



DRAFT 2

(Based on Daune's comments that there are some existing exceptions or variances that may lapse before it is practical for the applicants to comply with the amended requirements, P&Z recommended that the ordinance allow appeal to the Board of Adjustment so that projects could be completed)

ORDINANCE _____

AN ORDINANCE TO AMEND CHAPTER 185-70, LAPSE OF SPECIAL EXCEPTION OR VARIANCE, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE.

WHEREAS, Chapter 185-70 of the municipal code provides that special exceptions or variances granted by the Board of Adjustment expire after one year; and

WHEREAS, delays in the construction process associated with exceptions or variances may require a period greater than one year; and

WHEREAS, the Commissioners wish to provide a reasonable opportunity for completion of projects for which special exceptions or variances have been granted.

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 of the Code of Ordinances as depicted by highlighted insertions, strikeouts and substitutions depicted below:

After the Board of Adjustment has approved a special exception or granted a variance, the **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. A building permit has been applied for before the expiration of one year after approval of the special exception or variance;

C. The use has taken place in accordance with the plans for which such special exception or variance was granted, or

D. The Board of Adjustment has specified a period longer than one year for good cause shown.

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.

Any special exception or variance that is valid as of June 16, 2023 may be extended by appeal to the Board of Adjustment to allow for completion of a project in accordance with this section.

Section 2. If any provisions 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.

Section 3. This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach.

Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this 16th day of June, 2023.

SYNOPSIS

This Act allows applicants that are granted a special exception or variance for which a building permit is needed to extend the usual one-year period for which the special exception or variance is valid. The ordinance allows projects related to currently valid exceptions or variances to be completed in accordance with the new provisions.

Mayor, William Stevens
Town Manager, Bill Zolper