

BOARD OF ADJUSTMENT MINUTES
TOWN OF OCEAN VIEW
July 20, 2023, 3:00pm

1. Board of Adjustment Chair Susan Kerwin called the meeting to order at 3:00pm with the Pledge of Allegiance. In attendance were Board Members Greg Neuner, John Planchart, Preston Coppels, and Bob Lawless. Planning Zoning and Development Director Ken Cimino, Engineer Jim Lober, Solicitor Veronica Faust, Planner Jill Oliver, and Town Clerk Donna Schwartz. The meeting was held at 32 West Avenue.

2. **APPROVAL OF THE AGENDA**

A motion was made by Mr. Lawless, seconded by Mr. Neuner, to approve the agenda. The motion was carried unanimously 5/0.

3. **APPROVAL OF THE MINUTES**

A motion was made by Mr. Planchart, seconded by Mr. Lawless, to approve the minutes for the May 18, 2023, meeting. The motion was carried unanimously 5/0.

Ms. Faust swore in Mr. Ken Cimino, Jim Lober, and Ms. Donna Schwartz. Ms. Schwartz confirmed that the applications had been advertised, noticed, and posted in accordance with the rules of the hearing.

4. **NEW BUSINESS**

- A. **V-447 Silver Woods Mixed Use Planned Community – Proposed Townhouse District (PIDN’s 413.200, 413.300, & 413.400) (CTM#:134-16.00-914.00, 134-16.00-951.00, 134-16.00-45.00)**

Application V-447, a request for a variance from Article II, § 187-11-B of the Streets and Sidewalks chapter of the Town Code which requires that all curbing shall be DelDOT PCC Type 1 Vertical Face with eight-inch reveal. This variance seeks to permit Type 2 Integral Curb & Gutter (“Rolled Curb”) in the proposed Townhouse District as opposed to the Type 1 Vertical Face with eight-inch reveal required by Article II, § 187-11-B.

Mr. Cimino read the answers to the questionnaire and made the following comments:

§ 187-11. Curbs

A. Curbs shall be installed along both sides of the street.

B. All curbing shall be DelDOT PCC Type 1 vertical face with eight-inch reveal. Construction of curbing shall be in accordance with DelDOT Standard Specifications 2001, or latest addendum.

The applicant has requested to place Type 2 Integral Curb and Gutter (Rolled Curb) throughout the Townhouse District. The Town eliminated Rolled Curb & Gutter and initiated vertical face curb requirements throughout new developments when the Code was updated in 2010.

The Town has, in many communities, granted the use of Type 2 Integral Curb and Gutter (Rolled Curb) in several communities, including in Silver Woods Phase 1.

The Office of Planning and Zoning is currently suggesting changes to the Town Code that will include the use of Type 2 Integral Curb and Gutter (Rolled Curb) and has no objection to this variance request.

Mr. Seth Thompson, legal counsel for Silverwoods, listed the reasons they are asking for the rolled curb as in section 1. Mr. Neuner asked if the rolled curb was compliant with ADA. Mr. Riemann answered his question. There were no public comments made.

Mr. Lawless stated that he finds a literal interpretation of the code will result in exceptional practical; difficulties for the owner and there will be no detriment to the public good or neighboring properties and the proximity of the townhouse drives makes this type of curb desirable and more efficient. He also noted that the applicants request for the curb type variance is consistent with the characteristics of the neighborhood and will not be detrimental to surrounding properties, will not hamper vehicular or pedestrian traffic and other complies with other standards of law.

A motion was made by Mr. Lawless, seconded by Mr. Planchart, to approve application V-447 requesting a variance from Article II, Section 187-11-B which requires eight-inch reveal to allow for Type 2 integral Curb and Gutter (Rolled Curb) in the proposed Silverwoods Townhouse district. The motion was carried unanimously 5/0.

B. V-448 Silver Woods Mixed Use Planned Community – Proposed Townhouse District (PIDN's 413.200, 413.300, & 413.400) (CTM#:134-16.00-914.00, 134-16.00-951.00, 134-16.00-45.00)

Application V-448, a request for a variance from Article II, §187-10-A and Article XVI, §140-100-D(12)(b) of the Town Code. Article II, §187-10-A states: "Driveways shall not be placed within five (5) feet of a property line." Article XVI, §140-100-D(12)(b) states that "driveways shall be a minimum of five (5) feet from any property line." The developer proposes to construct driveways on 161 townhouse lots that will be installed less than five (5) feet from a property line. The applicant requests a reduction of the 5-foot driveway setback to 1.5 feet.

The applications are submitted by the property owner/developer, Mr. Robert Thornton, Silverstock WP, LLC. Silver Woods is zoned as a Mixed-Use Planned Community (MXPC) and located along Beaver Dam Road.

§ 187-10. Driveways.

A. The minimum width of driveways shall be 10 feet and the maximum width shall be 20 feet for the area within the limits of the Town right-of-way. The total width of a driveway within the limits of the Town right-of-way on a single lot shall not exceed 20 feet. Driveways shall not be placed within five feet of a property line.

§ 140-100-D(12)(b) Driveways.

Driveways shall be a minimum of five feet from any property line.

The developer proposes to construct driveways on 161 townhouse lots that will be installed less than five (5) feet from a property line. The applicant requests a reduction of the 5-foot driveway setback to 1.5 feet.

Mr. Cimino read the answers to the questionnaire and read the following comments: The Office of Planning and Zoning has reviewed this request and determined that the Town Code does not contemplate the application of these requirements to townhouses. Townhouses are permitted by the Town Code in the R-3 Townhouse & Multifamily District. It is the opinion of the Office of Planning and Zoning that, for this reason, we do not oppose the granting of this variance request.

Mr. Thompson made a few additional comments. Mr. Riemann detailed the drawing showing the driveways. Mr. Coppels asked if there was any off-street parking available. Mr. Riemann replied that there was an additional 10% parking off-street. There was no public comment.

Mr. Planchart read the following comment, he said "I find that a literal interpretation of the code will result in exceptional, practical difficulties for the owner and there will be no detriment to the public good or neighboring properties. I find that it is in the best interest of the town and the townhouse residents to allow for a 2 car drive per townhouse unit in the contemplated Townhouse District and the current code does not in my view account for a proper setback for a two car drive in a Town house District as applied to this application. I find that the applicant's request for the setback variance is consistent with the character of the neighborhood, will not be detrimental to surrounding properties, will not hamper vehicular or pedestrian traffic and otherwise complies with other standards of law."

A motion was made by Mr. Planchart, seconded by Mr. Coppels, to approve application V-448 requesting a variance from Article II, Section 187-10-A and Article XVI, Section 140-100-D(12)(b) to allow for the reduction of the 5-foot driveway setback established by the code to 1.5 feet in the Silverwoods Townhouse District contemplated by the application. The motion was carried unanimously 5/0.

5. ADJOURNMENT

A motion was made by Mr. Lawless, seconded by Mr. Planchart, to adjourn the meeting at 3:37pm. The motion was carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, MMC, Town Clerk