



**Town of Townsend**  
**Board of Adjustment Public Hearing Agenda**  
**Wednesday, April 17<sup>th</sup>, 2024, at 5:00 p.m.**  
**Townsend Town Hall 141 Main St.,**  
**Townsend, DE 19734 & Via Conference Call**

5:00 p.m. Board of Adjustment Hearing

- I.** Call to Order:
- II.** Opening Ceremonies
  - A. Roll Call:
  - B. Pledge of Allegiance:
  - C. Announcements:

Town Meetings will be held both in person and in a virtual format.

Those wishing to attend virtually may dial **1(301)715-8592**. When directed, provide the following meeting ID **827- 6421-7575#** and then the following password **361631#** to enter the meeting. If you choose to access the meeting online click the following link:

<https://us02web.zoom.us/j/82764217575?pwd=aHl4RDhTZ0xjME1HV0ZUcHRxSHZ3QT09>

Residents will be able to view documents posted to the meeting tab on the Town website at <https://townsend.delaware.gov> or by joining the meeting via computer.

- III.** Additions and Deletions to published Agenda.
- IV.** Public hearing to consider, discuss, and possibly vote on the following application:
  - A. New Business:
    - 1. BA2024-002- Interfaith Community Housing of Delaware seeks an area variance from the required 15-foot side yard setback.
- V.** Other business.
- VI.** Adjourn.



**APPLICATION FOR VARIANCE**

To: Town of Townsend Board of Adjustment

Date: 3/28/2024

Applicant: Interfaith Community Housing of Delaware  
613 N. Washington St  
Wilmington, DE 19801

This appeal is submitted in accordance with Section 801 of the Unified Development Ordinance. See Attachment "A"

1. Lot Location: 308 Gray St
2. Parcel Number: 25 - 001.00 - 032
3. Lot Size: Frontage: 50 ft Depth: approx. 145 ft
4. Lot Zoning: R2

Variance Requested: FROM THE REQUIRED 15ft sideyard to provide 8ft

(See Attachment "B" for required written information.)

5. A Plot Plan must be attached to this application.

This application, if approved by the Board of Adjustment, does not relieve the Applicant of any restrictions placed in their deed.

Carlton Bowers

Applicant Signature

302-652-4992

Phone Number

**Cost to be paid by Check, Money Order or Cash**

**4.12.020 Fees Enumerated**

- **Board Of Adjustment.**

	<b>FEE</b>
<b>Application for variance hearing</b>	<b>\$500.00</b>
<b>Application for variance hearing- Residential District</b>	<b>\$300.00</b>

<b>Application for variance hearing- Non-Residential District</b>	<b>\$500.00</b>
<b>Application for special exception hearing</b>	<b>\$350.00</b>
<b>Application for waiver hearing</b>	<b>\$350.00</b>

\*\*\*\*\***For Official Use Only**\*\*\*\*\*

Application Received

By: \_\_\_\_\_ Date: \_\_\_\_\_

Fee Paid: \_\_\_\_\_ Receipt #: \_\_\_\_\_

Public Hearing advertised on: \_\_\_\_\_

Property Posted on: \_\_\_\_\_

Abutting owners sent letters on: \_\_\_\_\_

For Board Action on: \_\_\_\_\_

**Application for Variance  
Attachment "A"**

24.28 Permitted Modifications 24.28.020 Variances

The Board of Adjustments shall have the power to grant the following:

**24.28.020 Variances**

The board of adjustments shall have the power to grant the following variances:

1. A modification in the area and bulk requirements in any district so as to relieve practical difficulties or particular hardships in cases where by reason of size, shape or narrowness of a parcel of property or by other exceptional or extraordinary situation or condition the use or development of the property would not conform to strict application of the regulations set forth in this article. Such grant of variance shall conform as nearly as possible with the spirit, intent and purpose of this article. Only for reasons of demonstrable and exceptional hardship upon the owner of such property will such modifications be permitted.
2. Modifications in parking and loading requirements of this article may be permitted whenever the character or use of any building is such as to make the full provision of parking and loading facilities unnecessary.

24.08.020 Board Of Adjustment

Created. The board of adjustment is hereby established in the manner prescribed by law. Such board shall consist of three members. At least one member shall be a resident of the town who is not a member of town council or an employee of the town. The town council shall approve all appointments for a term of two years. Initial appointment of members shall be as follows: one member for three years and one member for two years and one member for one year. Any member of the board may be removed by a three-fifths vote of the full council. Vacancies shall be filled for the unexpired term of any member whose position become vacant. If at any time a member of the board of adjustment experiences a conflict of interest on his part, that member must step down while the other members reach a decision.

Powers And Duties.

Powers Of The Board Of Adjustment. The board of adjustment shall have the following powers:

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of the town's codes and the laws of the state and any amendment thereto or to this chapter.

To hear or decide variances to the terms of this chapter upon which the board is required to pass under this chapter.

To authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions or exceptional situations, a literal interpretation of the provisions of this chapter will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of this chapter shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the chapter.

In exercising the above-mentioned powers, the board of adjustment may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. Notices of such decision shall be given to all parties in interest.

**Meetings Of The Board Of Adjustment.** A meeting shall be held at the call of the chair and at such other times as the board may determine. Such chair or, in his absence, the acting chair may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public and the board shall keep the minutes of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote. The board shall keep a record of its examinations and other official actions, all of which shall be filed in the office of the board and shall constitute a public record.

#### **Appeals.**

Appeals to the town council may be made by any person aggrieved of by any officer, department or board or bureau of the municipality affected by a decision of the board of adjustment. Such appeals shall be made within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is made and with the board of adjustment a notice of appeal specifying the ground thereof. The officer from whom that the appeal is taken shall transmit to the board all appeals constituting the record upon which the action appealed from was taken.

An appeal stays all proceeding in furtherance of the action appealed from unless the officer from whom the appeal was taken certifies to the board that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed by the board or by the court of competent jurisdiction on the application on notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time from the hearing of the application or appeal, giving public notice thereof as well as due notice to the parties in interest. Upon the hearing any party may appear in person, by agent or attorney. Public notice of the hearing shall consist of publication of legal notice at least 15 days prior to the hearing in a newspaper of general circulation in the town. Such notice shall specify the time, place, and nature of the hearing. The hearing shall be held not less than five days nor more than ten days after final publication. Personal notice of such hearing shall be given to all property owners within 200 feet of the property affected by said appeal. The board shall provide written notification of the decision of said appeal within 60 days of the hearing.

## **APPLICATION FOR VARIANCE ATTACHMENT "B"**

### Board of Adjustment – Variances

- 5 A Variance shall not be considered by the Board until written answers are completed to the below-listed questions:
  - a. That Special conditions or exceptional practical difficulties exist which are peculiar to the land, structure, or building involved and which are not applicable

to other land, structures, or buildings in the same district;

The lot width is 50 ft. The aggregate required setback is 25 ft. A new single family dwelling is wider than 25 ft.

- b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance;

Similar existing lots in the area have existing structures in the required setbacks. Additionally, the existing structures on the lot to be improved do not comply with the required setbacks.

- c. That the special conditions and circumstances do not result from the actions of the applicant;

The lot already exists and is not being created with inadequate frontage to support the allowed use of a single family dwelling.

- d. That granting of the variances will not confer on the applicant any special privilege is denied by this Ordinance to other lands, structures or buildings in the same zoning district.

The adjoining parcel appears to have stone laid to the property line to support access to the rear of the lot. The 8 foot side yard will be sufficient.





**24 - Appendix A Zoning District Regulations**

Appendix "A" Town of Townsend Zoning District Regulations										
	P Preser vation	R Residential	R-1A Residential	R-1 Reside ntial	R-2 Reside ntial	R-3 Reside ntial	R-AA Residen tial	C Commerci al	I General Industry	Residenti al Suburban
Minimum lot area	43,560 sq. ft	12,500 sq. ft	10,000 sq. ft.	9,000 sq. ft.	7,000 sq. ft.	*	7,000 sq. ft.	5,000 sq. ft.	43,560 sq. ft	**
		13,500 sq. ft. (corner lot)	11,500 sq. ft. (corner lot)			*		6,000 sq. ft. (corner lot)		**
Minimum lot width	100'	100'	85'	75'	50'	*	50'	50'	100'	**
		110' (corner lot)				*				**
Minimum front yard	50'	25'	25'	25'	25'	*	25'	25'	50'	**
Minimum side yard	50'	10' each	10' each	10' each	10' each	*	10' each	10'	20'	**
	100' both	25' both	25' both	25' both	25' both	*	25' both	25' both	40' both	**
Minimum rear yard	40'	20'	20'	20'	20'	*	20'	10'	40'	**
Rear yard setback	40'	10'	10'	10'	10'	*	10'	10'	40'	**
Side yard setback	50'	10'	10'	10'	10'	*	10'	10'	20'	**
Maximum lot coverage	35%	35%	35%	35%	40%	*	35%	75%	80%	**
Maximum building height	35'	35'	35'	35'	35'	*	35'	35'	35'	**
<b>Accessory Structure</b>										
Rear yard setback	40'	5'	5'	5'	5'	*	10'	10'	40'	**
Side yard setback	50'	5'	5'	5'	5'	*	10'	10'	20'	**
Maximum lot cov.	35%	35%	35%	35%	40%	*	35%	75%	80%	**
Maximum building height	35'	12'	12'	12'	12'	*	35'	35'	35'	**

(Ord. of 04-05-2005, § 101)

HISTORY

Amended by Ord. [2020-004](#) on 6/3/2020

Amended by Ord. [2022-002](#) on 4/20/2022