neighbors had any concerns with the placement of the deck. Mr. Kiebler stated they have two neighboring properties, one is in foreclosure and the others neighbors have no concerns.

Mr. Olewine entertained questions or comment from the audience. There were no questions.

MOTION: Motion was made by Mr. Cramer to approve the thirty eight (38) foot rear setback variance for 251 Locust Lane. The motion was seconded by Ms. Hicks and unanimously approved.

MOTION: Motion was made by Mr. Cooney to amend the previous motion to include that construction be completed within a year. The motion was seconded by Ms. Hicks and unanimously approved.

CASE # 1477 – REQUEST OF GLOBAL HEALTH, 308 EAST PULASKI HIGHWAY, ELKTON, MARYLAND FOR A SPECIAL EXCEPTION TO ALLOW A NURSING CARE INSTITUTION IN THE C-2 ZONE. THIS ACTION CONCERNS PROPERTY LOCATED AT 308 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 315, PARCEL 2377, ZONED C-2

Ms. Mary Cannistraro was sworn in and introduced to the Board. Ms. Cannistraro stated she would like to build a twelve (12) room inpatient rehab facility. She noted that ten (10) of the rooms will be on the second floor and two (2) of the rooms will be handicap accessible on the first floor. She plans to have a security system on all doors, entry and exit which will be provided by Quail Security and there will be two (2) security guards on duty around the clock.

Ms. Cannistraro stated she had spoken with Mr. Richard Bayer of Upper Bay Counseling regarding follow-up therapy for patients who are released from her facility. She also noted she spoke with Mike at the Health Department regarding referring patients to their facility as well. In addition, she stated she has been in contact with Johns Hopkins CAP Program to refer 'high risk' patients.

Mr. Olewine asked how many patients they anticipate treating at one time. Ms. Cannistraro stated it could be up to twelve. She stated the length of stay would be determined by the client's insurance.

Mr. Olewine asked if they would be purchasing the land. Ms. Cannistraro stated she would be leasing the property. He asked if parking meets the requirements for this use. She stated it does. Mr. Olewine inquired about ingress and egress from the property and whether she had contacted State Highway regarding her proposal. She stated since there are existing ingress and egress she did not perceive any issues. There was discussion concerning the exact location for the proposed building on the property.

Mr. Olewine entertained question or comment from the audience.

Mr. Paul Katz, a board certified addictionologist in this community since 2002. He inquired as to what professional services would be provided at the facility. Ms. Cannistraro responded there would be social workers and counselors on the premises around the clock. There would also be a registered nurse and an on-call doctor. He asked what qualifications would be required for someone overseeing this facility. She stated they would have to meet the qualifications to be in that facility. She added that a physician has not been chosen at this point but it would require someone who is experienced and knowledgeable in the field.

Dr. Katz inquired whether Dr. Bayer had given his tacit approval, whether she had spoken to and discussed it with him fully. She answered in the affirmative. He took exception to her statement and confirmed that he had spoken with Dr. Bayer during the day and Dr. Bayer had not given his tacit approval. Dr. Bayer stated he was aware of the project but had not endorsed the project. She stated that both she and Lisa Bonner had met with Dr. Bayer concerning providing follow-up

assistance for patients with mental health issues. He asked additional questions concerning staff and medication protocols. She stated their intention is to provide anti-nausea assistance and hydration but do not plan to provide other medications. He asked about patients who have other medical conditions. She stated that would be handled by the doctor on-call. She said they would not be providing medications such as suboxone, for example.

Dr. Katz addressed the Board and stated he would be opposed to the granting of this special exception until questions such as those he has asked have been answered and they are sure the detox can be conducted in a safe environment. He stated he felt due diligence needed to be conducted to confirm adequate supervision of services that meet criteria that should be up to the level of care that is expected and dictated by ACEN criteria.

Mr. Olewine addressed Ms. Cannistraro and stated that the facility would have to be fully licensed and certified through the state of Maryland. Ms. Cannistraro stated that he was correct. Therefore State requirements would have to be met for any staff employed at the facility or for any medications given at the facility.

Ms. Karen Helsel Spry of Appleton Road questioned the distance from Holly Hall School the facility would be. Ms. Cannistraro stated it was approximately ¼ of a mile.

Peg West a resident of Appleton Road questioned how a doctor can determine what medications to give clients if the doctor is on-call and not at the facility. She wondered how soon the medication could be administered depending upon when they are able to reach the on-call doctor.

Ms. Victoria Galbraith a resident of Appleton Road questioned the type of detox which would be done at the facility. Ms. Cannistraro stated it would be for both drugs and alcohol. Ms. Galbraith stated that certain drugs and alcohol it can be very dangerous in detox without certain medications and she feels a doctor should be available around the clock to address these concerns. She stated she agrees with Dr. Katz that more due diligence needs to be done concerning this facility.

Mr. Olewine read the recommendation made by the Planning Commission at their meeting on July 6, 2015 regarding this special exception (copy attached).

MOTION: Motion was made by Mr. Cooney to table the special exception for Global Health in order to gather additional information pertaining to public health and endangerment such as additional details of the treatment process; information regarding the presiding physician; procedure for on call physician treatment; and possible written endorsement from licensing agency of the State of Maryland.

Mr. Olewine announced the continuance of this special exception for the Thursday, August 20, 2015 Board of Zoning Appeals meeting.

**CASE # 1478 – REQUEST OF SHAFFER, MCLAUCHLIN & STOVER, LLC
REPRESENTING SERENITY HEALTH, LLC FOR A SPECIAL EXCEPTION TO
OPERATE A CLINIC IN THE C-3 ZONE. THIS ACTION CONCERNS PROPERTY
LOCATED AT 189 BELLE HILL ROAD, ELKTON, MARYLAND, TAX MAP 303,
PARCEL 257, ZONED C-3**

Mr. Eric McLauchlin, Ms. Nancy Turner and Mr. Paul Thompson were in attendance to address this request. They were sworn in and began their presentation. Mr. McLauchlin stated Serenity Health is family owned company providing programs for outpatient substance abuse for both drugs and alcohol in both Aberdeen and Elkton, Maryland. He provided a synopsis of the programs provided by Serenity, which include early intervention, medication assisted treatment, licensed mental health treatment, intensive outpatient treatment, specialties for patients who are dually diagnosed with both mental health and addiction issues, as well as opportunities for 12-step programs at their facility.

He noted they are a growing company with community awareness which is driving Serenity to expand and relocate to better serve its patients and their families and this community. This is their main reason for moving from their current location.

Mr. McLauchlin identified other members of the staff for Serenity Health and provided credentials for Ms. Nancy Turner which included her being a registered nurse, working in the recovery industry for over 14 years, serves on the Governor's Task Force for Substance Abuse, Cecil County Alcohol & Drug Abuse Council, Maryland Overdose and Fatality Review Board, Overdose Prevention Network and the Strengthening Families Program for the Cecil County Public Schools.

Mr. McLauchlin stated that this request is not a request for a new use. Their intention is to allow an existing, licensed, accredited, operational, experienced staff and funded business to continue serving an existing patient population within this community at a different location. Therefore they are applying for a special exception with conditions in the C-3 zone as set forth in Article XII of the Town Zoning Ordinance. He informed the Board they currently have a lease at 189 Belle Hill Road through Belle Hill, LLC.

He provided a typical schedule for the day which begins at 5:00 a.m. and concludes at approximately 3:00 p.m. He noted patients arrive by either public or private transportation. He stated all the treatment or programs are contained within the building.

He provided a site layout for the building showing the area at the front of the building where they would be providing their services. He noted that the back part of the building was used for warehouse purposes. He informed the Board of the distance to the road and other buildings housing different uses in the immediate area. He stated the closest residential property, The Villages at Belle Hill, is 500' away. The other businesses in the area include PECO, Elkton Gas, Pilot Travel Center and Blue Beacon. He stated all of these uses are similar.

He addressed each of the conditions for the special exception referenced in Article XII, Section 17. He provided photographs which show an existing fence surrounding the building and a gate which provides access for vehicles. Due to the location of the fence the only access to the site is through the gate at the entrance on Belle Hill Road. Therefore there would be no pedestrian access across the parcel. He confirmed that they are able to meet all the conditions of the special exception provided in the Ordinance.

Mr. McLauchlin stated that the Ordinance does not speak to the type of clinic nor the number of clinics allowed in the community. He explained that the function of the special exception is to determine whether this particular use is more injurious in this location than it would be in any other location within the same zone. He addressed special exception general standards as referenced in Article IV, Part II, Section 6 of the Zoning Ordinance point by point.

Mr. Thompson of Architectural Design Works went over the layout of the building and pointed out patient use areas as well as ingress and egress to and from the building. Mr. McLauchlin noted that Serenity Health maintains tight security which is provided through 32 different camera angles.

Mr. Olewine inquired whether there were any contingencies provided to secure pharmaceuticals. It was determined that security of pharmaceuticals falls under State and Federal regulations and therefore these regulations would need to be met.

Discussion ensued regarding the difference in the plan submitted and the plan being presented. Mr. McLauchlin stated the developer had proposed 2 or 3 other buildings and their use would be only in the areas being presented. Mr. McLauchlin added that with respect to their current location at 203 E. Pulaski Highway that they have no relationship with that property owner and the use being proposed for that location once they vacate would be at the discretion of the property owner. He pointed out that no license would remain at that location once they vacate and that a new license would be required if they choose to place the same type of use. They would require all the State and Federal regulations related to that use and they would have to come before the Planning Commission for a special exception.

Mr. McLauchlin suggested the Board use discretion when hearing concerns from the public with respect to the information he has provided. He suggested they consider the following: 1) does the person understand the request and the proposed limit the Code allows; 2) does the person have standing regarding being aggrieved; and 3) the basis for the objection. Mr. McLauchlin provided letters of support to the Board.

Discussion ensued regarding the availability of public transportation to the facility. It was noted that bus service is not available to this location but medical transportation is used by a number of the patients.

Mr. Cramer inquired about other uses within the remainder of the building. Mr. McLauchlin stated the facility is currently empty. It had been a trucking operation with large bays and they

have spoken with the owner concerning their plans for that area. The developer informed them they are hoping to place additional office uses in the remainder of the building. It was suggested that the facility will be a multi-use facility. Ms. Turner informed the Board they are looking with a youth empowerment program as well as a return to work program for those in recovery.

Ms. Hicks requested clarification regarding the reason for their move. Mr. McLauchlin stated they felt they needed a more appropriate space and noted the police activity at their current location. He pointed out that none of the activity has to do with Serenity. He pointed out that pedestrians that walk along Route 40 in front of their current location are not patients of Serenity. He mentioned a specific situation as an example. Serenity hopes to continue to provide more services in the best environment they can provide but it is not their intention to expand larger than what they are currently.

Ms. Hicks recalled their statement that they wanted to meet the needs of the community within Cecil County and inquired about the number of patients who are residents of Cecil County and whether they could determine if they were residents within three (3) years of becoming a patient. Ms. Turner stated that although they would not be able to give the demographics of their patients she advised the Board they currently have three patients from Delaware and the other patients are all from Cecil County. She went on to state that she understands the fears of people in the community. She informed the Board that she entered this business back in 2001 as the sister of a heroin addict and in fact her sister did succumb to the disease. She went on to assure the Board and the audience that they are simply people who are trying to help these people and she is willing to provide her cell phone to anyone who would like to speak with her. She stated her patients are on contract to respect the community and there are strict guidelines that must be followed. She and her staff care about the community. Her staff lives and works in this community and they are working to make this a better community. She pointed out that she does a great deal of work in the community as well.

Ms. Hicks asked the number of patients that are serviced at the facility. Ms. Turner stated there are approximately 500 but their patients receive different types of care and not all of them are receiving methadone treatment. They might be receiving counseling, after care, mental health counseling and many other types of care. She pointed out that not all of these patients are at the facility every day. Mr. McLauchlin pointed out that the census at any clinic of this type is controlled by the State and the number of patients allowed to be served is determined based on the ratios of the number of care providers and the need within the population.

Mr. Cooney asked if the numbers of patients being serviced at their current location would be the same at the proposed location. Mr. McLauchlin answered in the affirmative. Mr. Cooney asked if there were any outpatient process to expand. Mr. McLauchlin responded that the education part of the facility is where they hope to expand. Ms. Turner noted their focus in the education services is with the families of existing patients. Additional discussion ensued regarding proximity to other businesses in the area and the location and size of the parcel.

Mr. Olewine informed the audience that they would be opening the discussion for public comment. He asked that each person state their name and that they limit their comments to five (5) minutes per person.

Joe Stanley, a resident of Appleton Road stated he was not against people getting the help they need but went on to voice his concerns regarding traffic problems in the area. He mentioned the change at the exit near the Petro which brings it closer to this building. There are no sidewalks and his concern is for pedestrian traffic. The closest public transportation he is aware of would be at the Petro and then people would have to walk to the proposed clinic location. He noted that if they are trying to accommodate their patients they are planning to move to the farthest location in Cecil County to do that. He noted that the time the majority of patients are being treated is the same time children would be catching their buses for school and wondered if a traffic study might be beneficial. He asked that the Board consider these issues prior to making their decision. He feels the proposed location would be worse than their current location.

Victoria Galbraith, a resident on Belle Hill Road, also voiced her concern regarding traffic patterns. She noted the newly opened apartments with a lot of children, the fact that she feels it will decrease her property value and that it will increase the amount of traffic in the area.

William Riddle, a resident of Gina Marie Lane, stated he did not believe this use was consistent with the development called out in the Town's Comprehensive Plan. He pointed out that most medical clinics are in the downtown area and agreed that this location is much farther from clients than their current location and from emergency services. He mentioned foot traffic and lack of sidewalks as a concern. He believes this location would endanger public health adversely affect the value of properties in the area. He indicated their lease would be up in a couple of months and that is the reason they are relocating. He stated his research concluded that at their current location the facility is a nonconforming use and the use can be continued if it reopens within 180 days of their vacating the premises. He stated the same use will be going into that location after they move. He stated it will not require a special exception for the same use to open at that location. He did not feel this particular use would be similar to the ones existing near the proposed location.

Karren Helsel Spry, of Appleton Road, stated she agreed with Ms. Galbraith concerning the fact that there are five (5) schools in the area, and the devaluing of their properties. She stated she is the mother of a heroin addict and she has great concerns about the clientele and the safety of the children in the area. She also stated she has concerns about cameras being the only security provided at the facility. She mentioned tractor trailer issues, additional traffic and lack of sidewalks.

Patty Reynolds stated her concerns are that many of the clients live in Elkton and either walk or ride public transportation to get to the clinic. She felt with the move many of their clients will either be walking or riding bicycles along Appleton Road which has no sidewalks and will be very dangerous.

Jordan Carderelli voiced his concern that there will be more traffic issues with this use as opposed to the previous use of a trucking endeavor. He stated there is little foot traffic on this road currently and he understands his neighbor's concerns that people will be cutting through their yards. He feels that their current location would be better suited since there are no residential properties along Route 40 in that area.

Samantha Reynolds, a resident of Appleton Road, is concerned that there will be an increase in crime since she had lived in the area for 25 years and it wasn't until the new housing units were placed that she was robbed. She has seen increases in foot traffic in this area and feels this use would only add to the problem. She mentioned how close the schools were to this location and the fact that Appleton Road has no sidewalks and how dangerous it would be for people walking along Elkton Newark Road. She also has concerns for decreased property values.

Steve Patel, owner of Elkton Lodge, voiced his concerns for additional pedestrian traffic in this area. He currently has people cut across from the bus stop on Route 279 and dump trash on his property. He does not believe this use will be a benefit to Elkton.

Robert Cruz, of Riverside Drive, moved to Elkton approximately a year ago to work at Union Hospital. In that year he does not have a very good impression of Elkton. He has had to call the police twice in the last year because of prowlers. He stated he has invited homeless people to dinner to try to get to know them and understand what they are going through. He does not believe adding another methadone clinic will improve this community and he challenged the Board to review the zoning in order to draw people to this community who want to live and work here.

Patty Barton who lives near Serenity Health stated she has concerns for the children at both of these areas due to vehicle traffic which she has noticed at their current location. She doesn't feel those issues will change if they move out to Belle Hill Road.

Sharon Arbor, of Appleton Road, stated her concerns regarding traffic issues and safety concerns for vehicles or pedestrians trying to access Belle Hill Road at 279 & Belle Hill Road with tractor trailers backed up at that light around the clock and no sidewalks along Belle Hill Road. She stated she is against the clinic being placed at this location.

Teresa Dill voiced her concern that the homeless people who are clients at Serenity will have difficulty getting to this new location. She stated she is not against the clinic or the people trying to get help.

Allen Spry, of Appleton Road, pointed out that County property on the other side of Belle Hill Road from the proposed location of the clinic is zoned for townhouses and if it is developed there will be many more children in that area. He agreed that a traffic study should be done to address the intersection at Belle Hill Road and Route 279. He questioned whether the clinic is state or federally funded and how many people are there on any specific day. Mr. Spry presented

a petition of signatures of those who are opposed to the clinic being relocated. Mr. McLauchlin objected to the petition being entered as an exhibit in the case.

Ralph Nester who has lived in the area since 1957 feels this use would be a disaster in this area. He noted the narrow road and deep ditches as well as no sidewalks. He also voiced his concern for safety of children in the area and did not think this would be a better location. Peg West of Appleton Road voiced concern regarding well and septic for this use and how this would affect the other property owners in the area who are also on a well. She mentioned they already have a lease before they were given approval. He later gave additional testimony that there are dump trucks from the quarry who also use Belle Hill Road and believes this is of additional concern.

Evan Bolfield stated he believes they should remain at their current location rather than move out to a two lane 'country' road with no shoulders.

Jeff Witmer of Appleton Road pointed out that the new School of Technology will also be built in this area and the additional traffic relating to it needs to be taken in to consideration as well.

Mr. McLauchlin reminded the Board that the standards for the special exception should be their focus rather than any comments which do not have a direct impact on those standards. He addressed some of the noted concerns of the people who spoke in opposition to the clinic which included foot traffic, vehicle traffic, number of patients, proper evidence of property devaluation, who their patients are and where they live. He stated they appreciate their input but stated that Maryland law maintains that competition is not sufficient basis for standing to deny a special exception. He stated this use is less intense and therefore more compatible at the proposed location than the existing location.

Mr. Olewine asked how many days of week the clinic is operated. Ms. Turner stated they operate six (6) days a week. He asked on a typical day the number of patients that are seen by the clinic. Ms. Turner stated that she could provide him with that statistic data but did not have that information presently. Mr. McLauchlin added that all the people who come there are not 'patients' they may also be there for counseling or 12-step programs who do not receive clinical treatment. Mr. Olewine asked if medical transportation is used by most of their patients. Ms. Turner stated that it is and that a lot of the other vehicles are staff members vehicles.

Mr. Olewine recognized Mr. Hicks for comment. Mr. Hicks, of Melbourne Boulevard, moved to Elkton in 2005, was Code Enforcement Officer for the Town and became a Town Commissioner. He feels like he has the pulse of the community from low to high income and he is speaking in opposition to this use and agrees with many who have already spoken.

Ms. Hicks inquired the number of hours they operate at their current location. Ms. Turner stated they are open from 5:00 a.m. to 3:00 p.m. but other groups are also using the facility in the evening hours. Mr. McLauchlin clarified that they might have a 12-step program meeting in the evening for clients who are unavailable during the day.

Mr. Olewine read the recommendation of the Planning Commission regarding this special exception from their meeting on July 6, 2015. (See attached)

MOTION: Motion was made by Mr. Cooney to table the decision in order to gather additional information with regard to traffic concerns, both pedestrian and vehicular, in the form of a traffic impact study. The motion was seconded by Mr. Cramer and unanimously approved.

Mr. Olewine announced the continuance of this special exception for the Thursday, August 20, 2015 Board of Zoning Appeals meeting.

CASE # 1481 – REQUEST OF MCCRONE, INC. REPRESENTING UNION HOSPITAL OF CECIL COUNTY HEALTH SERVICES, INC. FOR A SPECIAL EXCEPTION TO ALLOW A PARKING LOT IN THE TC ZONE, 132/134 W. HIGH STREET, ELKTON, MARYLAND, TAX MAP 310, PARCELS 1346 & 1347, ZONED TC (TOWN CENTER)

Mr. David Strouss of McCrone, Inc. and Mr. Mark Mears of Union Hospital were sworn in and addressed this request. Mr. Strouss stated their purpose is to request twelve (12) additional parking spaces in the TC Zone. He stated there is an existing medical office building at High Street and Singerly Avenue and the Hospital has leased this building for twenty (20) years. The building is currently under renovation and will be used as an urgent care facility for the Hospital. Additional parking was required for this use and the hospital purchased and will demolish a duplex on this parcel. The area of the parking lot toward High Street will contain landscaping and the parking lot will reduce the need for on-street parking. The access to the new parking area will be through the existing parking lot.

The reason for the special exception is that the only use on the parcels will be the parking lot which will be accessory to the urgent care. The neighboring property is an architectural office. He stated they are able to meet all the standards for the special exception as called out in the Ordinance. Mr. Strouss stated that the property is 0.2 acres in size.

Mr. Olewine entertained question or comment from the audience. There were none. He read the recommendation from the Planning Commission regarding this special exception request. (See attachment)

MOTION: Motion was made by Mr. Cooney to approve the special exception for Union Hospital. The motion was seconded by Ms. Hicks and unanimously approved.

OLD BUSINESS: Mr. Bromwell stated an amended opinion needed to be addressed and allowed Ms. Blackson, legal counsel for the Board, for address the subject. Ms. Blackson stated Case # 1475 for Mr. Michael Dodson's deck replacement. She stated she had inadvertently used the wrong version when the opinion was printed out and needed to make that correction. The only section affected was the "Setback

Board of Zoning Appeals

July 16, 2015

Page 11 of 11

Regulations” with regard to the subdivision plat and the rear setback distance. The way the case was heard was not affected simply the reference made in the written opinion.

The amended opinion required the signature of Mr. Olewine as the Chair of the Board of Appeals and did not require an additional vote of the Board.

NEW BUSINESS: Mr. Bromwell informed the Board there were at least two cases submitted for the August meeting.

There being no further business to discuss Mr. Olewine adjourned the meeting at 9:17 p.m.

Respectfully submitted,

Brenda Humphreys