

BOARD OF ADJUSTMENT MINUTES
ZOOM TELECONFERENCE
TOWN OF OCEAN VIEW
September 17, 2020

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 Preston Coppels. Planning & Zoning Director Ken Cimino, Town Solicitor Dennis Schrader, and Town Clerk Donna Schwartz. The meeting was held by ZOOM Teleconference.

2. **APPROVAL OF THE AGENDA**

A motion was made by Mr. Brendel, seconded by Mr. Walsh, 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. Neuner, to approve the minutes for the August 20, 2020 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 been advertised, noticed, and posted in accordance to the rules of the hearing.

4. **NEW BUSINESS**

A. V-405 6 Larchmont Court (PIDN:410.012/CTM#134-17.00-1154.00)

Mr. Cimino read his overview for Application V-405. He said Application V-405, submitted by the applicant, Mr. Frank Tharby of Premier Glass and Screen, Inc., on behalf of property owners, Richard and Jody Hammond, for a variance from Article VII, §140-50-B of the Town Code, which 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. Ordinance 271 adopted by Town Council on March 8, 2011, established the Tidalwalk Mixed-Use Planned Community (M.X.P.C.) with a rear yard setback of twenty feet. Article VI §140-35 states that a deck attached to a building or structure shall be subject to the same rear setback standard as the principal structure to which it is attached.

The property owners wish to construct a deck with steps that will project into the required rear yard setback by 2.56 feet on property zoned M.X.P.C. (Mixed Use Planned Community), located at 6 Larchmont Court (PIDN: 410.012 / CTM# 134-17.00-1154.00).

This existing home is in a Mixed Use Planned Community. The applicant has stated in the standards for relief that the lot is unique due to the placement of the dwelling creating a “narrowness or shallowness” of lot size.

Construction of this 12-foot-long by 20-foot wide deck is 2.56 feet beyond the building restriction line and does not interfere with the Town’s drainage easement.

The house is abutted by trees in the rear of the yard and this deck does not appear to have any adverse impact on the neighboring properties.

Mr. Frank Tharby, of Premier Glass and Screen, Inc, was sworn-in by Mr. Schrader. He confirmed he had HOA approval. Mr. Tharby explained the second-floor deck that needs stairs. He noted that there is open space behind the house. Mr. Cimino stated that no correspondence from the neighbors had been received.

Mr. Neuner asked if the stairs would be in the set-back. Mr. Tharby replied yes, the stairs need proper clearance.

Mrs. Jodi Hammond, property owner, was sworn-in, and stated they need the stairs to get out of the house in an emergency. Mr. Walsh asked her if the decking was going to be made of the same material. Mrs. Hammond said it would be a 100% match to the house. Mr. Walsh also inquired about the open space behind the house. Mrs. Hammond stated it was common area.

No public comment was heard.

A motion was made by Mr. Brendel, seconded by Mr. Neuner, to approve the variance for the deck and stairs. The motion carried unanimously 5/0.

B. V-406 90 Atlantic Avenue (PIDN:087.000/CTM#134-12.00-433.00)

Mr. Schrader asked Ms. Schwartz if the application had been advertised and posted. She replied yes. Mr. Cimino gave the overview for Application V-406. He said Application V-406, submitted by the property owner, Dr. Adam Sydell of Ocean View Partners, LLC, seeking a variance from Article X, §140-65 of the Town Code which states that a ground-supported sign at a multi-business site shall not exceed 64 square feet per side or a maximum height of 8 feet measured from grade. Each business is permitted one (1) ten square foot wall sign.

This variance seeks to allow the applicant to place a ground-supported sign for a multi-business site which will exceed the maximum height from grade and also the maximum permissible square footage per side. The applicant also wishes to install wall signs at each of the four (4) units that will exceed the maximum square footage permissible by Code on property zoned GB-1 (General Business District 1) located at 90 Atlantic Avenue (PIDN: 087.000 / CTM# 134-12.00-433.00).

The applicant is seeking a variance from Article X, §140-65 of the Town Code which states that a ground-supported sign at a multi-business site shall not exceed 64 square feet per side or a maximum height of 8 feet measured from grade. Each business is permitted one (1) ten square foot wall sign.

1. This ground mounted sign as designed exceeds the maximum height requirement measured from grade by two feet.
2. This ground mounted sign as designed is 115 square feet per side and exceeds the maximum allowable square footage by 51 square feet per side.

3. The wall signs as designed are 28.30+/- square feet and exceed the maximum square footage of a wall sign by 18.30+/- square feet.

These signs are similar in size to other recently opened businesses along the Route 26 corridor and do offer increased visual awareness for the traveling public while not adversely affecting the existing community.

Mr. Walsh asked if they were aware of the sign ordinance regulations. Mr. Cimino said that the sign is perpendicular to the roadway. Mr. Neuner asked Mr. Cimino how the sign compares with the medical buildings next door. Mr. Cimino stated it was comparable. Mr. Brendel asked if the sign would block any other signs. Mr. Cimino replied it would not. Mr. Brendel asked if the sign was lighted. Mr. Cimino replied internally.

Dr. Adam Sidell was sworn-in by Mr. Schrader. He said the sign is being made by Ad-Art Sign Company. Dr. Sidell said the purpose of the sign was to advertise the businesses and offer safety concerns. Mr. Schrader asked what type of sign and Mr. Cimino answered directional. Dr. Sidell stated he was not familiar with the sign code regulations. Mr. Cimino said the Town has an aging population, which means a lot of elderly patients. Mr. Neuner suggested the sign code needed to be revisited. Mr. Walsh questioned the lighting. Dr. Sidell replied both internal and external lighting would be used. Dr. Sean Mercer offered a greeting to all.

No public comment.

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

C. V-407

Mr. Schrader asked Ms. Schwartz if the application had been advertised and posted. She replied yes. Mr. Cimino gave the overview for Application V-407. He said Application V-407, submitted by the applicant, Mr. William Blatzheim of Right Coast Construction, LLC, on behalf of the property owners, Christopher & Melissa Sechrist, seeking a variance from Article VII, § 140-50-B 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 (R.P.C.) as defined in Ordinance 214 adopted by Town Council on March 6, 2007. Article V, §140-32 of the Town Code states that accessory structures attached to the principal structure shall have the same setback from the rear lot line as the principal structure.

This variance seeks to allow the applicant to erect a screened porch on an existing deck that will encroach into the required rear yard setback on property zoned R.P.C. (Residential Planned Community) located at 16 Bennett Point Lane (PIDN: 408.217 / Sussex CTM#: 134-17.00-977.04 S217K).

This existing home is in a Residential Planned Community. 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 irregular shaped property and the presence of the McCabe Tax Ditch adjacent to the rear of the property.

Construction of this 3-season room will not increase the footprint of the existing deck that it is being constructed on. It also will not adversely impact the surrounding properties as many homes in this community have screened-in porches or 3-season rooms.

Mr. Schrader asked if they had HOA approval. Mr. Cimino said yes. Mr. Schrader also noted that there were two letters of support from Thomas Fitch at 16 Old Orchard Avenue, and The Mooney's at 18 Bennett Point Lane.

Mr. Neuner asked if it was an existing deck. Mr. Cimino replied yes. Mr. Walsh questioned the set-back issues. Mr. Cimino replied they are reviewed on a case by case basis.

Mr. Bill Blatzheim was sworn in. He noted that they have an ongoing problem with mosquitoes, and they would like to have a three-season room to enjoy their property better.

Mr. Christopher Sechrist, property owner, was sworn in, he reconfirmed what Mr. Blatzheim stated about the mosquitoes and how they cannot use their deck as much as they would like. Mr. Neuner asked what the amount of intrusion into the set-back was. Mr. Blatzheim replied 8'9". Mr. Cimino stated the code allows up to 10" on decks under 24'.

No public comment.

A motion was made by Mr. Coppels, seconded by Mr. Neuner, to allow the variance for the three-season room. The motion carried unanimously 5/0.

5. **ADJOURNMENT**

A motion was made by Mr. Walsh, seconded by Mr. Neuner, to adjourn the meeting at 6:45pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC