

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
MAY 20, 2021
MINUTES**

Present: Robert Olewine; Heather Mahaffey; Shirley Hicks; Kelly Bedder; Chip Bromwell,
Zoning Administrator; Lisa Blackson, Esq., Legal Counsel

Absent: Dawn Schwartz

The meeting was called to order by Mr. Olewine. He called for a motion to approve the minutes from the April 22, 2021 meeting. Ms. Hicks stated she had not received a copy of the minutes and didn't feel she should vote.

ACTION: Motion was made by Ms. Bedder to approve the minutes from the April 22, 2021 meeting as written. The motion was seconded by Ms. Mahaffey with the remaining Board members voting as following: Mr. Olewine – Aye; Ms. Hick – Abstained

CASE # 1577 – REQUEST OF ELMER JUSTICE FOR A SPECIAL EXCEPTION FOR PLACEMENT OF A STORAGE TRAILER FOR TEMPORARY STORAGE. THIS ACTION CONCERNS PROPERTY LOCATED AT 112 DELAWARE AVENUE, ELKTON, MARYLAND 21921, TAX MAP 027H, PARCEL 1077, ZONED C-1 (CENTRAL BUSINESS DISTRICT)

Mr. Justice did not appear for the meeting and therefore his case was unable to be heard.

CASE # 1578 – REQUEST OF WILLIAM F. RIDDLE, ESQUIRE, REPRESENTING CAPRICORN HEALTH, LLC FOR A SPECIAL EXCEPTION TO OPERATE AS CAPRICORN HEALTH, LLC AND TO HAVE UP TO THREE (3) PROFESSIONALS SEEING PATIENTS FOR THE SIMILAR PRACTICE AS DR. NGUYEN HAD PREVIOUSLY DONE IN THIS BUILDING WITH A SPECIAL EXCEPTION

Mr. William F. Riddle, Esquire and Dr. Christopher Gelmann were in attendance to address this request for a special exception. Mr. Riddle stated he had previously been before the Board for this location for a special exception for a medical use for Dr. Nguyen. He noted that Capricorn Health has essentially purchased the business from New Health of North East, LLC and is taking over that practice.

He stated he had contacted the Town regarding this change and was informed a new special exception would be required and therefore that is why they are before the Board this evening. Mr. Riddle stated they will be providing the same medical procedures as those done by New Health. They believe there is no change of business practice since it will continue to be a medical facility. He noted the practice has not been detrimental to public health, safety or welfare. It is not injurious to the use and enjoyment of properties in the immediate vicinity since it is in a commercial area. There is adequate water, sewer and septic, roads, parking and all those facilities as it served the previous business. There is proper ingress and egress and no traffic congestion issues. It is not contrary to the objectives of the current Comprehensive Plan and it conforms to all the regulations called out in the Zoning Ordinance for this particular use.

Mr. Riddle noted that all the doctors do not work at the same time, they work on different shifts. He introduced Dr. Gelmann and stated he would be glad to answer any specific questions regarding the practice.

Mr. Olewine asked what medical practice(s) they would be providing at this location. Dr. Gelmann stated they are providing drug rehabilitation. Mr. Olewine asked if they would be distributing medication to patients. Dr. Gelmann noted that they would be prescribing suboxone but they would only be giving prescriptions, there would be no overnight stays at the facility and they would see patients as outpatient only.

Mr. Olewine asked how many patients the doctors would be seeing in a week. Dr. Gelmann stated he felt there would be approximately 30 patients a week. Mr. Bromwell questioned whether the previous medical use was orthopedic. Dr. Gelmann stated there is no orthopedic at this location or in the past that he is aware of. Ms. Blackson stated she would check the opinion from New Health of North East and provide that information.

Ms. Hicks stated she is reading the information provided by the applicant and said the practice will be 'similar' to the previous practice of New Health. She asked what is 'similar' in the new practice as opposed to 'the same'. Mr. Riddle stated his intention was that the new practice is consistent with what was being done by New Health of North East. He said that Dr. Nguyen and Dr. Vaidy were practicing behavioral health.

Ms. Blackson explained that the legal opinion regarding New Health of North East stated that the practice would be performing general surgery in the surgical center and all the doctors would be engaging in behavioral health treatment which includes addiction counseling and opiate review for patients but there would be no dispensing of medication.

Mr. Olewine asked for clarification regarding the difference between treating someone with suboxone and treating them with methadone. Dr. Gelmann stated that suboxone is much safer and can be dosed on a weekly basis. It is a lot less susceptible to abuse and the patient doesn't have to go to the clinic every day. The patients are monitored through drug testing. It is similar to methadone but a lot safer.

Mr. Olewine stated his understanding of methadone is that it is a drug that you may never get off of. He has observed that many people on methadone continue to take it for long periods of time. Dr. Gelmann stated their treatment is a bridge to getting patients clean. He stated he does not agree with the methadone philosophy of treatment.

Mr. Olewine asked if Ms. Mahaffey had any questions. She asked if patients are seen by appointment or walk-ins or both. Dr. Gelmann stated it is by appointment only.

There being no other questions from the Board members, Mr. Olewine opened the floor to audience comments. There was no one in attendance to speak for or against this request.

After attempting to contact Mr. Justice at both numbers provided on his application it was determined that Case # 1577 could not be heard.

Mr. Olewine asked Ms. Blackson if she felt this special exception request is the same as the previous special exception request by New Health of North East, LLC. Ms. Blackson stated that ultimately they

are seeking a special exception that deals with a specific number of physicians. While the type of practice is relevant to know what the traffic volume is going to be, as long as the number of physicians is three or fewer it would fall within the same special exception classification. She did not feel there was any reason not to vote on it this evening.

Mr. Bromwell noted that if this is a 'clinic' then it was not researched as a clinic and there are specific conditions for a 'clinic'. After discussion regarding whether this special exception should have been considered a 'clinic' it was determined it would need to be continued to another meeting.

It was determined that Case # 1578 would be placed on the July 22, 2021 Board of Zoning Appeals meeting since the cut-off for the June 17th meeting to be placed in the Cecil Whig had already passed. Mr. Olewine called for a motion to that effect.

MOTION: Motion was made by Ms. Hicks to continue Case # 1578 to the July 22, 2021 Board of Zoning Appeals meeting in order for Mr. Bromwell to determine if this use should be considered a 'clinic'. The motion was seconded by Ms. Bedder with the remaining Board members voting as follows: Ms. Mahaffey – Aye; Mr. Olewine - Aye

The motion passed unanimously.

OLD BUSINESS: None

NEW BUSINESS: Mr. Bromwell stated there is a special exception for Hertrich Ford submitted for the June meeting. There are also three variances which will be heard at the June meeting for 102 South Stream Drive for a side setback for a deck, 611 E. Pulaski Highway for sign square footage and height and a sign square footage variance for the Elkton VFW on High Street.

NEXT MEETING: Mr. Olewine stated the next meeting of the Board of Zoning Appeals will be Thursday, June 17, 2021.

There being no further business to discuss Mr. Olewine adjourned the meeting.

Respectfully submitted,

Brie Humphreys