

BOARD OF ADJUSTMENT MINUTES
TOWN OF OCEAN VIEW
July 14, 2016

1. Board of Adjustment Chair Susan Kerwin called the meeting to order at 5:00 pm with the Pledge of Allegiance. Also in attendance were Board Members Jim Legates, Gene Brendel, Don Walsh and John Reddington. Town Administrative Official Charles McMullen, and Town Solicitor Dennis Schrader were also present. The meeting was held in the Ocean View Town Hall, 32 West Avenue.

2. **APPROVAL OF THE AGENDA**

A motion was made by Mr. Reddington, seconded by Mr. Walsh, to approve the agenda as presented. The motion carried unanimously 5/0.

3. **APPROVAL OF THE MINUTES**

A motion was made by Mr. LeGates, seconded by Mr. Walsh, to approve the minutes of the June 23, 2016 meeting as presented. The motion carried unanimously 5/0.

4. **COMMISSION BUSINESS** – none

5. **NEW BUSINESS**

A. V-329 111 Atlantic Avenue (PIDN: 095.000 / Sussex CTM#: 134-12.00-295.00)

Mr. McMullen said the applicant is before the Board seeking a Special Exception, as is required by Article IV, §140-24 of the Land Use and Development Chapter (L.U.D.C.) of the Town Code, so that office space owned by Gysm, LLC can be used for a physical therapy / rehabilitation facility on property zoned GB-1, located at 111 Atlantic Avenue (PIDN: 095.000 / Sussex CTM#: 134-12.00- 295.00).

The application was submitted by Mr. Robert Hammond with the approval of Gysm, LLC who owns the property at 111 Atlantic Avenue. There are two structures at this parcel that house a number of different businesses. Mr. Hammond, who is the owner of Atlantic Physical Therapy, is requesting that a Special Exception be granted so that he can establish his business in Unit # 3, a 1500 +/- square foot space, at 111 Atlantic Avenue.

The parcel has previously received site plan approval and a copy of that approved site plan has been provided. As recently as March 20, 2014, the Planning and Zoning Commission (P&Z), reviewed parking requirements and voted in favor of allowing the existing 46 parking spaces to suffice when the need for 50 was required based on use.

The use is permissible in the GB-1 zoning district, as noted in §140-24 of the Land Use and Development Chapter (L.U.D.C.) of the Town Code with the granting of a Special Exception by the Board of Adjustment.

A Special Exception is defined in Article XVIII, §140-109 of the L.U.D.C. as follows:

- *A special exception is a use that is generally desirable for the general convenience and welfare, but, because of its nature and location, requires additional review by the Board of Adjustment to assess its impact on neighboring properties and the entire Town.*

Required Findings as noted in §140-116 of the L.U.D.C. are listed below:

The Board of Adjustment shall determine whether each special exception application meets the following conditions:

- A. Is in harmony with the purposes and intent of the comprehensive plan;*
- B. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures;*
- C. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties*
- D. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;*
- E. Will have no detrimental effect on vehicular or pedestrian traffic;*
- F. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area; and*
- G. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Chapter.*

The Board is being asked to grant a Special Exception by the applicant so that his company, Atlantic Physical Therapy, which conforms to the definition of a medical clinic / office as defined by the L.U.D.C. of the Town Code, be permitted to conduct business in Unit # 3 at 111 Atlantic Avenue. Mr. McMullen noted this is the location of the previous tenant, the mattress store, near the Coastal Point, Edward Jones, Cool Bean and others.

Mr. LeGates asked if the physical therapy business would be occupying the first floor or second floor. Mr. McMullen replied only the first floor. Mr. Brendel inquired about handicap parking. Mr. McMullen replied that Planning and Zoning had previously approved 46 total parking spaces for the property and he believed that included two handicap spaces.

Mr. Robert Hammond, Ocean Pines, MD, was present representing Atlantic Physical Therapy and was sworn-in by Mr. Schrader. He told the Board he would like to bring his physical therapy business to Ocean View. Mr. Hammond stated it is a small family business that was begun in 1998 in Ocean Pines.

Mr. Schrader asked how many people would be on site daily. Mr. Hammond replied there would be one therapist and one receptionist. Mr. Schrader also asked what the business hours would be and how the patients would be scheduled. Mr. Hammond stated the business hours would be 8:00am to 5:00pm and the patients would be scheduled at half hour intervals. They could have two to three patients at one time in the building.

Mr. Schrader inquired about the need for handicap parking. Mr. Hammond said he didn't think he needed more than one handicap parking space. Mr. Schrader asked if they will be making any structural changes. Mr. Hammond stated they will be moving an interior wall, but they would not be making any exterior changes other than a sign.

Ms. Kerwin asked if there would be only one therapist. Mr. Hammond replied yes and one other additional staff person. Mr. Schrader asked Mr. Hammond if he thought the physical therapy business would change the character of the neighborhood. He replied for the better. Mr. Schrader inquired if there would be any kind of outdoor activities. Mr. Hammond replied no.

Mr. LeGates asked Mr. Hammond how long he'd been in business. Mr. Hammond replied since 1998. Mr. Walsh asked Mr. Hammond what makes his business better than others. Mr. Hammond replied that he has specialized equipment and technology no one else has.

There were no comments from the public.

A motion was made by Mr. LeGates, seconded by Mr. Walsh, to approve the special exception. The motion carried unanimously 5/0.

6. **ADJOURNMENT**

A motion was made by Mr. Brendel, seconded by Mr. Walsh, to adjourn the meeting at 5:20pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC