

MINUTES OF DECEMBER 21, 2015

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 21, 2015, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 11680 – KJR Holdings, LLC – seek variances from the side yard and rear yard setback requirements (Section 115-82B of the Sussex County Zoning Ordinance). The property is located on the northwest side of John J. Williams Highway (Route 24) approximately 624 feet east of Washington Street Ext. 911 Address: 29920 John J. Williams Highway, Millsboro. Zoning District: C-1. Tax Map No.: 2-34-32.00-38.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Kelly Racz was sworn in to testify about the Application. William Schab, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Schab stated that the Applicant is requesting a variance of 3.5 feet from the five (5) feet side yard setback requirement on the east side and a variance of 0.4 feet from the twenty (20) feet rear yard setback requirement for an existing building; that a survey completed for settlement showed the encroachments; that the existing building encroaches in the side yard setback area; that the previous owner built the commercial building in 1971; that the prior owner was unaware of the encroachments; that the Property is irregularly shaped making it unique; that a portion of the building encroaches slightly into the rear yard setback; that the shed on the survey that was also encroaching into the setback area has been removed; that the Property cannot otherwise be developed without removing part of the building; that the difficulty was not created by the Applicant; that, since the structure has been on the lot for many years, the variances do not alter the character of the neighborhood; that there have not been complaints about the location of the

building; that the building has been used as a commercial building for many years; and that the variances requested are the minimum variances necessary to afford relief.

Mr. Racz, under oath, affirmed the statements made by Mr. Schab. Mr. Racz testified that he is a member of the Applicant and plans to run a small archery shop and sporting goods store on the Property; that he cannot correct the issue without tearing down a substantial portion of the building; and that there have been no complaints from the neighbors.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11680 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its unusual shape;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;
4. The building has been in its present location for many years;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11681 – Jeffry W. Helminiak and Macy H. Helminiak – seek a variance from the front yard setback requirement (Section 115-25C of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Glade Farm Road and South Lake Terrace. 911 Address: 1 South Lake Terrace, Rehoboth Beach. Zoning District: AR-1. Tax Map No.: 3-34-7.00-291.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Jeffry Helminiak was sworn in to testify about the Application. William Schab, Esquire, presented the case to the Board on behalf of the Applicants.

Mr. Schab stated that the Applicants are requesting a variance of 1.7 feet from the thirty (30) feet front yard setback requirement for an existing dwelling; that the dwelling was built in 1997 and a Certificate of Compliance was issued by Sussex County in 1997; that the Property is a corner lot and it seems that the encroachment into the thirty (30) feet setback requirement off of South Lake Terrace went unnoticed in 1997 even though a survey was completed at that time; that

the Property cannot otherwise be developed; that the Applicants purchased the Property from the previous owner who placed the dwelling on the Property; that the Applicants are selling the Property and a survey completed for the prospective buyer showed the encroachment; that the situation is unique because the Certificate of Compliance was issued; that the exceptional practical difficulty was not created by the Applicants since the dwelling was already on the Property when they purchased it; that the encroachment will not and has not altered the character of the neighborhood; that the building has been in its present location since 1997; that the variance requested is the minimum variance to afford relief; and that the Homeowners Association and neighbors have been informed that the variance is not for an addition to the dwelling.

Mr. Helminiak, under oath, affirmed the statements made by Mr. Schab. Mr. Helminiak testified that the issue could not be corrected without removing a portion of the attached garage which would be a financial burden.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11681 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Certificate of Compliance was issued in 1997 and the Property is a corner lot making the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11682 – Douglas G. Pfeiffer and Liane D. Pfeiffer, Trustees – seek a variance from the side yard setback requirement (Section 115-181B of the Sussex County Zoning Ordinance). The property is located on the south side of Rogers Avenue, approximately 657 feet west of Coastal Highway (Route 1). 911 Address: 21205 Rogers Avenue, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-20.13-60.01.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or on opposition to the Application.

Joe Choma was sworn in to testify about the Application. William Schab, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Schab stated that the Applicants are requesting a variance of 0.8 feet from the eight (8) feet side yard setback requirement on the northeast side for an existing chimney; that Mr. Choma is a realtor who is familiar with the Property; that the existing dwelling was built in 1985; that the original owner sold the Property to the Applicants; that the Applicants purchased the Property in "as is" condition; that survey completed for settlement showed the encroachment; that the Applicants were not aware of the encroachment; that the lot is narrow; that the Property cannot otherwise be developed; that there is no adverse effect to the neighboring properties; that the variance does not alter the character of the neighborhood; that the variance is necessary to enable reasonable use; that the variance is the minimum variance necessary to afford relief; and that the chimney must be of a certain size and to bring the chimney into compliance would likely result in the removal altogether of the chimney.

Mr. Choma, under oath, affirmed the statements made by Mr. Schab. Mr. Choma testified that he has been a realtor in the area for fourteen (14) years; that no one was aware of the encroachment; that the chimney adds value to the Property; that the encroachment has no negative effect to the neighboring properties; and that the shed has been moved into compliance.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11682 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it is only fifty (50) feet wide;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11683 – Douglas B. Cooper & Rachel A. Cooper – seek variances from the rear yard and side yard setback requirements (Section 115-25C of the Sussex County Zoning Ordinance). The property is located on the northwest side of Oyster Rocks Road approximately 125 feet east of Osprey Road. 911 Address: 14530 Oyster Rocks Road, Milton. Zoning District: AR-1. Tax Map No.: 2-35-16.00-43.09.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Rachel Cooper was sworn in to testify about the Application. William Schab, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review and one (1) letter of support to the Application.

Mr. Schab stated that the Applicants are requesting a variance of 11.3 feet from the twenty (20) feet rear yard setback requirement and a variance of 6.2 feet from the fifteen (15) feet side yard setback requirement on the southwest side for an existing shed; that the Applicants just purchased the Property which was in foreclosure; that a survey completed for settlement showed the encroachments; that the shed is used as a pool house and was built in 2001; that a Certificate of Compliance was issued for all the structures, including the shed, on the Property; that the Applicants acquired the Property in 2015; that the adjacent neighbor has no objection to the Application; that the short sale purchase creates a unique situation; that the difficulty was not created by the Applicants; that the variances do not alter the character of the neighborhood; that existing trees block any view of the shed from the neighboring properties; that the shed has been on the lot for fifteen (15) years without complaint; that the shed would have to be removed from the Property if this application was denied; and that the shed is an integral part of the Property.

Mrs. Cooper, under oath, affirmed the statements made by Mr. Schab. Mrs. Cooper testified that she has not made any changes to the Property; that without a variance approval the shed would have to be torn down; that she is a realtor; and that the variances will not affect property values of the surrounding properties.

Ernest Tramosch was sworn in and testified in opposition to the Application and testified that he is the President of the Homeowners Association for Osprey Landing; that the shed is a large structure and looks more like a cottage; that the existing trees and shrubs block the view of the shed but, if trees come down, it would adversely affect the adjacent property; that the lot to the rear of the Applicants' property is currently vacant; that he feels it would be reasonable to stipulate that the trees and shrubbery remain or must be replaced if ever removed; and that the Applicants' property is not within the Osprey Landing Subdivision.

The Board found that no parties appeared in support of the Application.

The Board found that one (1) party appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11683 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Certificate of Compliance being issued and the Property being purchased from a foreclosure create a uniqueness to the Property;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11684 – Geoffrey T. Anders and Jeanne M. Gable – seek a variance from the rear yard setback requirement (Section 115-183C of the Sussex County Zoning Ordinance). The property is located on the northeast side of Woodland Way approximately 402 feet west of Woodland Circle. 911 Address: 33213 Woodland Way, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-12.17-138.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.

Jeanne Gable was sworn in to testify about the Application. William Schab, Esquire, presented the case to the Board on behalf of the Applicants.

Mr. Schab stated that the Applicants are requesting a variance of 5.4 feet from the twenty (20) feet rear yard setback requirement for an existing deck; that the Property is located in Angola by the Bay and is irregularly shaped; that the Applicants purchased the Property in 2011; that one corner of the deck encroaches by inches into the setback area; that the deck was inspected by Sussex County after it was constructed and a Certificate of Compliance was issued; that Angola by the Bay approved the deck when it was constructed as well; that a survey dated 1999 also showed the encroachment and was approved by Sussex County; that the Applicants have not made any additions to the deck; that the irregular shaped lot makes the Property unique; that the Property cannot otherwise be developed; that the rear yard is adjacent to the open space in the development; that the previous owners built the deck; that the difficulty was not created by the Applicants; that the variance will not alter the essential character of the neighborhood; that there are other properties in the neighborhood where similar variances have been granted; that the variance is the minimum variance to afford relief; and that the Homeowners Association has no objection to the Application.

Mrs. Gable, under oath, affirmed the statements made by Mr. Schab. Mrs. Gable testified that no neighbors have objected to the existence of the deck.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11684 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is irregularly shaped which makes it unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance does not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11685 – Darrell Louis Wagner and Jacqueline Mellon Wagner – seek variances from the side yard and rear yard setback requirements (Section 115-42B and 115-185F of the Sussex County Zoning Ordinance). The property is located on the south side of East Berkley Court approximately 620 feet east of King Charles Drive. 911 Address: 32826 East Berkley Court, Millsboro. Zoning District: GR. Tax Map No.: 2-34-29.00-716.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Darrell Wagner was sworn in to testify about the Application. Craig Aleman, Esquire, presented the case on behalf of the Applicant.

Mr. Aleman stated that the Applicants are requesting a variance of 3.6 feet from the ten (10) feet side yard setback requirement for an attached garage, a variance of 4.2 feet from the five (5) feet side yard setback requirement on the northeast side for an existing shed, and a variance of 0.7 feet from the ten (10) feet rear yard setback requirement for an existing dwelling; that the Applicants purchased the Property in September 2015; that the Property is located at the end of a cul-de-sac; that the driveway encroaches onto the neighbor's property; that the neighbor does not oppose the relief sought by the Applicants; that the dwelling was not properly located on the Property by the builder; that Certificates of Compliances were issued for the dwelling, garage, and addition; that the Applicants believe the builder made an honest mistake; that the previous owners were unaware of the encroachments; that the Applicants would suffer a hardship if required to bring the dwelling into compliance; that the dwelling has been in its current location for more than 14 years; that the Applicants did not place the dwelling on the Property and, thus, did not create the hardship; that the variances do not alter the essential character of the neighborhood; that the variances are the minimum variances to afford relief as the variances will allow the existing dwelling to remain in its present location

Mr. Wagner, under oath, affirmed the statements made by Mr. Aleman. Mr. Wagner testified that he would have remove the garage and addition to the house in order to comply with the Sussex County Zoning Code; and that the shed can be and will be moved into compliance.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval in part and denial in part of Variance Application No. 11685. Mr. Rickard moved that the requested side and rear variances for the existing attached garage and the existing dwelling be approved based on the record made at the public hearing for the following reasons:

1. Certificate of Compliances have been issued for the dwelling;
2. The location of the adjacent cul-de-sac and the shape of the Property make it unique;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

As part of his motion, Mr. Rickard moved that the variance for the shed be denied based on the record made at the public hearing and for the following reason:

1. The Applicant testified that the shed would be moved into compliance thus the variance was not necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that **the side and rear yard variances be granted for the existing attached garage and the existing dwelling and the side yard variance for the existing shed be denied.** Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11686 – Immanuel Shelter, Inc. – seeks a special use exception to operate an emergency homeless shelter (Section 115-72C of the Sussex County Zoning Ordinance). The property is located on the northwest corner of Hebron Road and Burton Avenue. 911 Address: 19878 Hebron Road, Rehoboth Beach. Zoning District: B-1. Tax Map No.: 3-34-13.19-2.00.

Ms. Cornwell presented the case and read nine (9) letters of opposition into the record and read three (3) letters of support into the record that the Office of Planning and Zoning received.

Janet Idema, Maxwell Wolf, and Glenn Piper were sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to operate an emergency homeless shelter; that many homeless persons lived in an area referred to as “Tent

City” near Wal-Mart in Rehoboth; that the Applicant assisted the persons living in “Tent City” with finding alternate living arrangements; that the Applicant is a 501(c)(3) organization which assists homeless persons in the greater Lewes-Rehoboth Beach-Dewey Beach area; that the Applicant currently operates at the Faith United Methodist Hall as a Code Purple shelter; that the Code Purple shelter is open from December 1 until April 1; that the proposed use is not the same as a Code Purple shelter; that the use will not have a negative physical, financial or societal impact on the neighborhood; that the Property is located in the West Rehoboth community and consists of approximately ¼ acre; that the Property is improved by a building formerly used as office space for an appraisal company; that the Property is zoned B-1; that the Delaware State Housing Authority has determined that this area is “impacted”; that the area near the Property consists of a mixed use of businesses and residences; that the exterior of the existing building will remain the same but the Applicant plans to add additional lighting and a privacy fence to the Property; that the interior of the existing building will be remodeled to include the installation of a comprehensive fire suppression system and to make the building FHA and ADA compliant; that the shelter will have five (5) bedrooms with a capacity of twenty-two (22) people; that the Property is an ideal location for the shelter; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Glenn Piper testified that he is a licensed appraiser and has worked as an appraiser for approximately twenty-three (23) years; that he has appeared in Delaware Courts to serve as an expert witness; that he is familiar with the Property and the surrounding area; that the use will not negatively impact the property values of the surrounding properties; that the West Rehoboth community has improved in recent years; that he has researched the impact of homeless shelters on property values for nearby properties; that it is difficult to value properties in West Rehoboth as there are so few transactions in the community and, often, those transactions are complicated or have unique circumstances; that Habitat for Humanity has placed a home in the community; that he has never seen negative impact on property values from group housing; that there are examples where property values have increased; that his experience has shown no impact on property values from homeless shelters; that many shelters and group homes fall under the radar and are not noticed by neighbors; that the highest and best use of the building is not as an office or as a residence; that the highest and best use of the building is as a specialty use; that the location is within walking distance of downtown Rehoboth Beach; and that bus transportation is available nearby.

Janet Idema testified that she is the President of the Board for Immanuel Shelter; that she has been with the organization for six (6) years; that the organization currently helps homeless in the Lewes, Rehoboth Beach, and Dewey Beach area; that housing is a basic need for people; that the Code Purple shelters are only open when the temperature is below 32 degrees and persons must leave each day; that the Applicant’s Code Purple shelter located at the Faith Fellowship Hall on Oyster House Road is open from December 1 to April 1 regardless of the temperature and is open to anyone; that an emergency shelter differs from a Code Purple shelter; that individuals are not required to leave the shelter each day and may stay up to 90 days depending on how they progress through a list of expectations; that all residents must go through the Central Homeless Planning System; that all residents will be vetted by the Delaware State Homeless Planning Council and the HUD process which focuses on dangerousness; that the residents cannot be sex offenders, have no active capias, or have a history of violent offenses; that the Delaware State Police Troop 7 will

also vet all potential residents to confirm that these standards are met; that the Applicant has drafted an intake policy, admission criteria, and house rules; that all residents must meet and follow the shelter's rules and regulations during their stay; that no drugs, alcohol, or weapons are permitted in the shelter; that residents are required to attend self-help groups, counseling, and life skills classes; that residents must be actively seeking employment; that the shelter is not a walk-up facility and no visitors are allowed; that the Applicant has met with West Side New Beginnings to discuss the proposed shelter; that the Applicant hopes to work with West Side New Beginnings; that the Applicant looked at three (3) other properties for the shelter; that in order to qualify for State funding the shelter must be located in a highly impacted area and within 1.5 miles from certain amenities such as grocery, banking, bike path, bus routes, and libraries; and that this location meets all of those requirements.

Maxwell Wolf testified that he is the reverend at All Saints Church and is involved with a task force on homeless in this area; that the Community Resource Center is located near Route 1 and provides employment training; that it is very difficult to find an appropriate location for this type of shelter; that it is particularly expensive to find a location within a mile of the Community Resource Center; that homeless persons are camping in the nearby woods and are already in the area; that the shelter will help connect the homeless with job placement and other services needed; that he has been working with homeless people since 2001; and that he has never seen a negative effect in a neighborhood from a shelter.

In summary, David Hutt stated that the use will not substantially adversely affect the uses of the surrounding and neighboring properties; that a licensed appraiser testified the shelter would not have a negative impact to the property values in the area; that loitering will not be an issue; that the daycare or after school programs will not be negatively impacted due to the screening process all residents must pass in order to stay at the shelter; and that any violations to the rules and regulations result in expulsion from the shelter.

Janet Idema testified that the residents will stay at the shelter for 30 to 60 days and 90 days would be the maximum allowable time to stay at the shelter; that each person at the shelter will have their own bed and dresser; that the residents will receive mail at the shelter and will likely consider it to be their home for the duration of their stay; that no visitors are allowed in the shelter; that the vetting process is estimated to take a couple of days; that the vetting process will prevent some homeless from coming to the shelter for help because they will already know they will not qualify or want to comply with the regulations; that there is a similar shelter in Milton known as Casa San Francisco; that the shelter provides the residents with job training; that the Applicant helps with transportation when needed; that the street is dark near the Property so the Applicant will install street lighting along the front of the Property; and that the lighting will improve safety in the community.

Ms. Idema, under oath, affirmed the statements made by Mr. Hutt.

Rhona Prescott was sworn in and testified in support of the Application and testified that she is a social worker; that homeless people are already in the area; that there have not been any

police incidents in the area involving the current homeless; and that an emergency shelter is greatly needed in this area.

Jim Martin was sworn in and testified in support of the Application and testified that he is involved with a similar shelter in Seaford; that the shelter is near the Seaford Christian Academy; that the shelter has had no negative impact to the neighborhood; that the shelter and the center have a positive relationship and have held a successful joint event; that he has worked in opening 23 transitional homes in the State of Delaware; that those homes are located near parks and schools; and that the Seaford shelter is less restrictive than the proposed shelter and has not experienced any incidents.

John Elliott was sworn in and testified in support of the Application and testified that he is has been homeless since October 2015 after the loss of his mother; that he currently uses the Code Purple Shelter when available; that Immanuel Shelter has helped him a great deal; that he is currently seeking employment; and that this shelter would be a very positive environment.

Randy Redard was sworn in and testified in support of the Application and testified that he is the counselor and homeless liaison for the Cape Henlopen School District; that there are a number of children in the area that are homeless; and that he believes there is a need for this type of shelter.

Maryanne Zakreski was sworn in and testified in support of the Application and testified that she lives and works in the Lewes Rehoboth area; and that Project Home in Philadelphia runs shelters and in areas near the shelters property values have increased over the years.

Janet Maull-Martin was sworn in and testified in opposition to the Application and testified that she is the President of West Side New Beginnings Board of Directors and a former teacher; that her position is not against the homeless; that the shelter should not be in such close proximity to a children's community center; that the children may stop coming to the center with the homeless shelter so close; that the Applicant did not make any attempt to contact her organization; that the shelter is approximately 150 feet from the children's center; that the existence of the shelter may deter the participation of children in the programs at the children's center; that homeless shelters should not be located near children's centers; that the safety of the children is a great concern; and that the Applicant has not met the standard for a special use exception because this use will substantially adversely affect the surrounding and neighboring properties.

Mardi John was sworn in and testified in opposition to the Application and testified that she purchased property in the West Rehoboth community in 2012; that she likes that the community consists of year round residents that take pride in their community; that the history of the community was troubled but the residents have united and revitalized the area; that the community stabilizes when you have permanent, year-round residents; that she has concerns about the temporary residents who will reside at the shelter; that the shelter will bring strangers to the area; that she is concerned that the temporary residents will not be invested in continuing the revitalization of West Rehoboth; that she is concerned for the safety of the residents of the

community; and that the shelter will adversely affect the uses of the neighboring and adjacent properties.

Brenda Milbourne was sworn in and testified in opposition to the Application and testified that she lives in the area; that there are no homeless people in the area; that a number of children in the community attend the West Side New Beginnings Community Center; that the center has provided a safe and educational option for children of working parents; that she is concerned about increased traffic to the area; that the shelter will hurt the growth of the community; that she has concerns that the shelter will affect the safety and property values in the community; and that she believes the police have been called to Immanuel Shelter at its other location seven times.

Paul Eberhardt was sworn in and testified in opposition to the Application and testified that he lives on Burton Road; and that there are fifty-one (51) occupied homes in the area. Mr. Eberhardt submitted exhibits and a petition of opposition to the shelter signed by a majority of homeowners in the area for the Board to review.

Robert Paul was sworn in and testified in opposition to the Application and testified that he owns property in the area; that he is concerned the vetting process will not work; that there are twenty-seven (27) states that have banned homeless shelters from being less than 500 feet from a community center where children attend; that parents will be afraid to take their children to the community center if the homeless shelter is approved; that the West Rehoboth community is fragile and has experienced problems with drugs in the past; that hundreds of people use the nearby bike path and feels this use will jeopardize the safety of the bike path; and that there are no homeless people in the West Rehoboth area.

Chuck King was sworn in and testified in opposition to the Application and testified that he is the President of the Homeowners Association for Sea Coast Court; that Sea Coast Court is adjacent to the Property; that he is concerned the shelter will adversely affect his community's property values; and that there is a drug sting operation currently in the Applicant's parking lot.

Richard Faull was sworn in opposition to the Application and he submitted an exhibit for the Board to review.

Beth Doty was sworn in and testified in opposition to the Application and testified that she has worked with the homeless for years; that the homeless are a difficult population to work with; that the revitalization of this community will be adversely affected by the homeless shelter; that hundreds of thousands of dollars have been spent on improvements in the neighborhood; that the community has seen a drop in drug activity since the revitalization; that she works with the land trust in the community to build affordable housing in the area; that the shelter will hurt the trajectory of the improvement; that the shelter will change the perception of the West Rehoboth neighborhood; that there has been a significant decrease in the number of service calls from Troop 7 in recent years; and that the shelter is perceived as a negative impact on the neighborhood.

Tom Billing was sworn in and testified in opposition to the Application and testified that he is a nearby resident; that the shelter will affect the stability of the neighborhood; that he is

concerned about safety; that the street is dark and there are no sidewalks; that the infrastructure is poor for this type of use; that the community is already fragile; and that the use will substantially adversely affect the uses of the neighboring and adjacent properties.

Laurie Bronstein was sworn in and testified in opposition to the Application and testified that she works with the West Side New Beginnings Community Center; that the children in the area come from low income homes; that there are no statistics on how a shelter affects the community center because shelters are not permitted within so many feet of children's centers and schools; that safety of the children is a huge concern; and that enforcement of the regulations are an issue if not properly governed.

In rebuttal, Mr. Hutt stated that safety concerns have been addressed by the Applicant; that the residents must be vetted prior to staying at the shelter to protect the neighboring community; that the Applicant is aware of the West Side New Beginnings Community Center and would like to collaborate with them; that the heart of the Application is provide a safe environment; that loitering will not be allowed; that a similar shelter in Seaford with less regulations works well with a nearby center; that no proof has been submitted to show the property values will decrease due to the homeless shelter; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; and that the Applicant looked at four other sites.

Ms. Idema testified that the definition of homeless includes persons who couch surf or reside with family members in an unstable situation.

In rebuttal, Janet Maull-Martin testified that the Applicant has still not demonstrated how the shelter will be safe or will benefit the community.

The Board found that eighteen (18) parties appeared in support of the Application.

The Board found that twenty-eight (28) parties appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until January 4, 2016**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Meeting Adjourned 11:25 p.m.