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EXHIBIT 1



Town of Dewey Beach, DE
Thursday, April 23, 2026

Chapter 185. Zoning

Article VIII. Supplementary Height, Area and Bulk Regulations

§ 185-51. Accessory buildings and structures.

[Amended 3-14-2009 by Ord. No. 654; 8-24-2018 by Ord. No. 744; 3-15-2024 by Ord. No. 835]

- A. A hedge, fence or wall not more than 3.5 feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Any fence, hedge, or wall for residential use may project into or enclose other required yards, provided such fences, hedges, and walls do not exceed a height of seven feet. This height limit does not apply to fences or walls used for commercial screening or tennis courts.
- B. Accessory swimming pools, open and unenclosed, may occupy a required yard or side yard, provided they are not located closer than 10 feet to an interior side lot line or six feet to a rear lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier at least 4.5 feet in height and constructed of concrete, stockade wood or material of equal quality.
- C. Accessory storage of a boat trailer or camp trailer shall not be allowed in a front yard. Accessory storage of mobile homes is prohibited.
- D. An accessory building which is not a part of the main building may be constructed in a rear yard three feet from the side lot line and three feet from the rear lot line, provided such accessory building contains not more than 200 square feet of area, is not more than 12 feet in height and is used exclusively for storage and not for residential purposes.
- E. A satellite antenna not exceeding four feet in diameter shall be permitted as a freestanding structure only in the rear yard and shall be subject to the same setbacks and height restrictions as an accessory building. A satellite antenna not more than four feet in diameter shall be permitted on the roof of a residential, commercial or mixed-use structure; however, any satellite antenna greater than four feet in diameter to be installed on any building in all districts requires a conditional-use approval.
- F. No portion of any building lot area developed with a residential use or a mixed commercial and residential use in any district of Dewey Beach shall be covered or paved with impervious materials, installed in a manner as to create an impervious surface for any ground level surface, including driveways, parking spaces, and sidewalks, or any other structure not directly under roof. A swimming pool walk space required in § **185-51B** may have an impervious surface, but the walk space may be no wider than three feet. Impervious surfaces existing before March 14, 2009, may continue as a nonconforming structure, and may be repaired, but shall not be expanded horizontally or vertically, nor rebuilt or replaced with impervious materials.
- G. No portion of any driveway entrance constructed on the public right-of-way developed with a residential use or a mixed commercial and residential use in any district of Dewey Beach may be covered or paved with impervious materials, including but not limited to poured concrete, asphalt, brick, impervious pavers, or flag stones, installed in a manner as to create an impervious surface.



*Town of Dewey Beach, DE
Thursday, April 23, 2026*

Chapter 185. Zoning

Article XII. Design Guidelines

§ 185-92. Fences.

A. Ornamental fences or walls may project into or enclose any yard, provided:

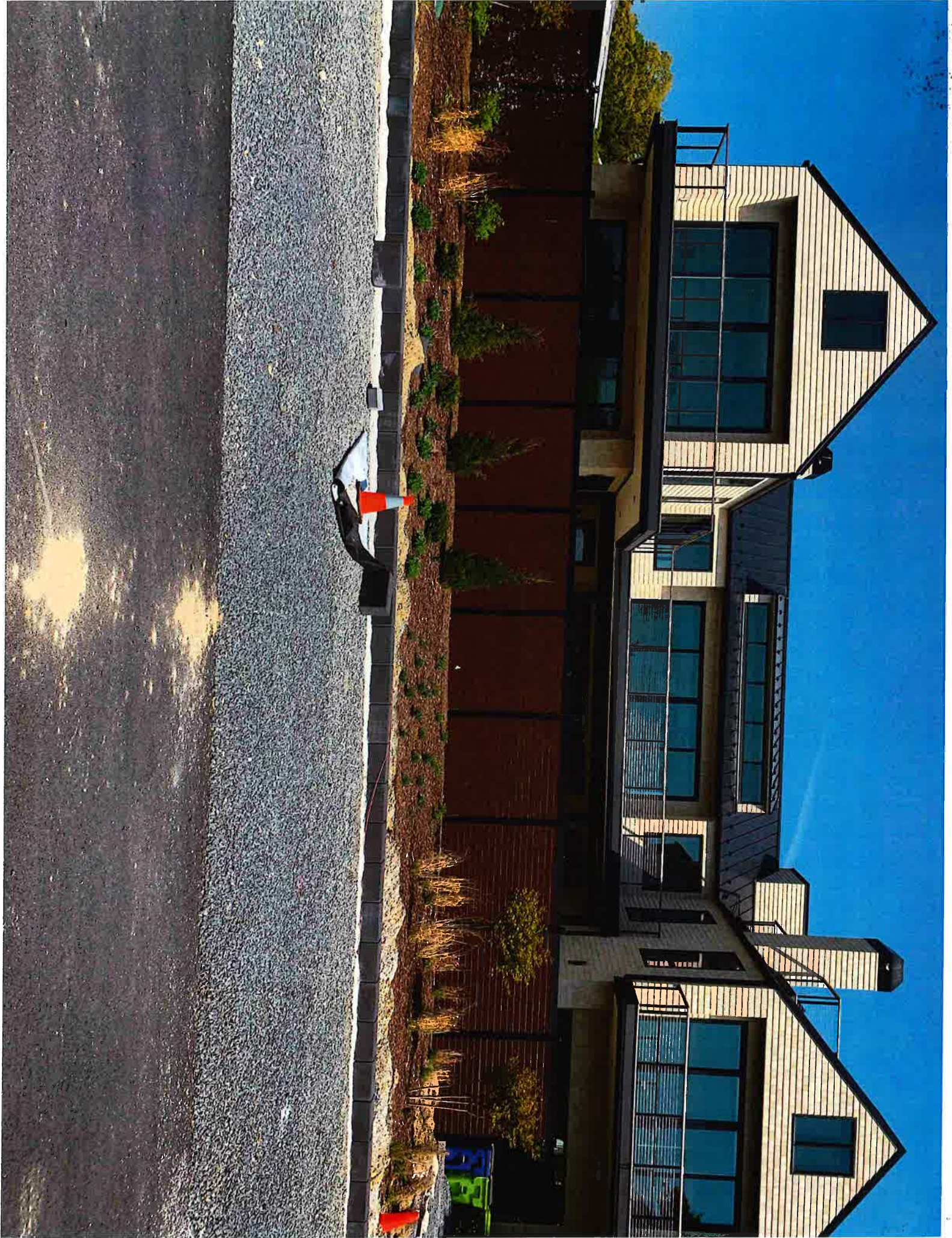
(1) No fence or wall shall exceed seven feet in height.



(2) No fence or wall exceeding 3 1/2 feet in height shall project into or enclose any portion of the yard located within the front yard setback.

B. Razor wire, barbed wire, chain link, wire or similar fence material is prohibited in the Town of Dewey Beach.

EXHIBIT 2



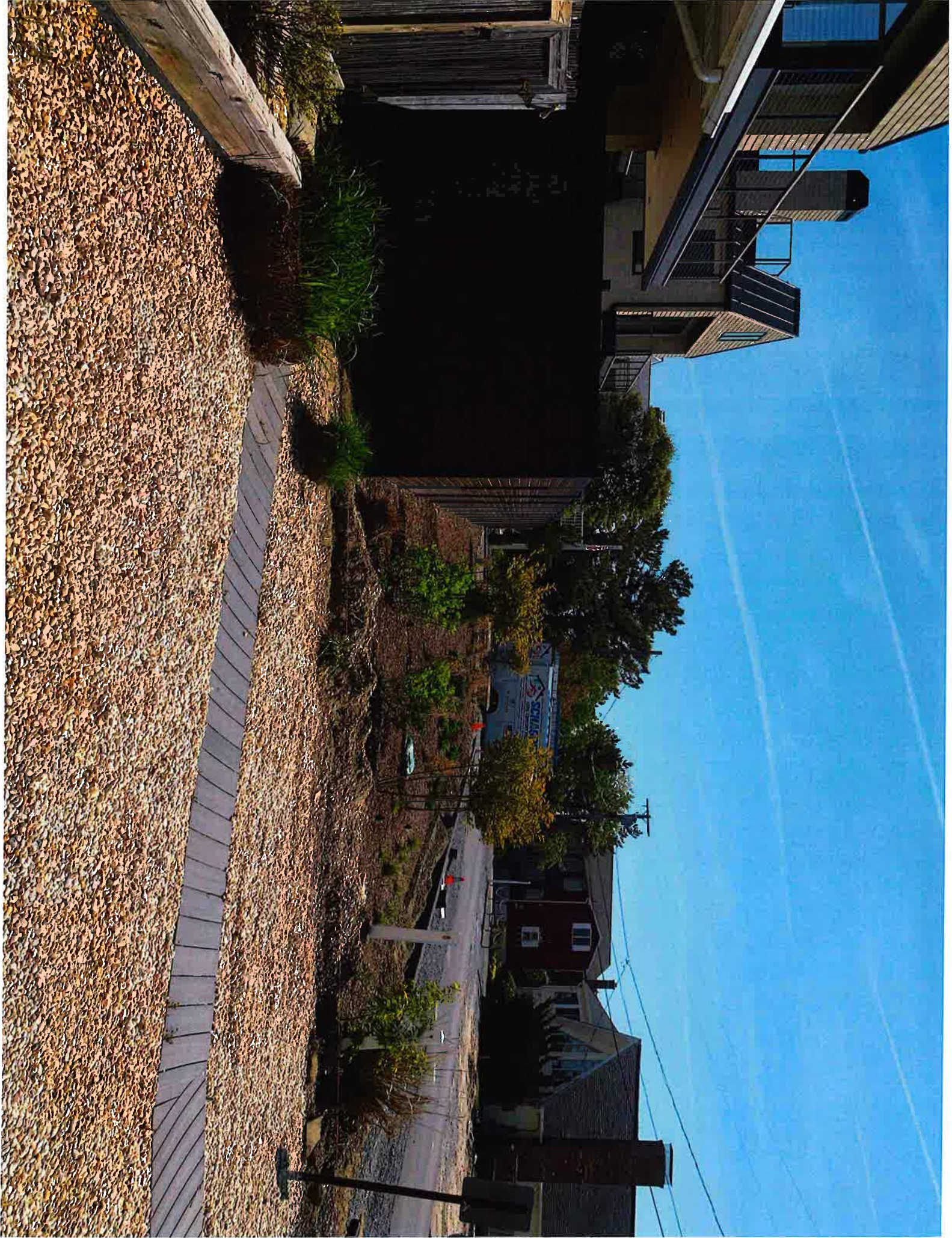
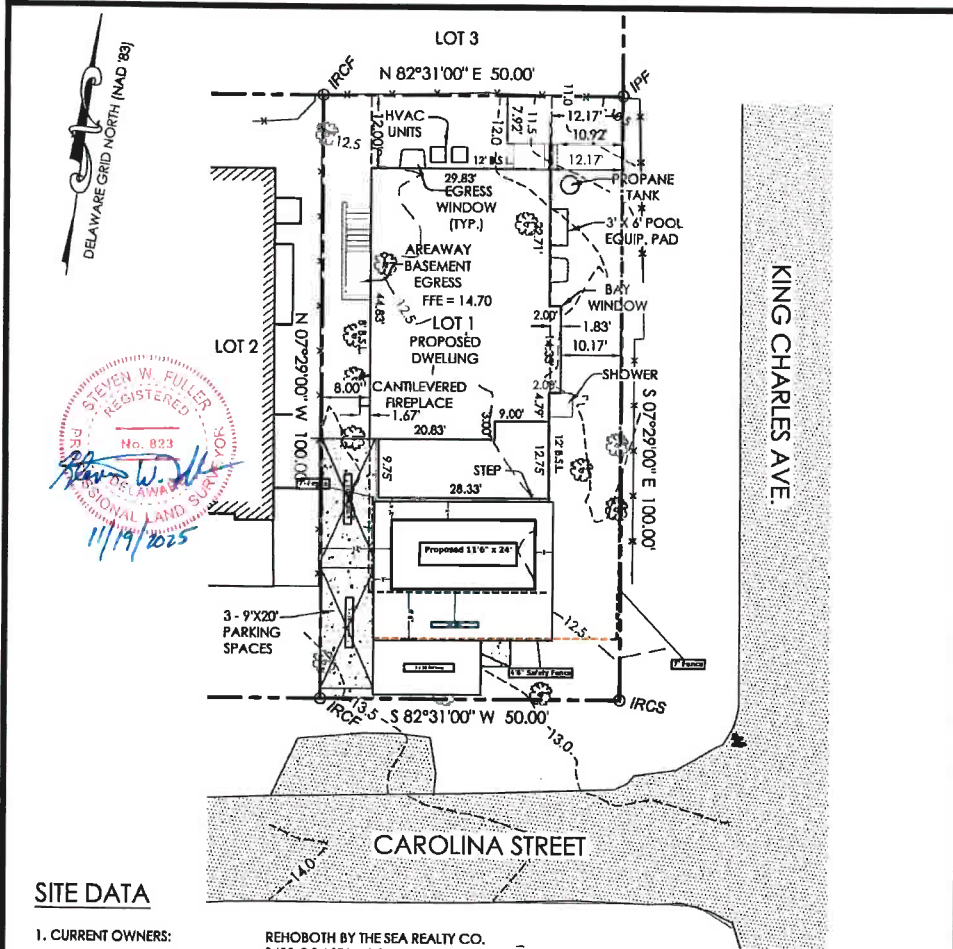


EXHIBIT 3



SITE DATA

- 1. CURRENT OWNERS: REHOBOTH BY THE SEA REALTY CO.
2400 COASTAL HIGHWAY
DEWEY BEACH, DE 19971
- 2. SURVEYOR: SOLUTIONS IPEM LLC
303 N. BEDFORD ST.
GEORGETOWN, DE 19947
410-572-8833
TM: 334-20.10-89.01
DB 348/596
263/19
- 3. TAX PARCEL: NR - NEIGHBORHOOD RESIDENTIAL
- 4. DEED REFERENCE: 10,000 ± SQ. FT.
- 5. PLAT REFERENCE: NR - NEIGHBORHOOD RESIDENTIAL
- 6. ZONED: NR - NEIGHBORHOOD RESIDENTIAL
- 7. AREA OF LOT: 10,000 ± SQ. FT.
- 8. BASED UPON F.E.M.A FLOOD INSURANCE RATE MAP 10005C0354K, PANEL 354 OF 660, WITH AN EFFECTIVE DATE OF MARCH 16, 2015, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN.
- 10. HORIZONTAL DATUM SHOWN HERON IS REFERENCED TO NAD '83 (DE STATE PLANE)
- 11. OFFSET DISTANCES MEASURED TO BUILDING, DECK, AND PORCH FOUNDATIONS WITHOUT STONE VENEER OR SIDING.
- 12. GREEN SPACE = 2,596 ± S.F. (25.96%)
IMPERVIOUS SPACE = 2,401 ± S.F. (24.01%)
- 13. FLOOR AREA RATIO (FAR): MAXIMUM FAR ALLOWED = 4,000 S.F.
PROPOSED FIRST FLOOR = 1,339 S.F.
PROPOSED FIRST FLOOR PORCH = 303 S.F.
PROPOSED SECOND FLOOR = 1,310 S.F.
PROPOSED FAR = 2,952 S.F.
- 14. MAXIMUM BUILDING HEIGHT ALLOWED = 35' ABOVE GRADE = 47.83'
PROPOSED BUILDING HEIGHT = 45.05'

LEGEND

DECIDUOUS TREE	
MAJOR CONTOUR	-----
MINOR CONTOUR	- - - - -
IRON ROD & CAP FOUND	○ IRCF
IRON ROD & CAP SET	● IRCS
IRON PIPE FOUND	○ IPF



<p>Integrated Planning Engineering & Management, LLC</p>	<p>3003 Merrill MR Road Salisbury, MD 21804 T: 401.572.8833 www.solutionsipem.com</p> <p>Copyright © 2025</p>	<p>SITE PLAN</p> <p>LOT 1, BLOCK 28</p> <p>REHOBOTH BY THE SEA</p> <p>LEWES AND REHOBOTH HUNDRED</p> <p>DEWEY BEACH, SUSSEX COUNTY, DELAWARE</p>	
	<p>Drawn by: RAM</p> <p>Job No.: 525060</p>	<p>Scale: 1" = 20'</p>	<p>Date: 09-05-25 Revised: 09-29-25</p>

EXHIBIT 4



Town of Dewey Beach

www.townofdeweybeach.com

105 Rodney A
Dewey Beach, DE
P: (302)221

ORDINANCE 843

AN ORDINANCE TO AMEND CHAPTER 185, ZONING, AND CHAPTER 1, DEFINITIONS, OF THE MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF MINIMUM LOT AREA REQUIREMENTS DEVOTED TO PLANTINGS AND OPEN SPACE IN THE NEIGHBORHOOD RESIDENTIAL (NR) ZONING DISTRICT, REGULATING THE BOUNDARIES AND MATERIALS USED IN DRIVEWAYS AND WALKWAYS, AMENDING THE DEFINITION OF "GREEN SPACE," AND PROHIBITING PARKING IN GREEN SPACE

WHEREAS, The Town of Dewey Beach Comprehensive Plan calls for protection and preservation of the natural environment of Dewey Beach and surrounding area; and

WHEREAS, the Commissioners wish to clarify requirements for planting and open space in the Neighborhood Residential (NR) zoning district; and

WHEREAS, the Commissioners wish to define "green space" and increase the portion of lot area devoted to green space in the NR district.

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 Chapter 1-16 of the Municipal Code of the Town of Dewey Beach by making the highlighted insertions, strikeouts, and substitutions depicted below:

GREEN SPACE

~~Open, vegetated land valuable for wildlife, amenity, or recreation purposes, within or adjoining a built-up area. It may include previously used or undeveloped land.~~ Land with vegetation, such as grass, trees, shrubs and other plants which are permanently planted into the ground or land left and maintained in its natural condition. Use of planters or pots, including those in which the plants contained in the planter or pot are rooted in the ground, shall not qualify as green space. Green space may include plant-based mulches, artificial mulches, and decorative rock or stone, but artificial mulches and decorative rock or stone may be applied only around and between plants or shrubs, and may not extend more than a radius of 3 feet from the primary trunk or stem of a plant or shrub.

Section 2. Amend Chapter 185-54 of the Municipal Code of the Town of Dewey Beach by making the highlighted insertions, strikeouts, and substitutions depicted below:

- A. ~~Effective May 1, 1990, no~~ No motor vehicles shall be parked in the front yard of any lot except within an established driveway or within a marked parking space accessed from the driveway entrance of the lot, and parking is subject to applicable planting, green space, and open space requirements in Table 2, Bulk Zoning Requirements in All Districts.

Section 3. Amend Chapter 185-55 of the Municipal Code of the Town of Dewey Beach by making the highlighted insertions, strikeouts, and substitutions depicted below:

- A. Refer to Table 2, Bulk Zoning Requirements for All Districts[1] for open space, and planting and green space requirements.
- B. Plots. Every application for a building permit that may affect planting, beautification, or green space must be accompanied by a plot or sketch, acceptable to the Town Building Code Official, showing the location and dimensions of the planting, or beautification or green space area.
- C. Definition. A planting or beautification area is an area of land which is not paved but left in its natural condition or improved by planting grass or vegetation.
- D. The applicant shall provide a list of all plantings to be installed on the lot. Acceptable plantings shall include trees, shrubs, ornamental plants and grasses, but not species recognized as invasive or weed or vegetable.
- E. Except in the NR zoning district, Planting requirements may be met using potted trees, shrubs and plants, provided the surfaces that such potted species rest on are of permeable materials and are designed so as to not be used for commercial use or pedestrian traffic.

Section 4. Amend Chapter 1-16 of the Municipal Code of the Town of Dewey Beach by making the highlighted insertions, strikeouts, and substitutions depicted below:

Zoning District	NR
<p>Planting, <u>and green space, and</u> open space requirements</p>	<p>Minimum of 15% of gross lot area dedicated to planting and beautification area; a minimum of 50% of this requirement shall be located in front yard.</p> <p><u>Minimum of 25% of gross lot area dedicated to green space.</u></p> <p><u>All front yard area shall be green space except for one 20x18 driveway space or two 10x18 driveway spaces and one 4x18 space for a walkway.</u></p> <p><u>Remaining green space area shall be distributed between the two side yard and backyard areas.</u></p> <p><u>Parking is prohibited in green space areas. Existing yard spaces covered with non-green space materials may remain, but shall not be expanded. Green space requirements shall be met when an existing structure is added to or expanded.</u></p>



<u>Driveway and walkway construction</u>	<u>Driveways and walkways shall have borders that contain the materials for those surfaces within the driveway and walkway spaces.</u>
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Section 5. 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.

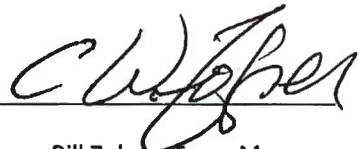
Section 6. This Ordinance shall take effect immediately upon its approval by the Town Council. Adopted by at least a majority vote of all Commissioners of the Town of Dewey Beach on September 20, 2024.

SYNOPSIS

This Act defines "green space," requires increased green space requirements for the NR zoning district, provides maximum allowances for driveways and walkways in the NR district, and prohibits parking in green space areas.



William Stevens, Mayor



Bill Zolper, Town Manager

EXHIBIT 5

6.3 Open, unenclosed porches, platforms, or paved terraces not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the required front or rear yard not more than five (5) feet. Such extension or projection shall not be greater than four (4) feet above grade. (Amended by Ord. No. 24 2-18-83)

6.4 No rear yard shall be required on that rear of a lot which adjoins a water way.

SECTION 7. CORNER VISIBILITY.

7.1 No sign, fence or wall or shrubbery extending to a height in excess of three (3) feet above the established street grade, shall be erected or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points 25 feet distant from the intersection of the street lines.

SECTION 8. ACCESSORY BUILDINGS AND STRUCTURES.

8.1 Except as herein provided, no accessory building shall project beyond a required yard line along any street.

8.2 Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 20 feet from street lines.

8.3 Any hedge, fence or wall for residential use, not more than three and one-half (3- $\frac{1}{2}$) feet in height, may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Any fence, hedge, or wall for residential use may project into or enclose other required yards, provided such fences, hedges, and walls do not exceed a height of seven (7) feet. This height limit does not apply to fences or walls used for commercial screening, or tennis courts. (Amended by Ord. No. 25 2-18-83)

8.4 Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided they are not located closer than ten (10) feet to an interior side lot line or six (6) feet to a rear lot line. A walk space at least three (3) feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier at least four (4) feet in height and constructed of chain-link, concrete, stockade wood or equal.

8.5 Permitted accessory storage of a boat, boat trailer or camp trailer shall not be conducted in a front yard.

EXHIBIT 6



Town of Dewey Beach

www.townofdeweybeach.com

105 Rodney Avenue
Dewey Beach, DE 1997
P: (302)227-636

ORDINANCE NO. 875-2026

AN ORDINANCE TO AMEND CHAPTER 185, ZONING REGARDING SWIMMING POOLS AND POOL FENCES

WHEREAS, the Commissioners of the Town of Dewey Beach find it necessary and appropriate to clarify and confirm the intent of the zoning code that the existing prohibition against fence height in a required front yard applies equally to fences required to surround accessory swimming pools; and

WHEREAS, the Dewey Beach Planning & Zoning Commission convened a duly noticed public hearing on March 3, 2026 and the recommendations provided herein are based upon the Commission's review and deliberation at that hearing.

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 Section 185-51 of the Zoning Code of the Town of Dewey Beach by inserting the underlined language in subsection A thereof as reflected below:

- A. A hedge, fence or wall not more than 3.5 feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. This height limit applies equally to pool fences which are required to exceed 3.5 feet in height. Any fence, hedge, or wall for residential use may project into or enclose other required yards, provided such fences, hedges, and walls do not exceed a height of seven feet. This height limit does not apply to fences or walls used for commercial screening or tennis courts.

Section 2. Amend Section 185-51 of the Zoning Code of the Town of Dewey Beach by inserting the underlined word "rear" in subsection B thereof as reflected below:

- B. Accessory swimming pools open and unenclosed, may occupy a required rear yard or side yard, provided they are not located closer than 10 feet to an interior side lot line or six feet to a rear lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier at least 4.5 feet in height and constructed of concrete, stockade wood or material of equal quality.

Section 3. 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 4. 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 17th day of April, 2026.

SYNOPSIS

This Ordinance clarifies that swimming pools are permitted to occupy portions of required side and rear yards but not any portion of required front yards. Also, it clarifies that pool fences which by definition must exceed 3.5 feet in height are not permitted in required front yards.

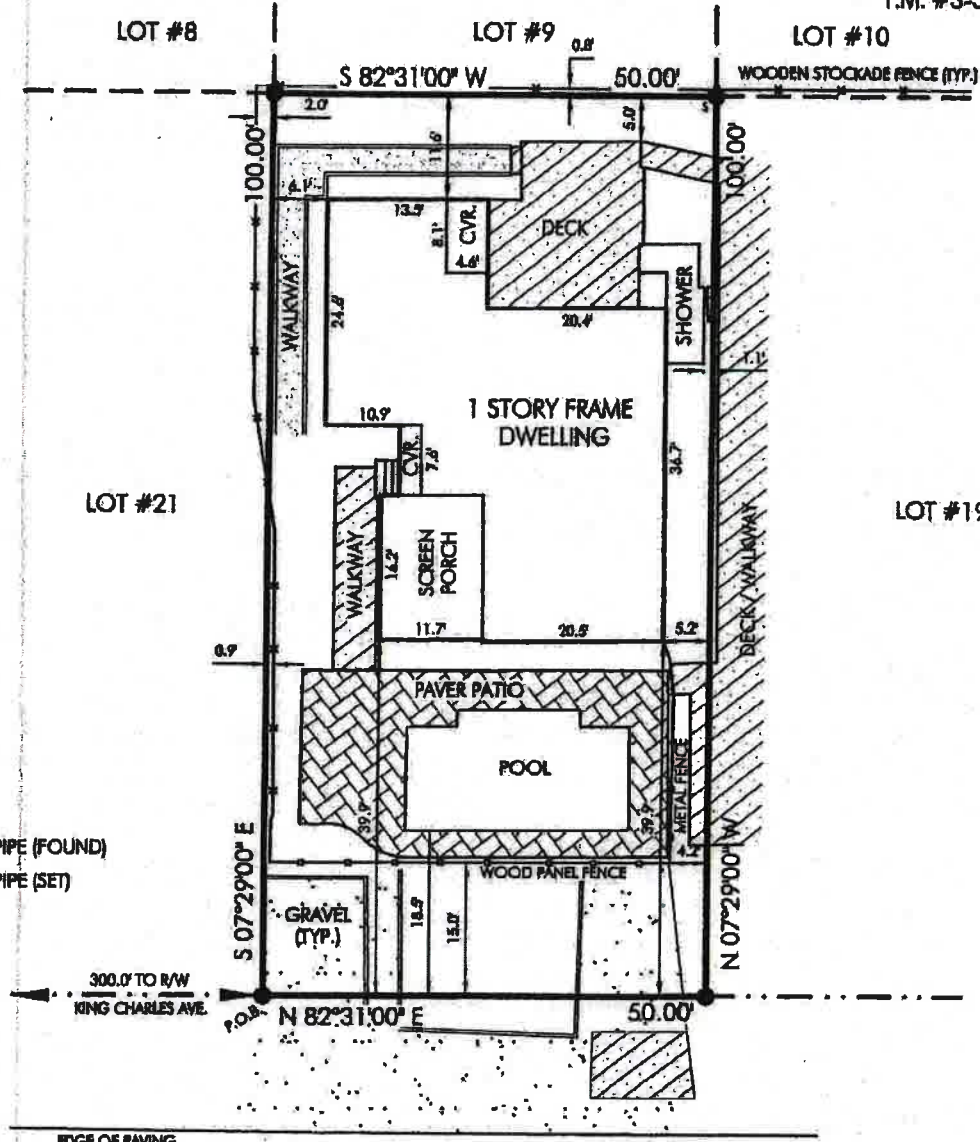


Mayor, William Stevens



Town Manager, Bill Zolper

EXHIBIT 7



LEGEND:

- IRON PIPE (FOUND)
- IRON PIPE (SET)

NOTES:
 ALL SETBACKS ARE THE RESPONSIBILITY OF THE HOME OWNER AND/OR GENERAL CONTRACTOR.
 THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY.
 NO TITLE SEARCH PROVIDED OR STIPULATED.
 SURVEY CLASS: SUBURBAN

BOUNDARY SURVEY PLAN FOR TOWN OF DEWEY BEACH

TOTAL AREA: 5,000 SQ. FT.

LOT #20 BLOCK #28 OF "REHOBOTH BY THE SEA" SUBDIVISION

TOWN OF DEWEY BEACH

LEWES & REHOBOTH HUNDRED SUSSEX COUNTY

STATE OF DELAWARE

SEPTEMBER 25, 2013 SCALE: 1" = 20'

Prepared by:

FORESIGHT Services

Surveying & Precision Measurement

302 226 2229 phone

302 226 2239 fax

2103A Coastal Highway

Dewey Beach, DE 19971

EXHIBIT 8

**MELUNEY
ALLEMAN &
SPENCE LLC**

Stephen A. Spence
1143 Savannah Road, Suite 3-A
Lewes, DE 19958
Direct Dial: 302-551-6819
Steve.Spence@maslawde.com

December 5, 2025

By Email and U.S. Mail

Fred A. Townsend, III, Esq.
Hudson Jones Jaywork & Fisher, LLC
309 Rehoboth Avenue
Rehoboth Beach, DE 19971

Re: 101 Carolina Street, Dewey Beach, DE (the "Property")

Dear Fred:

I represent Marcia Schieck as litigation counsel, along with Veronica Faust. Ms. Schieck is the beneficial owner of 101 Carolina LLC. I write regarding the Town's position on my client's application for a building permit for a swimming pool for the Property relative to the location of the proposed safety fence. The Town shared its position with my client at an earlier in-person meeting. I understand that the Town's current position is that the permit cannot be approved because of the location of the safety fence. As described below, we respectfully disagree. I write to ask that the Town reconsider its position and approve the permit as presented. To facilitate a resolution, I request that the Town, including the Mayor, agree to meet with my client and her counsel by no later than December 19.

The proposed pool and safety fence are depicted on the enclosed site plan. Also enclosed is a copy of her permit application. The pool is 11.5' x 24' and is positioned in front of the proposed dwelling's front porch, fully within the buildable footprint. The 4.5-foot-high safety fence will be installed 8.5 feet from the pool's front edge. The pool's front edge abuts the front yard setback line, and the safety fence is 8 feet into the required front yard, with the safety fence 10 feet from the front lot line.

Preliminarily, below are the key code provisions at issue:

§1-16 Definitions

Yard – "The area extending between the lot lines and respective building setback lines on a lot or parcel."

EXHIBIT 9

**Transcript of closing segment/deliberation portion of November 9, 2013 hearing
Beginning one hour and 10 minutes into the recording.**

Hanson: I don't know what questions to ask. Does anyone have any questions?

Riordan: Uh - (unintelligible)

Forsten: This is an appeal brought by the property owners challenging the revocation of their rental permit. The ground for that revocation is that the fence is four and a half feet in height and it's 15 feet from the front property line, and it should be a minimum of 18 feet from the front property line.

Hanson: And it should be what?

Forsten: It should be 18 feet from the front property line. The town's position is the fence needs to be either three foot back or a foot shorter, and it can't be a foot shorter though if it's surrounding a pool because a pool is supposed to be surrounded by a four and a half foot fence.

The property owner's position is, I'm allowed to have pools in any yard, including the front yard, and that means if I can have a pool in the front yard, I can have a fence - a safety fence around it.

Hanson: And the question is whether the fence can be in the setback.

Forsten: Correct

Riordan: One way we can answer that is to say a one foot difference in fence height in the front setback area is inconsequential enough - not consequential enough to deny someone a license. That's one answer, right?

Forsten: Yeah. Your code says this is an appeal on whether or not the permit should be in this case revoked and you could - - -

Riordan: No. No. It says a license.

Primos: And, Richard, it wasn't revoked. A notice of suspension was given; not revocation, sir.

Riordan: So what my one answer is we could give, one-foot difference in the height of the fence and setback area, even if it is a lot (unintelligible) is not a significant enough violation to propose to suspend someone's license, or it is - - we could answer it that way. Alright.

Forsten: You could, as I read your code, which, on this particular sec-provision, simply says they appeal to you, and doesn't say what the grounds for your decision are, so you

could, I believe, decide that the punishment does not fit the crime. That is a possible basis for a decision. I don't know that it resolves the ultimate issue because there might - -

Riordan: No, it doesn't resolve the ultimate issue. My problem is the next step, to resolve the ultimate issue, we have to come up with a decision as to whether or not this conflict or ambiguity in the code which would allow us to decide in favor of the defendant and say a violation, therefore, isn't supportable and therefore revocation or suspension of the code is not supportable, in other words.

Forsten: I think both the parties ultimately agree that this is the law. If there is ambiguity in the code, meaning that it is susceptible to two reasonable interpretations, then, if there's ambiguity, you should find in favor of the property owner. The property owner wins. (Unintelligible)

If you find in favor of the Town, if you believe as the town asserts that the zoning code is clear and that no fence taller than three and a half feet may be closer than 18 feet to the front property line.

So, it really comes down to, is it ambiguous or is it clear.

McDermott: Mr. Forsten, if I may, we re-submitted the question based on procedures that we felt would be central. Is the fence legal or illegal? And that's the question that was briefed for purposes of this hearing.

Hanson: I don't know if I can ask this question or if you can tell me, but I would like to know why the pool was not built as the plans that were submitted.

Forsten: Yeah. I don't think that's an appropriate question because from what I can tell there's lots of interesting stories and conflicting ideas about that and we could be here for another - a long time and really that doesn't go to the legal issue.

In other words, if it's ambiguous you should rule in favor of the property owner. If it's not ambiguous, I think you should rule in favor of the town. How you got here isn't germane to answering that question.

Primos: And I would point out this one other thing, Richard, you did say two reasonable interpretations, I believe. - -

Forsten: You guys are done talking.

[Sound of people laughing.]

Riordan: Can we talk among ourselves?

Forsten: You can talk among yourselves, you can talk with me, but nobody else (unintelligible)

Hanson: Alright

NW 9 2013

1 HR, 10 MIN IN RECORDING

Riordan: I prefer (unintelligible) the solution (unintelligible) just the one foot (unintelligible) - -

Legates: I want to make a statement that we are here, the only reason we have been given the authority to make any kind of a decision is because of chapter 117 that says if a suspension of a license is given by the town and is appealed, we are the group that the appeal - we review the appeal and make a decision on the appeal. And the problem I have with our code is that 185, any violation falls under that, so 185 - chapter 185, which is our zoning, is in that - is a piece of that, and I feel that we're being put in a position as commissioners to do code interpretation to determine is this reasonable? Is it - how can I interpret the code to be fair, a fair and reasonable interpretation of the code. And I think for a commissioner it's a tough job to look at the code and decide, to what extent is it ambiguous, to what extent is, what is fair here. When you look at the drawing and permit and all that, it is tough. Again, I'm just looking for some understanding.

Forsten: It is tough. You've got two lawyers making arguments and they're not in agreement, so uh yeah. It's hard. But it's not (unintelligible).

Mauler: I've been re-reading paragraph A and B this whole time, and I think this is nothing negative about the town employees at all, but I think the commission - not this commission but whoever the commission was that put this in place did a disservice to the town and I think this could really be re-written quite a bit to make it very clear that the way it's written - -

Uh, I mean I look at the pool as a unit, and they even went as far as talking about barrier walls which they didn't talk about in A. It just goes one thing after another and makes you think, what were they thinking? And now you try to make a (unintelligible) big to-do over a one-foot height difference, when this is just like colic all over the place. I mean, yeah, I can see where both sides could interpret it the way they want to interpret it but, and they both could be right, but in this case these guys went out and did their best efforts to build a beautiful addition in Dewey Beach and they read what was there and it certainly looks like it's a possibility, I would think that there is uncertainty here and if the law says we have to rule in favor of the property owners, it only seems like that's the fair thing to do and maybe we can learn the hard lesson that we have to be very careful in the future writing these regulations.

Hanson: We've learned that already from the darn Ruddertowne thing and we need to redo it.

Mauler: We've been learning. Every time I come down here we learn that we need to get more procedures, and more precise in our wording that we use. (Unintelligible) After being swayed either way, and just because I am swayed either way makes me think there's ambiguity in the way this thing reads. And if it wasn't I wouldn't feel swayed. I'm on the fence right now. No pun intended.

Riordan: I'll tell you, I talked about the one-foot thing recently and I added to that the fact that you can attribute ambiguity to the language of the code and I am going to make a

motion and the motion is to find in favor of the defendant that this law says that there is ambiguity (unintelligible) – an ambiguity with regards to the intention of the code that to find in favor of the property owner.

Mauler: I'll second.

Hanson: Any discussion? All in favor –

Voices: Aye.

Hanson: I abstain. Four to what?

Forsten: Four to zero. (Unintelligible)

[Sounds of people talking, papers ruffling, people leaving – significant background noise continues through the end of the recording]

Hanson: I'm just confused. You're an attorney. You've been on P&Z. You've been on P&Z. You've been on P&Z, you've been on the Board of Adjustment, so, all this stuff (unintelligible). I don't understand this.
The vote is four to zero.

(Several unintelligible voices.)

McDermott: I'm sorry. I respectfully ask for clarification of your motion – to find in favor of the defendant on the question of the legality of the fence?

(Unintelligible male voice.)

Hanson: That's the one we were answering.

McDermott: So the fence is legal?

Hanson: That is the only question we were told to answer.

EXHIBIT 10

2021 International Building Code (IBC)

CHAPTER 1 SCOPE AND ADMINISTRATION

[A] 105.4 Validity of permit.

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