

BOARD OF ADJUSTMENT MINUTES
TOWN OF OCEAN VIEW
September 19, 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, Greg Neuner and John Reddington. 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.

2. **APPROVAL OF THE AGENDA**

A motion was made by Mr. Brendel, seconded by Mr. Reddington, to approve the agenda as presented. The motion carried unanimously 5/0.

3. **APPROVAL OF THE MINUTES**

A motion was made by Mr. Brendel, seconded by Mr. Walsh, to approve the minutes for the July 18, 2019 meeting. The motion carried unanimously 5/0.

4. **NEW BUSINESS**

A. **V-390 71 Central Avenue (PIDN: 212.000/CTM#134-12.00-634.00)**

Application V-390, submitted by the property owners Ocean View Presbyterian Church, seeking variances from Article X, §140-64 in order to install an identification sign which will exceed the maximum allowable square footage of 24 square feet per side and be placed closer than 50 feet from the adjacent property line. The property owners wish to install the identification sign on their cemetery lot, on property zoned R-1 (Single Family Residential District) located at 71 Central Avenue (PIDN: 212.000/Sussex CTM# 134-12.00-634).

Mr. Schrader swore-in Clerk Donna Schwartz and Ken Cimino. Ms. Schwartz confirmed that the application was advertised and posted. Mr. Cimino read his overview to the Board saying the applicant is requesting a variance from Article X, §140-64 in order to install an identification sign which will exceed the maximum allowable square footage of 24 square feet per side and be placed closer than 50 feet from the adjacent property line.

Construction of this proposed sign would encroach approximately 5 feet into the minimum setback from the property line (Parcel 633 Cemetery) and exceed the maximum allowable square footage by approximately 84 sq. ft.

As proposed, it doesn't appear that this sign will have an adverse effect on the surrounding parcels that are primarily owned by the church.

The parcel also encroaches approximately 5 feet into the minimum setback of the adjacent parcel which is also owned by the church.

Mr. William Colwill was sworn-in by Mr. Schrader. Mr. Colwill offered some background to the church and explained their need for the new sign. He said it would

give greater visibility and would be seen from both Central and Atlantic Avenues. The sign would be designed with 12” lettering, convex shape and would tastefully fit in with the neighborhood.

Ms. Kerwin inquired about lighting. Mr. Colwill replied there would be two small solar lights in front of it. Mr. Neuner asked if this was the property across from the Verizon lot. Mr. Colwill replied yes. Mr. Reddington asked for confirmation that parcel 633 was the cemetery. Mr. Colwill replied that it was the cemetery.

There were no public comments at all.

A motion was made by Mr. Brendel, seconded by Mr. Neuner, to grant the variance for the size of the sign. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Neuner, to grant the variance for the location of the sign. The motion carried unanimously 5/0.

B. V-394 24 Fogland Lane (PIDN:408.151/CTM#134-17.00-936.00)

Application V-394, submitted by the property owners, Lawrence J. & Janis L. Haddock. Article VII, §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 side yard setback for accessory structures, as defined in Ordinance 214 adopted by Town Council on March 6, 2007 is three (3) feet and the minimum rear yard setback for principal structures is 30 feet in the Ocean View Beach Club Residential Planned Community (R.P.C.). Article V, §140-32 of the Town Code states that accessory structures attached to the principal structure have the same setback from the rear lot line as the principal structure.

These variances seek to allow the applicant to construct an accessory structure (outdoor shower) within the required side yard setback and also to construct an attached accessory structure (screened porch) that will encroach into the required rear yard setback on property zoned R.P.C. (Residential Planned Community) located at 24 Fogland Lane (PIDN: 408.151 / CTM# 134-17.00-936.00).

Ms. Schwartz confirmed that the application was advertised and posted. Mr. Cimino read his overview to the Board saying 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.

As stated by the applicant in the standards for relief regarding the outdoor shower enclosure, “we intended to have the shower enclosed but the builder was unable to do it based on town requirements.” Also stated in the standards for relief, the

applicant confirms that there is not a practical difficulty. The applicant simply wishes to construct a shower enclosure. The enclosure as proposed would be located entirely within the Building Restriction Line and be only one foot from the property line.

As stated in the standards for relief regarding the screened in porch, “our home was built with a porch that we opted not to have screened in”. Also stated in the standards for relief, the applicant confirms that there is no practical difficulty or anything 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 approximately thirteen (13) feet.

Mr. Larry Haddock was sworn-in by Mr. Schrader. He was seeking the two variances because the builder told them due to Town setback regulations, they could not build the outdoor shower and larger porch. He said the plumbing is existing for the shower and he would like the enclosure. Mr. Haddock stated he has HOA approval for both the shower and the porch.

Mr. Neuner remarked that the houses are too close together at 10’ and the shower enclosure would be only 6’ from the neighbor. Mr. Cimino noted that the developer stopped selling shower enclosures and porches in June of 2018 because they were not compliant. Mr. Reddington stated he sees this as a problem.

Mr. Greg Baffone spoke in favor of the application and in support of expanding the porch.

Mr. Neuner stated he was troubled by this application, setbacks and conditions are no secret. The developer is putting large homes on small lots.

A motion was made by Mr. Neuner, seconded by Mr. Brendel, to deny the variance for the shower. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Walsh, to grant the variance for the porch. The motion carried 4/1 with Mr. Brendel in opposition.

C. V-393 3 Atlantic Avenue (PIDN: 284.002/CTM# 134-13.00-0030.00)

Application V-393, submitted by the property owners, Adams Family Enterprises, LLC, D.B.A. Shipwrecked, LLC. The property owners request variances from Article V, §140-31 in order for proposed miniature golf course structures to encroach into the required 30’ front yard setback and the required 15’ side yard setback on property zoned GB-1 (General Business District 1), located at 3 Atlantic Avenue (PIDN: 284.002 / CTM# 134-13.00-30.00).

Ms. Schwartz confirmed that the application was advertised and posted. Mr. Cimino read his overview to the Board saying the applicant is seeking a variance from Article

V, §140-31 in order for proposed miniature golf course structures to encroach into the required 30' front yard setback. As currently proposed, these structures would encroach between 15 feet to 20 feet into the front yard setback and fifteen feet into the side yard setback.

It should be noted that at the time this applicant requested a special exception on December 20, 2018 to add a miniature golf course as a use for this parcel of land, the application package included a rendering of this irregularly shaped parcel. The applicant received approval to establish a miniature golf on this irregularly shaped property zoned GB-1 (General Business District 1), located at 3 Atlantic Avenue. (PIDN: 284.002 / CTM# 134-13.00-30.00).

It should also be noted that the applicant, at the suggestion of the Department of Planning, Zoning and Development and the Town Engineer, revised this site multiple times to address the many proposed non-conformities, including the encroachments into the front yard and side yard setbacks. Due to the irregular shape of the property, only so many items could realistically be relocated.

Mr. Vince Robertson, of Parkowski, Gueke, and Swayze, was present to represent the applicants. He said the problem is with some structures of the planned mini golf. The property is unique, it is like two triangles, with a Sussex County force main in the middle. The need for the variances was created by the force main, it is nearly unbuildable. There would be trees, golf holes, pathways, landscaping and water features all within the property with a minimum number of variances.

Mrs. Rebecca Adams was sworn-in and said she agreed with everything her lawyer said. She also noted that the ice cream shop is existing.

Mr. Nicholas Johnson, Ocean Way Estates, spoke in favor of the application.

A motion was made by Mr. Reddington, seconded by Mr. Neuner, to grant the 30' setback variance. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Walsh to grant the 15' side yard setback variance. The motion carried unanimously 5/0.

5. **ADJOURNMENT**

A motion was made by Mr. Brendel, seconded by Mr. Neuner, to adjourn the meeting at 8:16pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC