

SINCE 1889



TOWN OF OCEAN VIEW, DELAWARE

BOARD OF ADJUSTMENT

VARIANCE APPLICATION

Land Use • Permitting • Licensing • Code Enforcement • Public Works

302 539-1208 (office) • 302 537-5306 (fax)

kcimino@oceanviewde.gov / www.oceanviewde.gov

SINCE 1889



Fee: \$ _____

V - _____

Variance is defined as relief from the strict application of the provisions of Chapter 140 of the Code when, owing to special conditions or exceptional situations, a literal interpretation of this Chapter will result in exceptional practical difficulties to the property owner.

Application, requesting a variance from the Code of the Town of Ocean View, is hereby made for property located at: _____.

(Explanation of Hardship) is: _____

I/We, the property owner(s) and/or applicant(s) do certify that all information and documents provided for this application are accurate, to the best of our knowledge, and I/We further understand that a hearing will not be scheduled until this application is complete as determined by the Administrative Official of the Town of Ocean View.

Owner(s) of Record (Print): _____ Phone #: _____

Address of residence: _____

Signature(s): _____ Date: _____

(Property Owner(s))

Applicant(s) (Print): _____ Phone #: _____

Address: _____

Signature(s): _____ Date: _____

Applicant(s)

TOWN USE ONLY:**Administrative Official Signature:** _____

Variance Request for: PIDN: _____ . _____ CTM#: _____ Zoned: _____

from: Article(s): _____, Section(s): _____

Code Requirement: _____

Variance Requested: _____

Date Received: _____ Date Advertised: _____ Hearing Date: _____

BOARD OF ADJUSTMENT USE ONLY:

Approved: _____

Date

Chairperson, Board of Adjustment

Denied: _____

Date

Chairperson, Board of Adjustment

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Ocean View, DE 19970

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NOTICE

To: ALL APPLICANTS FOR VARIANCES, SPECIAL USE EXCEPTIONS, CONDITIONAL USES, BUILDING PERMITS AND OTHER PERMITS

Re: Homeowners' Associations and Restrictive Covenants and Conditions

Applicants for variances, special use exceptions, conditional uses, building permits and other permits, such as home based businesses, are required to comply with all Town Codes and with all deed restrictions applicable to their property.

Compliance with Town Codes and the granting of a Town variance, special use exception, conditional use, building permit or other permit does not eliminate the need for applicants to comply with deed restrictions applicable to their property or have their homeowners' association approval.

If a conflict exists between the requirements of deed restrictions and Town Codes, the more restrictive applies.

The Town will enforce its codes, but not deed restrictions, which will include *per diem* fines and court costs.

A violation of a deed restriction may result in legal action by a person authorized to enforce the deed restrictions and the applicant may be liable for the court costs and reasonable attorney fees incurred by the person enforcing the deed restrictions.

In order for the Board of Adjustment to grant a special use exception or variance, the Board must find that the **applicant has proven** the following:

STANDARDS FOR GRANTING OF VARIANCES

1. **Uniqueness**
 - a. Unique physical circumstances or conditions (such as irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions, peculiar to the property).
 - b. That unnecessary hardship or exceptional practical difficulty is due to such unique conditions, and not to general circumstances or conditions and cannot be developed in strict conformity.
2. **Cannot otherwise be developed**
 - a. There is no possibility the property can be developed in strict conformity with the zoning ordinance.
 - b. That the variance is necessary to enable reasonable use of the property.
3. **Not created by the applicant**
 - a. The unnecessary hardship or exceptional practical difficulty cannot have been created by the applicant.
4. **Will not alter the essential character of the neighborhood**
 - a. The variance will not alter the essential character of the neighborhood.
 - b. The variance will not substantially or permanently impair the appropriate use or development of adjacent property.
 - c. The variance will no be detrimental to the public welfare.
5. **Minimum variance**
 - a. The variance is the minimum that will afford relief.
 - b. The variance will represent the least modification possible of the regulation in issue.

STANDARDS FOR GRANTING A SPECIAL USE EXCEPTION

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property.
2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code (for instance, time limitations).

BOARD OF ADJUSTMENTS STANDARDS FOR RELIEF

In order for the Board of Adjustment to grant a variance or a special use exception, the Applicant **must** be prepared to answer the following questions and address the following factors:

VARIANCES

1. Uniqueness

- a. Do you have a unique circumstance or condition, such as, irregularity, narrowness or shallowness of lot size or shape or exceptional typographical or other physical condition peculiar to the property? If so, please explain:

- b. Is there an exceptional practical difficulty due to such unique condition (and not related to general circumstances or conditions)? If yes, please explain:

2. Possibility of Development

- a. Can the property be developed in strict conformity with the zoning ordinance without a variance? If not, please explain:

b. Is the variance necessary to enable reasonable use of the property?

3. Has the difficulty been created by the Applicant? If not, please explain:

4. **Effect on Surroundings**

a. Will the variance alter the essential character of the neighborhood?

b. Will the variance substantially or permanently impair the appropriate use for development of adjacent property?

c. Will the variance be detrimental to the public welfare?

5. **Extent of variance**

- a. Will the variance represent the least modification possible of regulations at issue?
- b. Is the variance necessary to afford relief?
- c. Will the variance represent the least modification possible of regulations at issue?

SPECIAL USE EXCEPTION

- 1. Will the exception substantially affect adversely the uses of adjacent and neighboring property?
- 2. Are there any other requirements, which are applicable to the specific exception being requested (for example, time limitations)?