

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

December 7, 2016

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. Joshua Littleton, Building Official was also present.

Mayor Genshaw turned the meeting over to Mr. Littleton. Mr. Littleton presented **Case No. V-22-16**, the application from **Seaford Associates, LP**. Mr. John Peters was representing the property owners. The property owners of Nylon Capital Shopping Center, specifically units 1030,1031,1032 W. Stein Highway, identified as Tax Map and Parcel 531-10.00-218, on behalf of Telamon Corporation, are seeking relief from the Zoning Ordinance, §15.40 Uses by Right in C-2 Highway Commercial District/§15-29 Uses by Right in C-1 General Commercial District. Telamon Corp. proposes to open a Head Start Center for pre-K children at this location which is not permitted by Code in a C-2 Highway Commercial District. Mr. Littleton invited Mr. John Peters, Director of Operations for The Cordish Group and Mr. Gary Johnson, State Property Manager for Telamon to the podium to answer any questions.

Mr. Littleton explained what is being asked for is a use variance. There are very few regulations in the Zoning Ordinance for a child care facility; we typically approve as a special use in a residential district. The requirements are one hundred square feet of play space per child; there is also a limitation on the lot size in an R-2 Residential District. The Board has permitted day cares in the past, in a commercial district.

City Solicitor Fuqua asked about the playground. Mr. Peters explained the three units will be connected. A fire lane runs behind the building. A fence enclosing the playground area is attached to the building; to allow access to the building by emergency vehicles, two gates will be installed, one on each end of the fence. City Solicitor Fuqua mentioned the playground is 12,000 sq. ft. as shown on the drawing submitted by Mr. Peters.

City Solicitor Fuqua asked about the ages of the children. Mr. Johnson said the ages are six months to five years, basically pre-school. City Solicitor Fuqua asked how many children will they serve? Mr. Johnson replied about ninety-two (92), could be less or more depending on the Federal Government. Right now, we are planning on two sessions – 8 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Mr. Johnson went on to explain there is a bill in Congress that may affect their operating times. He noted the number of children is split between classes, with a maximum of fifty children in one session. City Solicitor Fuqua asked if the time is changed, how many children will be in the session from 8:00 a.m. until 2:00 p.m.? Mr. Johnson said fifty (50). If this happens the building will have to be reconfigured and we will have to reduce the number of children we service. City Solicitor Fuqua asked if a condition was placed at sixty (60) children, would this be OK? Mr. Johnson said yes.

Mr. Littleton said for clarification purposes, on the application it states the times of operation were 7:30 a.m. to 5:30 p.m. and the number of children would be ninety-three (93). Mr. Johnson explained that sometimes they open sooner, staff would arrive about 7:30 a.m. and stay later - 5:30 p.m. for pick up. City Solicitor Fuqua noted the operating hours were 8:00 a.m. to 5:00 p.m. with the children, but maintenance and other things could happen at other times. He wants to make sure everything is covered. Mr. Johnson said the person cooking may come in around 6:30 a.m. City Solicitor Fuqua asked about the ratio of adults to children. Mr. Johnson said the ratio is about 1 to 10. City Solicitor Fuqua inquired if they follow the Head Start Regulations. Mr. Johnson replied they

are governed by the Federal Head Start Regulations. They also have to obtain a State license yearly from the Department of Day Care Licensing; and in addition are inspected about every three to four years by the Federal Government.

City Solicitor Fuqua asked where the children will be dropped off. Mr. Johnson said the bus will drop them off in front of the building at the sidewalk so they won't have to cross any street. The bus will park in the parking lot. City Solicitor Fuqua noted there is plenty of parking available on site.

Mr. Littleton asked Mr. Peters for the specifics on paving and striping. Mr. Peters said the parking lot improvements will start where they left off at the gym and continue to the end of these units. The parking lot will be repaved and restriped; pole lighting will be upgraded. Appropriate lighting at the rear for the playground will be installed.

Mayor Genshaw asked for public comment. There was none.

City Solicitor Fuqua said it seems to him it would be a benefit to have activity at this location. The units are vacant, and this is an ideal location as it won't create an adverse impact on the businesses or the residents. This variance does require some discussion. The property is zoned C-2 which refers back to C-1 for Uses by Right that include therapy treatment, trade schools – Head Start doesn't quite fit in that description but it is an instructional facility within the spirit of the zoning ordinance. It has no adverse effect on the neighbors and is less intense than some of the permitted uses. Based on these facts, City Solicitor Fuqua made a motion to approve with the following requirements:

- Operate as a Head Start based on the approved regulations;
- Use in compliance with State and Federal regulations;
- The operating hours are 8:00 a.m. to 5:00 p.m. Monday through Friday for the children; this does not include the staff doing food preparation or maintenance which may be outside of this timeframe.
- The maximum number of children is 60 at any one time;
- Program limited to children from infant to six years;
- Playground fenced with gates installed at each end for emergency access as shown on the drawing submitted for the record.

City Manager Slatcher seconded the motion. Motion so passed with all present voting in favor.

Mr. Littleton presented **Case No. V-23-16: Delmarva Teen Challenge**. Pastor Bob Carey was present representing the owners. Delmarva Teen Challenge, property owners of 22941 Sussex Highway, identified as Tax Map and Parcel 331-6.00-9.05 are seeking relief from the Zoning Ordinance §15-40A Uses by Special Exception (2) Seasonal storage containers. The property owners desire to allow four storage trailers to remain on site permanently in order to facilitate the storage of goods. The code only allows storage containers to remain on site for one hundred and twenty (120) days in a C-2 Highway Commercial District. Mr. Littleton explained the trailers were relocated from outside the City limits. City Manager Slatcher asked when the trailers were put on the property. Pastor Carey referred to Mr. Lawrence Manlove who responded, in October. The trailers were behind their thrift store on Middleford Road; the location was in Sussex County not in Seaford.

Pastor Carey discussed the site of the trailers. To the north of the trailers is an unimproved lot; on the east side the property is tree lined. The trailers are needed to store appliances, car wash equipment, nothing will be stored in them that may be flammable. Teen Challenge has a 15,000 sq. ft. warehouse on Sussex Avenue that is filled. They moved items from the warehouse to the trailers

to process and move into the building. As a non-profit they are trying to develop work appropriate for their graduates. The trailers will be secure, the staff will be around the building. New LED lights installed on the parking lot; light packs are installed on the building. They made upgrades to keep the site safe.

City Solicitor Fuqua commented that he understands the organization and the benefit it does. But he is looking at this as a land use issue. His concern is that the application said it will be permanent. Pastor Carey said they will be used every day. City Solicitor Fuqua asked, what was the reason the trailers were moved from the other location? Pastor Carey said he thought since they owned the property, he thought he could move them to the site of the new thrift store. City Solicitor Fuqua explained at one time you could not have storage trailers in the City; City Council did an amendment so that you could have trailers temporarily. Normally, people needed additional storage for specific time, such as "Christmas". Council doesn't want trailers like this in town, they have a tendency to deteriorate. The Board can only grant a variance if there is a practical hardship. This isn't what the Council created the Ordinance for – other people will want to have trailers. City Solicitor Fuqua felt the Board doesn't have the legal authority over a land use matter. City Manager Slatcher said that at one time, trailers were permitted, and Council received numerous complaints due to hazard and criminal activity. Council ceased permitting them. Then retail asked for temporary storage. At that time an Ordinance was created to allow storage containers on site for one hundred and twenty (120) days. If we make it a permanent right, it's going to be anywhere in the City. City Solicitor Fuqua said his personal feeling is that the Board can grant the variance for one hundred and twenty (120) days and Teen Challenge can then go before the City Council so the Board can receive some direction. If this was granted permanently, other people would ask for them. City Manager Slatcher said she would like the Board to table their decision and allow Teen Challenge to go to Council on January 10, 2017; and then return to the Board after Council has provided the Board some guidance on this issue. City Solicitor Fuqua said he agreed as long as they take action; he really thinks the Council needs to get involved.

Mayor Genshaw called for public comment. There being none, Mayor Genshaw stated that he's worked in the trucking business a long time and the trailers will deteriorate very fast. A run-down trailer is not something you want parked next to your business.

City Solicitor Fuqua motioned to table the application pending Teen Challenge pursuing this issue with the Council. Teen Challenge should return to the Board once we have some idea on what the Council wants. City Manager Slatcher seconded the motion. All present voted in favor.

Mayor Genshaw adjourned the meeting at 12:31 p.m.

By: \_\_\_\_\_

  
Dolores J. Slatcher, City Manager

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