



**DRAFT 1**

**(Original suggestion by FT)**

**ORDINANCE NO \_\_\_\_\_**

**AN ORDINANCE TO AMEND CHAPTER 185, ZONING OF THE DEWEY BEACH CODE OF ORDINANCES RELATING TO LAPSE OF SPECIAL EXCEPTIONS AND VARIANCES GRANTED BY THE BOARD OF ADJUSTMENT.**

**WHEREAS**, the Commissioners of the Town of Dewey Beach desire to amend 185-70 to clarify that the Board of Adjustment may extend the effective period of variances and special exceptions beyond one year upon a proper showing; and

**WHEREAS**, the Planning Commission, having conducted a public hearing on May 4, 2023, to consider the proposal to clarify the Board’s authority to grant extensions of previously granted relief from strict enforcement of the zoning code, recommended approval hereof.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Commissioners of the Town of Dewey Beach, Sussex County, Delaware, in session met, as follows:

**Section 1.** Amend § 185-70, Lapse of Special Exceptions and Variances as depicted by highlighted insertions, strikeouts and substitutions depicted below:

**§ 185-70. Lapse of special exception or variance.**

After the Board of Adjustment has approved a special exception or granted a variance, the **In general, a** special exception or variance ~~so approved or granted~~ **by the Board of Adjustment** shall lapse after the expiration of one year unless: ~~construction is completed or the use has taken place in accordance with the plans for which such special exception or variance was granted, or if the Board of Adjustment does not specify some longer period than one year for good cause shown, and the provisions of these regulations shall thereafter govern.~~

- A. Construction is completed.**
- B. The building permit has been applied for prior to the expiration of the approved special exception or variance;**
- C. The use has taken place in accordance with the plan for which such special exception or variance was granted;**
- D. The approved special exception or variance was expressly authorized by the Board of Adjustment for a longer term than one year and such term has yet to expire;**

E. The special exception or variance for any project for which a building permit has been obtained shall lapse if construction is not completed within the timeframe for which the building permit remains valid.

F. The Board of Adjustment may grant one six-month extension of a previously granted variance or special exception upon a determination that the property owner demonstrates good cause as to why construction is not yet completed or the use has not been altered as permitted by the Board.

**Section 2.** Severability. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Adoption. This Ordinance shall take effect immediately upon its adoption by a majority vote of the Commissioners of the Town of Dewey Beach. Adopted by at least a majority vote of all Commissioners of the Town of Dewey Beach on June 16, 2023.

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Mayor, William Stevens

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Town Manager, Bill Zolper