

**MINUTES OF THE MEETING OF THE  
CITY OF SEAFORD BOARD OF ADJUSTMENT AND APPEALS**

December 6, 2017

12:00 p.m.

Mayor David Genshaw called the meeting to order with Dolores Slatcher, City Manager and James A. Fuqua, Jr., City Solicitor in attendance. Mike Bailey, Building Official was also present.

Mayor Genshaw turned the meeting over to Mr. Bailey.

Mr. Bailey presented **Case No. V-14-17: TJ Cooper Family Ltd Partnership**, property owner of Tax Map and Parcel 531-13.05-166.00 , located at 615 Stein Highway, (on behalf of Iglesia del Dias Vivo La Luz del Mundo) seeks a variance from section 15-40 Uses by Right (a) (1) of the Zoning Ordinance to locate a National Non-Denominational Church at the property . The Parcel is zoned C-2 highway commercial. He also let the members of the Board know that Mr. Cooper, owner of the property and Mrs. Mendoza and Mr. Valdez, from the Church were present to answer any questions the Board may have.

Mr. Bailey stated that the Church has presented to Board of Adjustment members in the past, in regards to a property on Phillips Street that is adjacent to the additional parking lot for the above referenced property.

Mr. Bailey asked Mr. Cooper and Mrs. Mendoza to come forward to answer questions that the Board members may have.

Mr. Cooper stated that the Church currently operates out of the Phillips Street property on Sundays. Upon approval of the Church residing at 615 Stein Highway, the house on Phillips Street, will then become the Church Parsonage.

City Solicitor Fuqua, asked what the current building located at 615 Stein Highway is being used for. Mr. Bailey stated that the property is currently vacant, but was previously a real estate office. City Solicitor Fuqua, asked what the hours of operation will be for Church service. Mrs. Mendoza stated that the Church will have worship Monday thru Saturday at 5:00 a.m.; 9:00 a.m.; and 6:30 p.m. and Sundays 10:00 a.m. and 3:00 p.m. City Solicitor Fuqua, asked if all services will

be indoor. Mrs. Mendoza stated yes. City Solicitor Fuqua asked if the Church would have any religious practices that could be considered a potential nuisance, such as loud noise or animal sacrifice. Mrs. Mendoza stated no.

City Manager Slatcher asked how many attend the 5:00 a.m. worship service. Mrs. Mendoza stated there would be no more than 20 members in attendance. Mrs. Slatcher expressed her concerns in regards to this time, because of the current noise ordinance that is in place until 6:00 a.m.

Mayor Genshaw asked about parking for the property. Mr. Bailey stated that there is current parking beside and behind the building, however, the amount of parking would be based on seating or capacity of the Church.

Mayor Genshaw solicited any questions or comments from the Public.

Elizabeth Imbragulio, employee at the Pharmacy located next to the above referenced property, came forward. Ms. Imbragulio stated that the Pharmacy is open Monday thru Friday 9:00 a.m. to 7:00 p.m. She is concerned that with the customers who are disabled, delivery vehicles, etc. that come to the Pharmacy having the co-joined parking between the two properties will be over congested. Ms. Imbragulio stated that currently the parking can get full with customers coming to the Pharmacy, and with the Church having worship during Pharmacy operating hours, this may cause more issues.

There were no other questions or comments from the public.

### **Decision**

City Solicitor Fuqua had explained that special considerations are required in the application of the requirements of the Zoning Ordinance to proposed religious uses. While Religious uses can be prohibited in appropriate situations, under Federal Law, a City must have a “compelling governmental interest” to impose a burden or prohibition on the practice of Religion. In addition, Federal Law prohibits a City from discriminating in its land use regulations against Religious Use. A Religious assembly or institution must be treated on equal terms with a non-religious assembly or institution.

The variance requested is to locate a Church, a Religious Use, in an existing building on land zoned C-2, Highway Commercial. C-2 Zoning allows as a permitted use, a wide variety of commercial uses (as listed in Section 15-29)

including restaurants, cafes, and taverns, government offices and other public or semi-public offices, indoor recreational facilities, including theaters and bowling alleys, libraries and museums, motels-hotels with meeting rooms and auditorium spaces, treatment centers and instructional, business or trade schools.

All of the listed permitted uses involve assembly of people for non-religious use. The proposed Church creates no more impact, and more likely much less impact, than the uses already permitted.

Because the parcel is already zoned C-2, Commercial Use is already permitted and a Church would be subject to all other applicable ordinances of the City controlling noise or nuisance, in the same manner as permitted uses. There is no “compelling governmental interest” to prohibit a Religious use that would have an impact no different than uses already permitted by the Zoning Ordinance.

City Solicitor Fuqua made a motion to approve the variance request from Section 15-40 (a) (1) of the Zoning Ordinance to locate a National Non-Denominational Church at the property in that the requested use results in no adverse impact on neighboring properties or the area any different than impacts similar to those of uses already permitted in the C-2 Zoning District. As such the variance will not be contrary to the public interest and the literal enforcement of the ordinance would result in unnecessary hardship and exceptional practical difficulties to the Church and be contrary to the mandate of applicable Federal Law addressing regulation of Religious land use.

City Manager Slatcher seconded the motion and the motion was unanimously approved dated January \_\_\_\_\_, 2018.

---

James A. Fuqua, Jr., City Solicitor

---

David Genshaw, Mayor

---

Dolores Slatcher, City Manager