

**BOARD OF ADJUSTMENT MINUTES**  
**TOWN OF OCEAN VIEW**  
**May 16, 2019**

1. Board of Adjustment Chair Susan Kerwin called the meeting to order at 7:00 pm with the Pledge of Allegiance. In attendance were Board Members Gene Brendel, Don Walsh and Greg Neuner. Planning & Zoning Director Ken Cimino, Town Solicitor Dennis Schrader, and Town Clerk Donna Schwartz. The meeting was held in the Ocean View Town Hall, 32 West Avenue. Mr. John Reddington was not present.

2. **APPROVAL OF THE AGENDA**

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

3. **APPROVAL OF THE MINUTES**

*A motion was made by Mr. Brendel, seconded by Mr. Neuner, to approve the minutes for April 18, 2019 meeting. The motion carried unanimously 4/0.*

4. **NEW BUSINESS**

**A. V-383 21 Betts Avenue (PIDN:173.000/CTM#134-12.00-564.00)**

Town Solicitor Dennis Schrader swore in Ken Cimino and Donna Schwartz. Ms. Schwartz confirmed that the application had been advertised, mailed, and posted.

Mr. Cimino read his overview to the Board. He said Application V-383, submitted by Mr. Timothy R. Tribbitt, on behalf of the property owners Margaret Ann Jacobs Trust, for property zoned R-1 (Single-Family Residential District) located at 21 Betts Avenue (PIDN: 173.000 / Sussex CTM# 134-12.00-564.00).

The property owner is requesting variances from the following Town Codes:

1. Article V, §140-28 of the Town Code in order to maintain an existing dwelling unit that projects into the required 25-foot front yard setback.
2. Article V, §140-33 of the Town Code in order to construct steps with a covered roof which would extend into the 25-foot setback for a side lot line abutting a street.
3. Article V, §140-28 of the Town Code for all existing and proposed structures to exceed the maximum allowable lot coverage of 35%.
4. Article XVI, §140-100-D(12)(b)(4) & Article III, §187-10-A of the Town Code in order to maintain two (2) existing driveways with a combined width which exceeds the maximum allowable width of twenty (20) feet through the right-of-way. Both driveways are also placed closer than five (5) feet to the property lines.

In Town comments Mr. Cimino said the following:

1. Regarding variance request No. 1, this dwelling met all requirements of the Town Code at the time that it was constructed.

2. Regarding variance request No. 2, the Office of Planning, Zoning and Development agrees with the applicant that the granting of this variance will not have a negative effect on the neighboring properties and will allow the owner the most practical use of the property.
3. Regarding variance request No. 3, the lot coverage met the requirements of the Town Code at the time that all improvements on this lot were constructed.
4. Regarding variance request No. 4 and No. 5, both existing driveways met the requirements of the Town Code at the time of construction.

Mr. Timothy Tribbitt was sworn-in by Mr. Schrader. He said he is the contractor remodeling the house so he spoke on the owner's behalf. He noted the house and the driveway have been there since 1972 before the code was adopted by the Town.

Mr. Neuner asked what they were adding that was new. Mr. Tribbitt replied only the small roof section over the steps was new, everything else exists and is being updated.

Ms. Margaret Ann Jacobs, trustee, was sworn-in by Mr. Schrader. She testified that everything Mr. Tribbitt said was true and she agrees with his statements.

There were no public comments. There were no questions from the Board.

***A motion was made by Mr. Walsh, seconded by Mr. Brendel, to approve the five variances. The motion carried 4/0.***

**B. V-385 1 Town Road (PIDN:284.090/Sussex CTM# 134-13.00-1101.00)**

Mr. Cimino said Application V-385 was submitted by Joel Antonioli Jr., with the permission of the property owners Bernadette & Joel Antonioli, Sr., requesting a Special Exception as required by Article IV, §140-24 of the Land Use and Development Chapter of the Town Code in order to establish a Woodworking Shop for the duration of one (1) year on property zoned GB-1 (General Business District 1), at 1 Town Road (PIDN: 284.090/Sussex CTM# 134-13.00-1101.00).

Mr. Cimino made the following comments. The Woodworking Shop shall adhere to Article VI, §140-42.2 Woodworking Shop, of the Land Use and Development Chapter of the Town Code added September 12, 2017 by Ordinance No. 341.

Ms. Schwartz noted that the property was properly noticed and posted.

Mr. Joel Antonioli Jr. was sworn-in by Mr. Schrader. He stated he would like to operate a woodworking shop for one year. He is hoping to have a higher end boutique shop and he said he may possibly teach classes. Mr. Antonioli stated there

would be no noise, smoke or dust and no outdoor storage of materials. Ms. Kerwin asked if he was using an existing building. Mr. Antonioli said yes.

Mr. Joel Antonioli Sr. was sworn-in by Mr. Schrader. He stated that he was the owner of the building and is in support of the application. He also commented that the operation was an upper-end woodworking shop with new tools in air conditioning with little to no noise. Mr. Antonioli said his son is very talented.

Mr. Antonioli Jr. stated he uses 25% of the building, his father uses the other 75% of the building.

***A motion was made by Mr. Neuner, seconded by Mr. Walsh, to approve the special exception for a woodworking shop. The motion carried unanimously 4/0.***

**C. V-386 1 Town Road (PIDN:284.090/Sussex CTM# 134-13.00-1101.00)**

Application V-386, submitted by the property owner Joel Antonioli Sr., requesting a Special Exception as required by Article IV, §140-24 of the Land Use and Development Chapter of the Town Code in order to establish a Microbrewery on property zoned GB-1 (General Business District 1), at 1 Town Road (PIDN: 284.090/Sussex CTM# 134-13.00-1101.00).

Mr. Schrader asked if the property was advertised and posted as requires. Ms. Schwartz replied yes. Mr. Cimino made the following comments:

The applicant is seeking a Special Exception as required by Article IV, §140-24 of the Land Use and Development Chapter of the Town Code in order to establish a Microbrewery on property zoned GB-1 (General Business District 1), at 1 Town Road. The Microbrewery shall adhere to Article VI, §140-54.1 Microbrewery, of the Land Use and Development Chapter of the Town Code added July 12, 2016 by Ordinance No. 330.

Mr. Joel Antonioli Sr. stated that the microbrewery is an idea or dream of his. He would like to turn his dream into a viable business. Mr. Antonioli Sr. said he would repurpose the building at 1 Town Road for a microbrewery. He would like to bring identification to Ocean View. He estimated having three to four employees at first. He also estimated a seven to ten-barrel brewing capacity. Mr. Schrader questioned whether there would be a tasting room and on-site sales. Mr. Antonioli Sr. replied yes, however no on-site consumption. Mr. Schrader questioned whether the brewery would produce no more than 15,000 barrels a year. Mr. Antonioli Sr. replied no. Mr. Schrader also asked about mechanical equipment visible from the street. Mr. Antonioli replied no. Mr. Schrader questioned whether any pedestrian connections planned from the road to the building. Mr. Antonioli Sr. replied that would be a great idea. Mr. Schrader questioned if there will be loading bays for the sale of the product. Mr. Antonioli replied he would have to move them to the rear of the building.

Mr. Neuner questioned whether the parking would be adequate. Mr. Antonioli Sr. replied probably not. Mr. Neuner asked if they could use the parking at the World Gym. Mr. Antonioli Sr. stated he did not know. Mr. Cimino noted that they will have to make accommodation for that parking when they get to Planning & Zoning.

Mr. Brendel asked if the business would be retail or wholesale. Mr. Antonioli Sr. said his understanding is if you have a tasting room you can sell retail. Mr. Schrader stated that the microbrewery would be regulated by the Alcohol Control Board. Mr. Antonioli Sr. said his intention was to start small and see how it goes. Mr. Walsh questioned the height of the structure he planned to use. Mr. Antonioli Sr. replied that it is 23' high. Mr. Walsh asked if he has to raise the roof to have a brewery. Mr. Antonioli Sr. replied no. Ms. Kerwin asked about traffic. Mr. Antonioli Sr. replied Town Road is a private street.

There was no public comment for or against the microbrewery.

A motion was made by Mr. Neuner, no second, to approve the special exception.

A motion was made by Mr. Brendel, no second, to defer the application.

A motion was made by Mr. Walsh, seconded by Ms. Kerwin, to deny the application. No vote. Mr. Walsh stated his biggest concern was with parking. Mr. Cimino reminded Mr. Walsh that under single lot review they must meet the requirements of the Town on parking. Mr. Walsh withdrew his motion, Ms. Kerwin approved the withdrawal.

***A motion was made by Mr. Neuner, seconded by Mr. Brendel, to approve the special exception. The motion carried unanimously 4/0.***

**D. V-388 33 Scarborough Lane (PIDN:408.174/CTM# 134-17.00-959.00)**

Mr. Schrader questioned whether this property had been advertised and posted. Ms. Schwartz replied yes it had been.

Mr. Cimino stated Application V-388, submitted by the property owners David and Jean Heimann, seeking a variance from Article VII, §140-50-B and Article V§140-32 of the Land Use and Development Chapter of the Town Code. §140-50-B sets some dimensional regulations for Planned Communities, allows Town Council to set other dimensional regulations, and indicates that dimensional regulations not defined will comply with those set forth in R-3 zoning requirements. The required rear yard setback for principal structures is 30 feet in the Ocean View Beach Club Residential Planned Community as defined in Ordinance 214 adopted by Town Council on March 6, 2007. Article V§140-32 of the L.U.D.C. states that accessory structures attached to the principal structure have the same setback from the rear lot line as the principal structure. The property owners wish to install an attached accessory structure (screened porch) which will project into the required rear yard setback on

property zoned RPC (Residential Planned Community District) located at 33 Scarborough Lane (PIDN: 408.174 / Sussex CTM# 134-17.00-959.00).

Mr. Cimino made the following comments:

1. The applicant is requesting a variance from Article VII, §140-50-B and Article V, §140-32 of the Land Use and Development Chapter of the Town Code. §140-50-B sets some dimensional regulations for Planned Communities, allows Town Council to set other dimensional regulations, and indicates that dimensional regulations not defined will comply with those set forth in R-3 zoning requirements. Residential Planned Communities offer uniform consistency and a sense of order throughout the community. Mr. Cimino read Mr. Heimann's answers to the variance questionnaire. As stated by the applicant in the standards for relief, there is nothing unique about this lot, the applicant simply wishes to construct a screened porch of the size indicated on the proposed plan. Construction of this porch as proposed would extend into the rear yard setback by five (5) feet and would not maintain uniformity with the surrounding dwellings.

Mr. Heimann was sworn-in by Mr. Schrader. He said he would like to build a modest screen porch. He stated he has HOA approval and the approval of his neighbors. Mr. Heimann commented that he was surprised he needed a variance to build the porch. Mr. Schrader asked if the porch was built already. Mr. Heimann replied no it is not built yet. Mr. Neuner asked the dimensions of what he wants to build. Mr. Heimann replied a 12 deep x 15 wide porch.

No public comment was presented.

***A motion was made by Mr. Walsh, seconded by Mr. Brendel, to deny the variance as requested. The motion carried unanimously 4/0. Mr. Neuner stated Mr. Cimino described no uniqueness, not would not be consistent with others in the neighborhood, should be built in compliance.***

**E. V-389 18 Bennett Point Lane (PIDN:408.218/CTM#134-17.00-977.04 Unit S218K)**

Mr. Schrader asked if this application was advertised and posted as required. Ms. Schwartz replied yes the property was advertised and posted.

Application V-389, submitted by the property owners Kevin and Janine Mooney, seeking a variance from Article VII, §140-50-B and Article V§140-32 of the Land Use and Development Chapter of the Town Code. §140-50-B sets some dimensional regulations for Planned Communities, allows Town Council to set other dimensional regulations, and indicates that dimensional regulations not defined will comply with those set forth in R-3 zoning requirements. The required rear yard setback for principal structures is 30 feet in the Ocean View Beach Club Residential Planned Community as defined in Ordinance 214 adopted by Town Council on March 6, 2007. Article V§140-32 of the L.U.D.C. states that accessory structures attached to the principal structure have the same setback from the rear lot line as the principal

structure. The property owners wish to install an attached accessory structure (screened porch) which will project into the required rear yard setback on property zoned RPC (Residential Planned Community District) located at 18 Bennett Point Lane (PIDN: 408.218 / Sussex CTM# 134-17.00-977.04 Unit S218K).

Mr. Cimino made the following comments:

1. The applicant is requesting a variance from Article VII, §140-50-B and Article V, §140-32 of the Land Use and Development Chapter of the Town Code. §140-50-B sets some dimensional regulations for Planned Communities, allows Town Council to set other dimensional regulations, and indicates that dimensional regulations not defined will comply with those set forth in R-3 zoning requirements. Residential Planned Communities offer uniform consistency and a sense of order throughout the community. The applicant has stated in the standards for relief that the lot is unique due to the placement of the dwelling. The applicant simply wishes to construct a screened porch of the size indicated on the proposed plan. A screened porch with a size of twelve (12) feet by twenty (20) in lieu of the proposed screened porch with a size of fifteen (15) feet by twenty (20) feet will fit within the rear yard setback and address the applicants concerns regarding potential mosquito-borne illness. Construction of this porch as proposed would extend into the rear yard setback by five (5) feet and would not maintain uniformity with the surrounding dwellings.

Mr. Cimino read the answers Mr. Mooney gave on the standards of relief questionnaire he submitted with his application for a variance.

Mr. Kevin Mooney was sworn-in by Mr. Schrader. He said they purchased a spec house with no screen porch. He noted there is nothing that would be built behind them. Mr. Mooney stated they had HOA approval and the approval of their neighbors. The exit door is in the middle of the house to a 12 x 20 porch which he compared to a bowling alley. He noted that he is concerned with flies and mosquito borne illnesses. Mr. Schrader questioned the size of the property. Mr. Mooney stated it was 77ft deep by 85ft wide. Mr. Neuner asked if there a problem with the patio? Mr. Mooney replied no.

There were no public comments.

***A motion was made by Mr. Neuner, seconded by Mr. Walsh, to deny the application. The motion carried unanimously 4/0. The reason is there is no uniqueness to the property.***

## 5. ADJOURNMENT

***A motion was made by Mr. Brendel, seconded by Mr. Walsh, to adjourn the meeting at 8:40pm. The motion carried unanimously 4/0.***

Respectfully submitted,  
Donna M. Schwartz, CMC