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SECTION 11.07 - STAY OF PROCEEDINGS

An appeal stays all proceedings in the furtherance of the action appealed unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of the appeal shall have been filed with him/her that, for reasons of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court on notice to the officer from whom the appeal is taken and on due cause shown.

SECTION 11.08 - VARIANCE FROM CD DISTRICT REQUIREMENTS

The Board of Appeals may grant a variance from the requirements of the "CD" Critical Dune District if an unreasonable hardship will occur to the owner of the property if the variance is not granted. A variance shall be subject to the following limitations:

- a) A variance shall not be granted from a setback requirement of this Article unless the property for which the variance is requested is one of the following:
 - 1) A non-conforming lot of record that is recorded prior to July 5, 1989 and that becomes non-conforming due to the application of Part 801 of the Natural Resources and Environmental Protection Act, being Act 451 of the Public Acts of 1994, as amended.
 - 2) A lot legally created after July 5, 1989 that later becomes non-conforming due to natural shoreline erosion.
 - 3) Property on which the base of the first landward critical dune of at least twenty (20) feet in height, that is not a foredune, is located at least five-hundred (500) feet inland from the first foredune crest or line of vegetation on the property. However, the setback shall be a minimum of two hundred (200) feet measured from the foredune crest or line of vegetation.
- b) A variance shall not be granted that authorizes construction of a dwelling or other permanent building on the first lakeward facing slope of a critical dune area or a foredune. However, a variance may be granted if the proposed construction is near the base of the lakeward facing slope of the critical dune on a slope of less than twelve (12) percent on a nonconforming lot of record that is recorded prior to July 5, 1989 that has borders that lie entirely on the first lakeward facing slope of the critical dune area that is not a foredune.

PEAINE AND ST. JAMES TOWNSHIP ZONING ORDINANCE
Adopted April 26, 2004

- 1 c) A variance shall not be granted for a use that is not in the public interest. In determining
2 whether a proposed use is in the public interest, the Board of Appeals shall consider both
3 of the following:
- 4 1) The availability of feasible and prudent alternative locations or methods, or both, to
5 accomplish the benefits expected from the use. If a proposed use is a single family
6 dwelling on a lot of record owned by the applicant, consideration of feasible and
7 prudent alternative locations shall be limited to the lot of record on which the use is
8 proposed. A lot of record shall not be created strictly for the purpose of avoiding
9 consideration of alternative locations under this subparagraph.
- 10 2) The impact that is expected to occur to the critical dune area, and the extent to which
11 the impact may be minimized.

12