

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: THE HOME OF THE BRAVE FOUNDATION, INC.**

**(Case No. 11168)**

A hearing was held after due notice on March 4, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception for a women's veteran facility.

Findings of Fact

The Board found that the Applicant was seeking a special use exception for a women's veteran facility. This application pertains to certain real property located east of Road 633 (Griffith Lake Drive) approximately 440 feet north of Road 620 (Abbotts Pond Road); said property being identified as Sussex County Tax Map Parcel Number 1-30-2.00-13.20. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received an email in opposition to the Application.
2. Linda Boone, Chair of the Board of Directors of the Home of the Brave Foundation, Inc., was sworn in to testify on behalf of the Application.
3. The Board found that Ms. Boone testified that the Home of the Brave has serviced the area since 1992.
4. The Board found that Ms. Boone testified that female veterans make up five percent (5%) of the nation's homeless veterans.
5. The Board found that Ms. Boone testified that residents of Home of the Brave must meet certain qualifications in order to reside in the shelter including: that the resident be honorably discharged from the military, that the veteran must meet the homeless standard, and that the veteran must be open to living in a group environment.
6. The Board found that Ms. Boone testified that residents are admitted as space is made available.
7. The Board found that Ms. Boone testified that one in five female veterans experience Military Sexual Trauma and that one in five female veterans suffer from Post-Traumatic Stress Disorder, which leads to increased substance abuse and homelessness.
8. The Board found that Ms. Boone testified that one in five of post-September 11 female veterans are unemployed.
9. The Board found that Ms. Boone testified that the Home of the Brave is a nonprofit organization founded by eight Vietnam combat veterans.
10. The Board found that Ms. Boone testified that the average stay at the Home of the Brave is approximately six (6) to nine (9) months and that the maximum stay is twenty four (24) months.
11. The Board found that Ms. Boone testified that the average age of the veterans participating in the program has been from 51 to 61 years of age.
12. The Board found that Ms. Boone testified that the majority of the veterans coming to the program have been due to economic situations.
13. The Board found that Ms. Boone testified that veterans have to be clean and sober for a minimum of thirty (30) days before they can apply for admission to the program.

14. The Board found that Ms. Boone testified that the goal is to discharge the veterans to permanent housing and to eliminate the barriers which led them to homelessness.
15. The Board found that Ms. Boone testified that veterans sign a contract when entering the program and agree to and must follow the rules in order to stay in the program.
16. The Board found that Ms. Boone testified that residents who fail to follow the rules are discharged from the facility.
17. The Board found that Ms. Boone testified that they currently have a sixty seven percent (67%) success rate.
18. The Board found that Ms. Boone testified that case plans are developed for each resident.
19. The Board found that Ms. Boone testified that the Home of the Brave is a transitional living facility and is not a shelter.
20. The Board found that Ms. Boone testified that the majority of the residents are Delaware residents and that twelve (12) of the fifteen (15) residents at the Applicant's other location are Delaware residents.
21. The Board found that Ms. Boone testified that residents are regularly drug tested and that they do not accept any applicants with potential or high probability of criminal activity.
22. The Board found that Ms. Boone testified that the facility will have staff coverage 24 hours a day, 7 days a week.
23. The Board found that Ms. Boone testified that the residents are required to adhere to curfew schedules, signing in and out, performing assigned daily chores, and working on individual plans to move them to independent living.
24. The Board found that Ms. Boone testified that the facility would not lead to a drop in property values of adjacent properties.
25. The Board found that Ms. Boone testified that the proposed location has been vacant for over a year and has not been maintained.
26. The Board found that Ms. Boone testified that the Home of the Brave has high standards for appearance and maintenance of their properties and that some repairs and renovations have already been made to the home.
27. The Board found that Ms. Boone testified that, once they obtain approval from the Board, a plan for major renovations will be implemented which will include the construction of a larger septic system, a fire safety system, a new water heater, landscape improvements, and bathroom renovation.
28. The Board found that Ms. Boone testified that there is no empirical evidence that supports a theory that property values will be decreased.
29. The Board found that Ms. Boone testified that a recent study from Dr. Kevin Gillen from the University of Pennsylvania showed that in two-thirds of the cases the impact of subsidized housing in Delaware was neutral or positive because of the design of the house and its management of the facility.
30. The Board found that Ms. Boone testified that a study in Philadelphia showed that property values increased by 6.8% when a well-run homeless facility was in the neighborhood.
31. The Board found that Ms. Boone testified that financial audits have met and often exceeded national nonprofit benchmarks.
32. The Board found that Ms. Boone testified that the Board of Directors meets monthly to review the management of the facility and its finances and that in 2012 they had over 250 cash contributors and an additional 300 supporters who donated food and housing items.
33. The Board found that Ms. Boone testified that there will not be a roadside sign on the Property and there will be a sign on the front door noting visitors need an appointment.

34. The Board found that Ms. Boone testified that they are trying to limit visitor access and will require that visitors made an appointment.
35. The Board found that Ms. Boone testified that the visitor policy will differ from the Applicant's other location on Sharps Road.
36. The Board found that Ms. Boone testified that all donations will be accepted at the Sharps Road location.
37. The Board found that Ms. Boone testified that they will provide contact numbers for the neighbors to report concerns and ask questions and that they welcome a neighborhood representative to be a part of the Women's Program Advisory Committee which provides advice to the Board of Directors.
38. The Board found that Ms. Boone testified that most residents need help finding employment.
39. The Board found that Ms. Boone testified that residents are transported to appointments and for shopping by the Applicant via the Applicant's van.
40. The Board found that Ms. Boone testified that collocating genders is not permitted by the Veterans Association.
41. The Board found that Ms. Boone testified that a maximum of six (6) adult women will stay at the home and that the staff is familiar with dealing with children.
42. The Board found that Ms. Boone testified that the Applicant wants to review how many children would be able to live in residence and what services would be provided to those children.
43. The Board found that Ms. Boone testified that the number of children is unknown at this time.
44. The Board found that Ms. Boone testified that large activities will not be held at this location.
45. The Board found that Ms. Boone testified that the facility on Sharps Road has been open since May 1996 and there have been no problems.
46. The Board found that Ms. Boone submitted a packet of exhibits regarding the Application to the Board.
47. The Board found that Mike Rowe was sworn in and testified in support of the Application.
48. The Board found that Mr. Rowe testified that he works for People's Place and is the program director for the veteran's outreach program.
49. The Board found that Mr. Rowe testified that the proposal will help homeless veteran women and their children.
50. The Board found that Mr. Rowe testified that most homeless female veterans are homeless due to their economic situation and that the Applicant helps individuals get back on their feet.
51. The Board found that Mr. Rowe testified that women veterans have more trouble finding housing and jobs.
52. The Board found that Mr. Rowe testified that People's Place provides transportation for the veterans.
53. The Board found that Mr. Rowe testified that female veterans may have been victim of Military Sexual Trauma and that the Applicant provides those veterans with the help they need to improve their lives and not just a place to stay.
54. The Board found that Mr. Rowe testified that fire and police services would serve the residence in the same way as if the house was used as a single family residence.
55. The Board found that Robert Clauser was sworn in and testified in support of the Application.
56. The Board found that Mr. Clauser testified that he serves as a commissioner for the Delaware Department of Veteran's Affairs.
57. The Board found that Mr. Clauser testified that this Property has been vacant and in need of serious repair.

58. The Board found that Mr. Clauser testified that after inspecting the site and realizing the number of bedrooms available it was decided to be an ideal location for the Home of the Brave as the house has five (5) bedrooms and 4 ½ bathrooms.
59. The Board found that Mr. Clauser testified that our veterans are sent to war and come home to no support.
60. The Board found that Mr. Clauser testified that urban areas do not work for this type of facility and that there are no services to help the veterans in the urban area.
61. The Board found that Mr. Clauser testified that someone just built a house across the street from the other Home of the Brave location for \$750,000.00.
62. The Board found that Albert Weir was sworn in and testified in support of the Application.
63. The Board found that Mr. Weir testified that he is with the State Commission of Veteran Affairs and that the veteran organizations support this Application.
64. The Board found that Mark Gaglione, Amanda Gaglione, and David Murphy were sworn in to testify in opposition to the Application. Tim Willard, Esquire, appeared on behalf of Mark Gaglione, Amanda Gaglione, and David Murphy.
65. The Board found that Mr. Willard stated that his clients are opposed to the location of the facility and that the use will substantially adversely affect the neighboring and adjacent properties.
66. The Board found that Mr. Willard stated that the neighbors are concerned about the vagueness of the Application and about the effect of including children in the facility.
67. The Board found that Mr. Willard stated that the Applicant has presented that residents will receive outpatient care from the Department of Veteran's Affairs.
68. The Board found that Mr. Willard stated that a transitional home is not clearly defined in the Planning & Zoning Ordinance and that the Application has been submitted as a special use exception for a convalescent home but this use is not a convalescent home because there is no regular nursing care being provided on the Property.
69. The Board found that Mr. Willard stated that a similar application was granted in the Bridgeville area where children would also be residing but there were major differences between that application and this Application.
70. The Board found that Mr. Willard stated that the Bridgeville home was located on a large piece of property just outside the town of Bridgeville, that the home was located a good distance from the road and that permanent and full-time nursing staff would be located on site.
71. The Board found that Mr. Willard stated that there is no evidence to the age of the children that may stay at the home with their mothers.
72. The Board found that Mr. Willard stated that there is a big difference to a transitional home when children are involved.
73. The Board found that Mr. Willard stated that the proposed location is in a tightly knit residential neighborhood several miles outside of Milford.
74. The Board found that Mr. Willard stated that the email read at the beginning of the hearing well-articulated concerns of neighbors.
75. The Board found that Mr. Willard stated that fire and police services are located miles away from the residence and that there is no public transportation in the area.
76. The Board found that Mr. Willard stated that the opposition feels the transitional home should be located within town limits and that there would be more services available in a town setting.
77. The Board found that Mr. Willard stated that the increased number of people living in the home will increase the traffic, trash, and septic and well use.

78. The Board found that Mr. Willard stated that there is a potential of six (6) families living on a property designed for single-family residence.
79. The Board found that Mr. Willard stated that most transitional homes in this region are located in or near town centers.
80. The Board found that Mr. Willard stated that property values in the area will decrease due to the location of the proposed transitional housing.
81. The Board found that Mr. Willard stated that he does not have any evidence to support the claim that the property values will decrease.
82. The Board found that Mr. Willard stated that it is difficult to prove substantial adverse effect to the neighborhood when it hasn't happened yet.
83. The Board found that Mr. Willard presented to the Board a packet of exhibits and a petition of sixty six (66) individuals who oppose the Application.
84. The Board found that Ms. Gaglione testified that she supports the cause and has veteran family members.
85. The Board found that Ms. Gaglione testified that she and her husband purchased property in this area for a quiet place to live and raise their children.
86. The Board found that Ms. Gaglione testified that her children like to play outside and she has concerns the home will bring more strangers to the area.
87. The Board found that Ms. Gaglione testified that her children have expressed concerns about the home as well.
88. The Board found that Ms. Gaglione testified that there is no sidewalk in the area and it could create some safety concerns.
89. The Board found that Ms. Gaglione testified that it was stated that women could not collocate on the Sharp Road property with the men, which concerns her because she has three (3) sons.
90. The Board found that Ms. Gaglione testified that there are other homes in the Milford area she feels are much better suited for this use.
91. The Board found that Ms. Gaglione testified that the other homes are in town and also near parks.
92. The Board found that Ms. Gaglione testified that she spoke with a realtor who told her that property values will decrease due to the placement of the transitional facility.
93. The Board found that Ms. Gaglione testified that the effect to property values can be determined since most transitional homes are in an urban area and not near a neighborhood like hers.
94. The Board found that Ms. Gaglione testified that she has concerns about increased traffic.
95. The Board found that Ms. Gaglione testified that her home is right next door to the facility.
96. The Board found that Ms. Gaglione testified that she has four (4) bedrooms in her house.
97. The Board found that Ms. Gaglione testified that the Applicant's property foreclosed on and sat vacant for some time and that her husband and other neighbor mowed the lawn on the Property.
98. The Board found that Ms. Gaglione testified that some areas of the Applicant's dwelling were in disrepair from the prior owner.
99. The Board found that Ms. Gaglione testified that the dwelling has private water and septic and is concerned how this facility will affect her well and septic.
100. The Board found that Ms. Gaglione testified that she does not know if she shares an aquifer with the Property.
101. The Board found that Ms. Gaglione confirmed the statements by Mr. Willard.
102. The Board found that Mr. Murphy testified that he lives across the street from the proposed veterans' home and that the use will alter the character of the quiet country atmosphere.

103. The Board found that Mr. Murphy testified that there will be increased traffic to the area due to the facility and that the density of the home from a single-family to a multi-family use concerns him.
104. The Board found that Mr. Murphy testified that there are no businesses located near the Property.
105. The Board found that Mr. Murphy testified that he wants to know who will supervise the children and what credentials the staff possess.
106. The Board found that Mr. Murphy testified that he is concerned about unsupervised children being on his property.
107. The Board found that Mr. Murphy testified that there are many questions about the facility which have not been answered.
108. The Board found that Mr. Murphy testified that lights from vehicles moving in and out of the Property flash into his bedroom.
109. The Board found that Mr. Murphy testified that there is nothing in the neighborhood for the children.
110. The Board found that Mr. Murphy testified that he feels the home should be within walking distance of schools, parks, stores and hospitals.
111. The Board found that Mr. Murphy testified that he is a former code enforcement officer and that he has experience with homeless shelters that have overcrowding problems.
112. The Board found that Mr. Murphy testified that the existence of the veteran's home will dissuade potential purchasers from buying neighboring properties.
113. The Board found that Mr. Murphy testified that he would still object to the Application even if children were not allowed to live on the Property.
114. The Board found that Mr. Murphy testified that he has concerns about the effect of the facility on septic and well systems.
115. The Board found that Mr. Murphy testified that the Fire Marshal will require major renovations to the structure if this Application was approved.
116. The Board found that Mr. Murphy testified that he feels the use will substantially adversely affect the neighboring and adjacent properties.
117. The Board found that Mr. Gaglione testified that he is opposed to a shelter for both adults and children and that he has not found any neighbors that support this Application.
118. The Board found that Mr. Gaglione testified that he agrees with his neighbors as to the reasons he opposes the Application.
119. The Board found that Mr. Gaglione testified that a common sense approach dictates the affect a shelter will have for property values.
120. The Board found that Mr. Gaglione testified that he feels it is easy to support a shelter when it is not in your neighborhood but that he lives fifty (50) feet from the proposed facility.
121. The Board found that Mr. Gaglione testified that he is a veteran.
122. The Board found that Vernon Hood and Janna Hood were sworn in and testified in opposition to the Application.
123. The Board found that Janna Hood testified that they own the property adjacent to the proposed shelter and that she is concerned about the effect of a larger septic system being placed on the Property because it would require a distance of 100 feet from neighboring wells and that the lots are only 150 feet wide.
124. The Board found that Vernon Hood testified that he designs septic systems and feels the Property is not large enough to support a septic system needed for that amount of people and that the septic will need to be 150 feet from the well.
125. The Board found that Janna Hood testified that the Department of Natural Resources and Environmental Control approves systems based on the number of bedrooms.

126. The Board found that Vernon Hood testified that the location is very different from the Sharps Road location and the neighborhood is very different and that he feels this is the wrong location for the shelter.
127. The Board found that Karen Temple was sworn in and testified in opposition to the Application.
128. The Board found that Ms. Temple testified that she volunteers at a homeless shelter in Dover and that a 67% success rate is not successful.
129. The Board found that Ms. Temple testified that that she is concerned about the veterans that are not successful.
130. The Board found that Ms. Temple questioned where will the veterans go that do not successfully follow the rules.
131. The Board found that Ms. Temple testified that she questions whether there are enough women veterans who are homeless to fill the facility and that helping veterans does not make it a higher quality shelter.
132. The Board found that Dorothy Doneker was sworn in and testified in opposition to the Application.
133. The Board found that Ms. Doneker testified that she lives nearby and that she is concerned for the veterans with addictions and the possible increase in crime to the area.
134. The Board found that Ms. Doneker testified that her son is an addict and that addicts with the best intentions still have trouble overcoming their addictions.
135. The Board found that Ms. Doneker testified that addicts will steal from their own families.
136. The Board found that Ms. Doneker testified that this location is not a good area for this shelter.
137. James Stolvey was sworn in and testified in support of the Application.
138. The Board found that Mr. Stolvey testified that he is the contractor for the Applicant.
139. The Board found that Mr. Stolvey testified that the existing septic system is non-conforming and that the septic can be replaced in the same area as the existing septic and will not encroach on the neighbor's well.
140. The Board found that Mr. Stolvey testified that he questions how Mr. Murphy could be receiving lights from vehicles in his bedroom when the house has been vacant for over a year.
141. The Board found that Mr. Stolvey testified that he has no objection to Home of the Brave residents and would welcome them to his neighborhood.
142. The Board found that Mr. Stolvey testified that the only construction done at this point has been work needed for the sale of the home in the event the application is denied.
143. The Board found that Mr. Stolvey testified that he does not see how the use will substantially adversely affect the uses of neighboring and adjacent properties.
144. The Board found that Ms. Boone testified that their investors, the Department of Veteran Affairs and the Department of Housing and Urban Development monitor the facilities.
145. The Board found that Ms. Boone testified that the Applicant would not receive grants if the Applicant housed more veterans than approved.
146. The Board found that Ms. Boone testified that residents failing drug tests are relocated rather than put out on the street.
147. The Board found that Ms. Boone testified that the Applicant was aware a special use exception approval was needed prior to the purchase of the Property.
148. The Board found that twenty six (26) parties appeared in support of the Application.
149. The Board found that twenty six (26) parties appeared in opposition to the Application.



150. The Board tabled its decision the Application until April 1, 2013.
151. On April 1, 2013, the Board discussed the Application at great length.
152. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application met the standards for granting a special use exception because the use does not substantially affect adversely the uses of adjacent or neighboring properties. The Board gave the following reasons for its decision:
  - a. The Applicant has a history of providing home for veterans that will not substantially affect adversely the uses of neighboring and adjacent properties.
  - b. The proposed housing is designed for residential use in a residential area.
  - c. The existing dwelling has been unoccupied for over a year and fell into disrepair. The Applicant has taken steps to make improvements to the dwelling and intends to maintain the exterior of the property which will improve the area.
  - d. The Applicant referenced a study which evidences that the proposed housing will have a neutral or positive effect on housing prices in the neighborhood.
  - e. Opposition to the Application did not present any evidence from a realtor or appraiser as to substantial adverse effect to real estate values
  - f. The proposal does not appear to have an adverse effect on traffic in the area.
  - g. The Applicant has testified that visitor access to the site will be limited and that residents will be transported by a van for their appointments and daily living.
  - h. The Applicant's contractor testified that improvements have been made to the dwelling and the septic system would be placed in the same location as the existing septic system.
  - i. No signage will be located outside the Property to note its usage.
  - j. The residents of the home will be required to follow certain rules and regulations and will be discharged from the home if they fail to adhere to those rules.
  - k. The home will house a maximum of six (6) adult female veterans and no more than eight (8) total persons not including staff members.
153. As part of its approval the Board placed the following conditions:
  - a. The approval is granted for a period of two (2) years.
  - b. No more than six (6) adult female veterans and no more than eight (8) total persons, not including staff members, may reside in the dwelling at any given time.

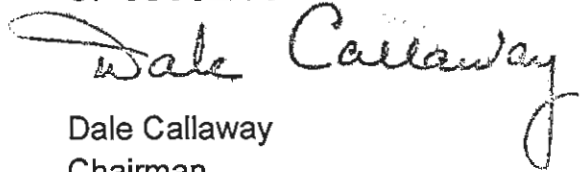
The Board granted the special use exception application for a period of two (2) years with the conditions stated herein finding that it met the standards for granting a special use exception.



Decision of the Board

Upon motion duly made and seconded, the special use exception application was granted for a period of two (2) years with the conditions stated herein. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, and Mr. Norman Rickard. Mr. John Mills and Mr. Brent Workman voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Dale Callaway  
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date May 7, 2013