

**BOARD OF ADJUSTMENT MINUTES**  
**TOWN OF OCEAN VIEW**  
**May 21, 2015**

1. Board of Adjustment Vice Chair Susan Kerwin called the meeting to order at 5:00 pm with the Pledge of Allegiance. Also in attendance were Board Members Gene Brendel, Jim Legates, and Tom Sylvia. Town Solicitor Dennis Schrader, Town Administrative Official Charles McMullen, and Town Clerk Donna Schwartz were also present. The meeting was held at 5:00pm in the Ocean View Town Hall, 32 West Avenue. Bob Bacon was not present.

2. **APPROVAL OF THE AGENDA**

A motion was made by Mr. Sylvia, seconded by Mr. LeGates, to approve the agenda as presented. **The motion carried unanimously 4/0.**

3. **APPROVAL OF THE MINUTES**

A motion was made by Mr. Sylvia, seconded by Mrs. LeGates, to approve the minutes of the March 19, 2015 meeting as written. **The motion carried unanimously 4/0.**

4. **NEW BUSINESS**

A. Mrs. Kerwin read the notice for Application V-296 a request by property owner Eugenia Athan to revisit the parking requirements for a Bed and Breakfast Special Exception granted by the Board of Adjustment on February 19, 2015.

Mr. McMullen was sworn in and stated that he received a letter from Ms. Athan asking the Board of Adjustment to amend their previously approval. She would like to reduce the rooms offered by one and reduce the parking spaces needed by one. A motion was made by Mr. Brendel, seconded by Mr. Sylvia, to reduce the number of rooms for rent by one and reduce the parking spaces by one. The motion carried unanimously 4/0.

B. Mrs. Kerwin read the notice for application V-299, a request for a variance from Article II, §187-11-A & B of the Streets and Sidewalks Chapter of the Town Code submitted by the property owner Robert Thornton. Article II, §187-11-A & B require that curbs shall be in accordance with DelDOT Standard Specifications 2001, or latest addendum in the Mixed Use Planned Community of Silverwoods. This variance seeks to allow the applicant to construct curbing other than that which is required by code on property located on Beaver Dam Road (PIDN: 413.000 / Sussex CTM#: 134-16.00-various.)

Mr. McMullen read his overview for Application V-299. He said the applicant is seeking a variance from Article II, §187-11- A & B of the Streets and Sidewalks Chapter of the Town Code submitted by the property owner Robert Thornton. Article II, §197-11-A & B require that curbs shall be installed along both sides of the street and that all curbing shall be DelDOT PCC Type 1 vertical face with eight-inch reveal. Construction of the curbing shall be in accordance with DelDOT Standard Specifications 200, or latest addendum in the Mixed Use Planned Community of Silverwoods. This variance seeks to allow the applicant to construct curbing other than that which is required by code on property located on Beaver Dam Road

The applicant, who is the owner developer of the Silverwoods Mixed Use Planned Community (MXPC), is requesting that he be permitted to install curbing other than that which is required by Code as follows:

**§187-11 Curbs**

- A. Curbs shall be installed along both sides of the street.
- B. All curbing shall be DelDOT PCC type 1 vertical face with eight-inch reveal. Construction of curbing shall be in accordance with DelDOT Standard Specifications 2001, or latest addendum.

The applicant is requesting to place Type 2 Integral Curb and Gutter (Rolled Curb) throughout the development but in particular throughout the single-family lot areas. The Town eliminated rolled curb and gutter and initiated vertical curb requirements throughout new developments when the code was updated in 2010. The purpose of the change was to restrict or inhibit motorist ability to drive up and over the curb and park on or in the adjacent grass strip. In an effort to receive better clarification of the applicants request I forwarded it to the Town engineer who responded with the attached letter for your review. Mr. McMullen read Mr. Kercher's letter to the Board of Adjustment.

Mr. Robert Thornton, applicant, and Garth Jones, Becker Morgan, were sworn in by Mr. Schrader. Mr. Thornton spoke to the Board saying rolled curbs allows for the curbs to be done all at once. There is no need to "cut-out" sections to add driveways. He said that rolled curbs offered consistent drainage to a very flat subdivision. Mr. Jones presented pictures to the Board of the two styles of curbing and explained the way each is made. He said with the curbing the Town wants they will have to make 111 curb cuts for driveways, which would create low spots where the water could collect. Whereas, with a rolled curb there no curb cuts needed for driveways and the water can flow through the gutter curb uninhibited to the catch basins.

A motion was made by Mr. Brendel, seconded by Mr. LeGates, to approve the application for Type 2 rolled curbs for the 111 single-family lots only. The motion carried unanimously 4/0.

- C. Mrs. Kerwin read the notice for Application V-300, a request for a variance from Article X, §140-63-D & E of the Land Use and Development Plan (LUDC) of the Town Code submitted by the property owner Robert Thornton. Article X, §140-63-D & E limits the number, type, size and duration of display for signs that are permitted in all Districts for real estate, development, and construction in the MXPC District on property located on Beaver Dam Road. (PIDN: 413.000 / Sussex CTM#: 134-16.00-various.)

Mr. McMullen offered his overview saying this variance seeks to allow the applicant to erect or maintain signs previously erected that would exceed the number, type, size, and duration of display for signs that are permitted in this MXPC District on property located on Beaver Dam Road. He said the applicant, who is the owner developer of Silverwoods Mixed Use Planned Community is requesting that he be permitted to maintain signs already erected on

site that are not compliant with Article X, §140-63-D & E of the LUDC of the Town as follows:

1. A 5' x 18' (90 square feet) sign bearing a description of the development and the words "Coming Soon!" Ryan Homes at one of the entrances to the development as illustrated in the photos provided. §140-63-D of the LUDC allows for a development sign with a maximum area of 12sqft per side, total sign not to exceed 24sqft. A maximum height of 8 feet measured from grade and placement 10 feet from street line. It is defined as a sign that advertises the sale or rental of a structure being built as part of a land development project.
2. A 4' x 8' (32 square feet) sign with the name of Melvin L. Joseph Construction Co. at one of the entrances to the development as illustrated in the photos provided. §140-63-D of the LUDC allows for a construction sign with a maximum area of 6sqft per side, total sign area not to exceed 12sqft. A maximum height of 5' measured from grade and placement 10' from the street line.
3. Two 3' x 8' (24 square feet) signs having the name M & T Bank at both entrances to the development as illustrated in the photos provided. §140-63-d of the LUDC does not allow for signage of this type.

Mr. LeGates asked Mr. Thornton if Sussex County had approved the large Silverwoods sign. Mr. Thornton said it was approved by them. There were no comments made for or against the signs by the public.

A motion was made by Mr. LeGates, seconded by Mr. Brendel, to approve the Ryan Homes 5' x 18' sign. The motion carried unanimously 4/0.

A motion was made by Mr. Sylvia, seconded by Mr. LeGates, to approve the Melvin Joseph 4' x 8' sign, however it must be removed until they begin working. The motion carried unanimously 4/0.

A motion was made by Mr. LeGates, seconded by Mr. Brendel, to deny the M & T signs. The motion carried unanimously 4/0.

#### **4. ADJOURNMENT**

A motion was made by Mr. Brendel, seconded by Mr. LeGates, to adjourn at 6:13pm. The motion carried unanimously 4/0.

Respectfully submitted,  
Donna M. Schwartz, CMC