

MEMORANDUM

KENT COUNTY DEPARTMENT OF
PLANNING SERVICES
555 BAY ROAD
DOVER, DELAWARE 19901



TO: Board of Adjustment

FROM: Jesse Lindenberg, Hearing Officer

DATE: April 10, 2025

SUBJECT: A-24-14 Victor Glazov –One-Year Extension of Variance Approval

On March 21, 2024, the Board of Adjustment voted to grant a **APPROVAL** of application A-24-14, thus granting a variance from the 40' front setback on a non-subdivision street to construct a dwelling. The applicant is requesting a setback of 10', which would require a variance of 30' from the 40' setback, as shown on Exhibit B, attached hereto.

Attached is a letter from Victor Glazov, requesting a modification of the subject variance in order to have a one year extension to use the 10' front setback granted by the original variance.

Attached, please also find the original Notice of Decision and Exhibit B, showing the variance that was approved by the Board. The applicant is requesting the modification to provide them additional time to obtain a building permit.

The staff recommends **APPROVAL** of a one-year extension of the variance based on the aforementioned reasons provided by the applicant.

This application will be heard under Old Business at the April 17, 2025 Business Meeting and no new Public Hearing will be conducted.

ENC: Original Notice of Decision
Original Exhibit B
Extension Request Letter 02/01/2025



Kent County
Department of Planning Services
Division of Planning

SARAH E. KEIFER, AICP
Director of Planning Services

Phone: 302/744-2471
FAX: 302/736-2128

KRISTOPHER S. CONNELLY, AICP
Assistant Director of Planning Services

NOTICE OF DECISION

APPLICATION: A-24-14

APPLICANT: Victor Glazov
1 W Virginia Ave.
Milton, DE 19968

OWNER: Thomas J. & Catherine P. Altimari
164 Ewart Rd.
Avondale, PA 19311

PROPERTY LOCATION: N. Bay Dr.
Dover, DE 19901

**DATE OF PUBLIC HEARING
& DECISION:** March 21, 2024

MEMBERS PRESENT: Brian Cusick, Chairperson
Morgan Hudson, Vice-Chairperson
Joan Denney
Brauncy Jenkins
George Gallo, Jr.
Temple Carter

NATURE OF REQUEST:

A-24-14 Victor Glazov (Owner: Thomas J. & Catherine P. Altimari) seeks a variance from the required 40' front setback from a nonsubdivision street to construct a dwelling (§205-216.A.(1) of the Kent County Code). The property is located on the west side of N Bay Dr., approximately 0.25 miles north of Kitts Hummock Rd., east of Dover. Levy Court District: 3rd. Zoning District: AR. **Tax Map No. 2-00-097.16-01-10.00-000**

The applicant is requesting a variance from the 40' front setback on a non-subdivision street to construct a dwelling. The applicant is requesting a setback of 10', which would require a variance of 30' from the 40' setback.

SUMMARY OF EVIDENCE

1. The subject is zoned AR (Agricultural Residential).

2. The subject site is 0.8242 \pm ac and is currently vacant.
3. Mrs. Angela Ferguson, spoke in favor of the application.
4. Mrs. Ferguson explained that most of the dwellings in the Kitts Hummock area do not meet the required 40' front setback. She added that 6 in the near vicinity have obtained variances from the front setback.
5. Mrs. Ferguson added that there would not be an impact to traffic or views if the variance was granted.
6. Mrs. Ferguson detailed that the area is low density residential N. Bay Dr. is a dead-end street.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc., 389 A.2d 1289, 1291 (Del. 1978), supports the granting **APPROVAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential). Surrounding properties along N Bay Drive are similarly zoned AR, while the adjacent property to the rear of the subject parcel is zoned AR and AC (Agricultural Conservation). Single family dwellings are permitted improvements in the AR zoning district, provided they meet applicable structure setbacks, impervious coverage, and size requirements.
- (2) **The character and uses of the immediate vicinity:** The character of the surrounding area is residential along N. Bay Drive at Kitts Hummock Beach and agricultural/natural to the west, with the Delaware Bay to the east. The parcels to the north and south are vacant, while those on the eastern side of N. Bay Drive are improved with single family dwellings and accessory buildings.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** Removal of this requirement would not seriously affect neighboring properties. There are several homes in the area which are located closer than the required 40' front setback. Most of the existing dwellings that do not maintain the required 40' front setback are legal non-conforming, though six of the dwellings have approved variances to be closer to the front property line. Having homes closer to the road in this area will not impact traffic or views, as it is a low-density area.
- (4) **Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make normal improvements to the property:** Failure to remove the restriction of the 40' setback from N. Bay Dr. would create an unnecessary hardship for the owner in relation to making normal improvements to the property. The applicant is also seeking an

administrative waiver from the required 50' wetlands buffer to be decreased to 6'. The required 50' wetlands buffer and 40' front setback requirement crosses each other. Imposing the 40' front setback will create an additional hardship and practical difficulty for the owner who is trying to make a normal improvement to the property.

DECISION: On a motion made by Mrs. Hudson and seconded by Mr. Cusick, the Board of Adjustment voted 6 in favor of the motion to grant **APPROVAL** of application A-24-14, from the 40' front setback on a non-subdivision street to construct a dwelling. The applicant is requesting a setback of 10', which would require a variance of 30' from the 40' setback, as shown on Exhibit B, attached hereto. The support of this motion was based on testimony given, the character of the area, and the wetlands that are in the rear of the property that greatly decrease the buildable area.

NOTES:

1. The applicants are advised that any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Superior Court in and for Kent County a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board (9 Del. C. § 4918).
2. The applicant is advised that a Building Permit shall be obtained prior to the commencement of construction. Please include a copy of this Notice of Decision with the permit application so the permit reviewer knows a variance was granted. For more information, contact the Division of Planning at (302) 744-2471 or Department of Inspections and Enforcement at (302) 744-2451 between 8:00 a.m. and 5:00 p.m.
3. This variance will expire after **ONE YEAR** if a permit has not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT

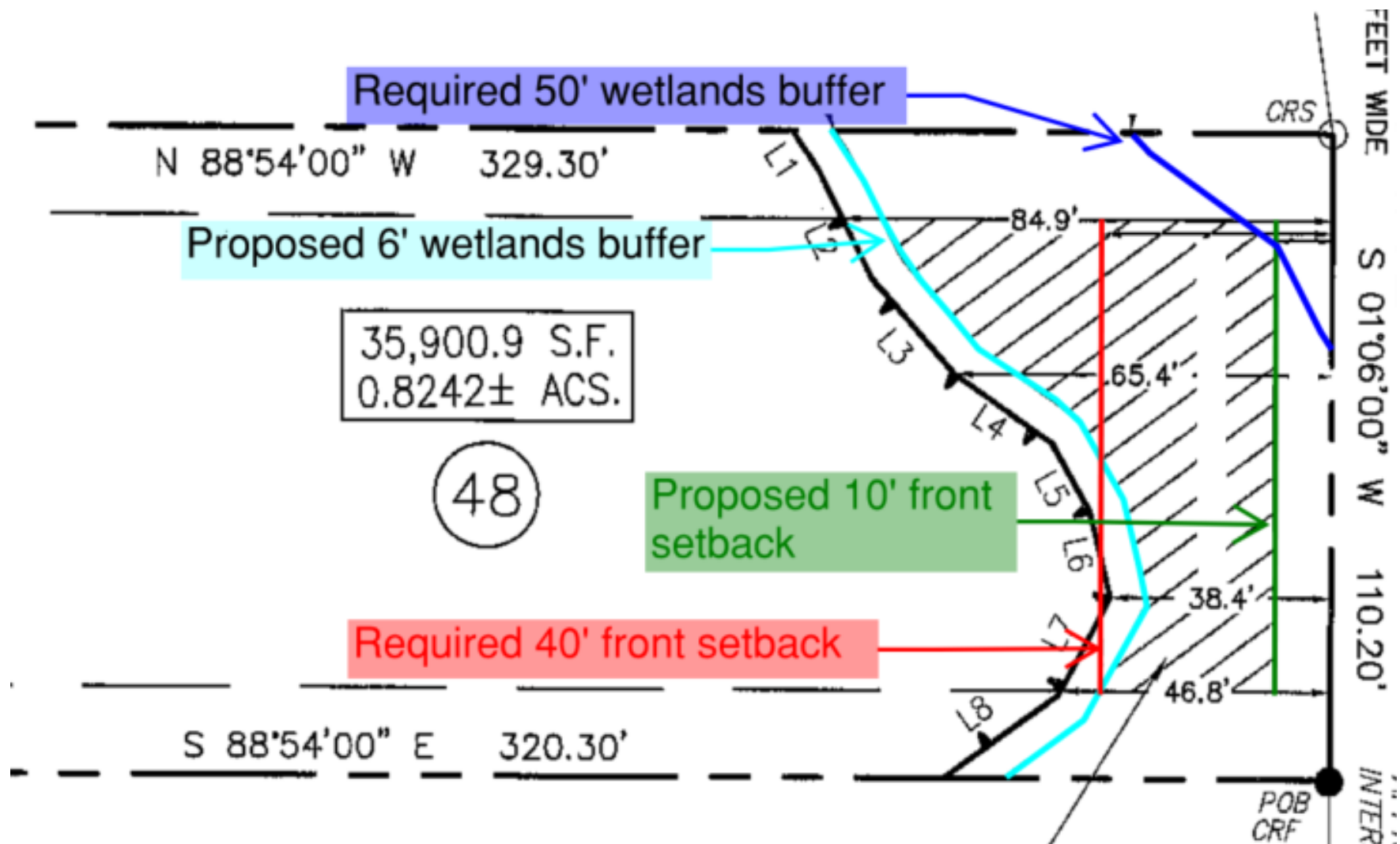
Brian Cusick, Chairman

DECISION FILED: _____, 2024

Exhibit B

Application: A-24-14
Glazov (Altimari)

Variance from the required 40' front setback from a nonsubdivision street to construct a dwelling



To Delaware Kent County Planning Services,

With regards to:

Variance A-24-14
48 N. Bay Dr.
Dover, DE, 19901

I, Victor Glazov, found myself in need to apply for variance extension due to inability to proceed with development and construction of a dwelling. Unfavorable interest rates in 2024 created challenges for me to move forward with the construction as planned. As it stands now, I plan to move forward with securing building permit in 2025 and construction starting in 2025/2026.

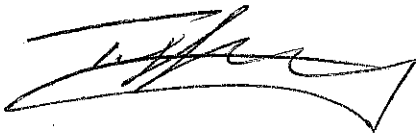
Therefore, I request one year variance extension from the previously approved variance deadline.

I hope you understand the financial impact higher interest rates had on my plans.

Thank you.

Victor

484-319-8094

A handwritten signature in black ink, appearing to read 'Victor Glazov', written in a cursive style.

02/01/2025