BOARD OF ADJUSTMENT MINUTES
TOWN OF OCEAN VIEW
December 19, 2019

1. Board of Adjustment Chair Susan Kerwin called the meeting to order at 6:00 pm with the Pledge of Allegiance. In attendance were Board Members Gene Brendel, Greg Neuner, Don Walsh, 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. The motion carried unanimously 5/0.

3. **APPROVAL OF THE MINUTES**
A motion was made by Mr. Walsh, seconded by Mr. Brendel, to approve the minutes for the November 21, 2019 meeting. The motion carried unanimously 5/0.

Mr. Schrader gave all overall summary of the Conduct for Hearings to the audience. He swore-in Mr. Ken Cimino and Ms. Donna Schwartz. Ms. Schwartz confirmed that the application had be advertised, noticed, and posted in accordance to the rules of the hearing.

4. **NEW BUSINESS**

A. V-397 9 Sussex Avenue (PIDN: 321.460/CTM# 134-12.00-1750.00)

Application V-397, submitted by the property owner, Cristin Richards, for property zoned R-1 (Single-Family Residential District) located at 9 Sussex Drive (PIDN: 321.460 / CTM# 134-12.00-1750.00) The property owner requests variances from the following Town Codes:

1. Article XVI, §140-100-D (12)(b)[4] & Article III, §187-10-A in order to maintain an existing driveway which exceeds the maximum allowable width of 20' through the Right-of-Way and is also placed closer than five (5) feet to the property line. The applicant wishes to extend this existing driveway to a proposed garage.
2 Article V, §140-32 in order to erect a detached accessory structure (garage) which will exceed the maximum allowable height of 14 feet from grade.
3. Article V, §140-32, which requires detached accessory structures to maintain the same side yard setback as principal structures. The side yard setback for principal structures is 15 feet in the R-1 Zone as set forth in Article V, §140-28. The property owner wishes to construct a detached accessory structure (garage) which will project into the required 15' side yard setback.
4. Article V, §140-28 in order for all existing and proposed structures to exceed the maximum allowable lot coverage of 35%.

Mr. Cimino read his overview to the Board. He made the following comments:

1. The driveway was constructed and approved following the guidelines of the town code at the time of construction. The extension of the driveway will be constructed in accordance with current town code and will be the required five (5) feet from the property line.
2. The proposed garage will exceed the maximum height restriction by five feet-2 inches (5'-2"). If approved, the approval should be conditional that the

applicant or any future property owner shall not use any portion of the garage as a living space.

3. The proposed garage will project five feet (5'-0") into the side yard setback. Due to the irregular shape of this lot and the need to have adequate access to the garage, there doesn't appear to be enough room to adjust the location to remove the garage from the side yard setback.
4. The proposed improvements will exceed the maximum allowable lot coverage by 4.8 percent. The applicant is removing two existing structures to decrease the lot coverage.

Ms. Christin Richards was present to represent her application and was sworn-in by Mr. Schrader. She explained she needs four variances. The first one is for the driveway which was built in 2001. The second variance is for the height of the structure which is 19' with the pitch to match the roof of the house. The third variance she needs is for the side-yard setback. The fourth variance is for lot coverage. She will be removing a shed, a deck, and a kennel which will leave her with 39.8% overall lot coverage. Mr. Cimino stated his office has no objection to these variances.

Mr. Reddington questioned the width of the proposed driveway extension. Ms. Richards replied 10-12' at the point where it attaches to the proposed structure. Ms. Kerwin asked if water would be available to the garage. Ms. Richards replied no. Mr. Walsh asked if the driveway would be blacktop same as the old driveway. Ms. Richards replied yes.

Mr. Kenneth Nittoly, 8 Sussex Avenue, spoke in favor of the application, saying he has no problem with the design of the garage.

A motion was made by Mr. Reddington, seconded by Mr. Brendel to allow the extension of the driveway to the shed. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Neuner, to allow the height of the garage to 19'2" with no living space on the second floor. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Neuner, to allow the rear and side-yard setback at 10'. The motion carried unanimously 5/0.

A motion was made by Mr. Reddington, seconded by Mr. Neuner to allow coverage to the maximum of 39.8%. The motion carried unanimously 5/0.

B. V-399 9 William Avenue (PIDN: 260.050/CTM# 134-13.00-1249.00)

Application V-399, submitted by the property owner, Nancy Ekland, requesting a variance from Article XVI, §140-100-D(12)(b)[4] & Article III, §187-10-A in order to maintain an existing asphalt driveway that is placed closer than five (5) feet to the property line for property zoned R-1(Single-Family Residential District) located at 9 William Avenue (PIDN:260.050/SCTM# 134-13.00-1249.00).

Ms. Schwartz noted that the application had been noticed and posted. Mr. Cimino read his overview to the Board. He said the driveway was constructed and approved following the guidelines of the town code at the time of construction. However, at the time of construction, a portion of the driveway was constructed on the adjacent lot. This portion of the driveway shall be removed. Any disturbance on the adjacent property (Sea Village Lot 6 / 7 William Avenue) shall be restored to the satisfaction of the neighboring property owners, James & Brenda McIntyre. It appears that due to the angle of the side lot line, further removal of additional driveway would result in a less than desirable narrow access to the property.

Mr. Schrader swore-in the property owner Nancy Ekland. She noted that the left side of the driveway would be left alone, and the right side of the driveway would be altered to comply with side-yard setbacks. Mrs. Ekland said the driveway was existing in 2000 when she purchased the house.

Mr. Neuner asked Mrs. Ekland how she discovered the problem. Mrs. Ekland replied on a site survey which was done for other home improvement reasons.

No public comment.

A motion was made by Mr. Reddington, seconded by Mr. Neuner, to allow the existing driveway to remain in the side yard setback. The motion carried unanimously 5/0.

C. V-400 88/90 Atlantic Avenue (PIDN: 088.000 & 087.000/CTM# 134-12.00-434.00 &134-12.00-433.00)

Application V-400, submitted by Becker Morgan Group, Inc., on behalf of equitable owner, Ocean View Partners LLC, with permission of the property owners Ocean View Specialists LLC, (88 Atlantic) and Michael & Charlotte A. Marine (90 Atlantic). The applicant is requesting a variance from Article V, §140-31 in order to exceed the maximum lot coverage of 50% on properties zoned GB-1 (General Business District-1) located at 88 & 90 Atlantic Avenue. (PIDN's 088.000& 087.000/SCTM# 134-12.00-434.00 & 433.00)

Ms. Schwartz stated the application had been noticed and posted. Mr. Cimino read his overview and stated he had no objection to approval of the application. He said the following:

1. The proposed building and parking area will exceed the maximum lot coverage by 10%. The applicant, at the request of the Department of Planning, Zoning and Development, has made several attempts to redesign the proposed building and parking area to reduce the lot coverage to 50%. Nine (9"-0") feet of right-of-way dedication and a required fifteen (15'-0") Permanent Easement by the Delaware Department of Transportation for the completed SR 26 Mainline Improvement Project along the front of the parcel has limited the applicant from altering the design to meet the lot coverage requirement.

2. Construction of this proposed Mixed-Use Building will be an improvement over the existing structure at 88 Atlantic Avenue which is aged and in need of renovation /updates. 90 Atlantic Avenue was the site of a residential unit which has been removed and the lot is now vacant.

3. The Planning & Zoning Commission approved a lot combination for 88 & 90 Atlantic Avenue via Application P-327 on Thursday, September 19, 2019; the plat has not yet been recorded with the Sussex County Recorder of Deeds.

Mr. Mike Ryan, of Becker Morgan, was sworn-in by Mr. Schrader. He explained that they tried many different options to try to get to 50% lot coverage and didn't succeed. Mr. Ryan they are using an existing curb cut by DelDOT and they secured a drainage easement with the neighboring property which is owned by the Archut family. The property has a narrow 142' frontage which creates a dead-end parking lot. This creates problems for trash trucks picking up trash and leaving the property. Mr. Ryan stated that based on these reasons 60% is the minimal variance request they can make.

Mr. Neuner questioned what counted as far as lot coverage. Mr. Cimino replied things like the building and any impervious surface such as a parking lot. Mr. Reddington inquired as to what was currently on the lot. Mr. Cimino replied a vacant doctor's office. Mr. Ryan stated they would like to begin in early spring. Mrs. Kerwin asked if all the units were rented yet. Mr. Ryan said they are in discussions with several prospects.

Mr. Russell Archut, Atlantic Avenue, said his wife granted the drainage easement for the property behind this application and he has no objection to the application.

A motion was made by Mr. Neuner, seconded by Mr. Brendel, to allow the variance for lot coverage not to exceed 60%. The motion carried unanimously 5/0.

5. <u>ADJOURNMENT</u>

A motion was made by Mr. Walsh, seconded by Mr. Neuner, to adjourn the meeting at 7:00pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC