

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THE BOARD OF ADJUSTMENT OF THE	§	
CITY OF REHOBOTH BEACH, <i>et al.</i>	§	No. 154, 2013
	§	
Respondents Below,	§	
Appellants,	§	Court Below:
	§	
v.	§	Superior Court of the
	§	State of Delaware,
STINGRAY ROCK, LLC, a Delaware	§	in and for Sussex County
Limited Liability Company, d/b/a/ Stingray	§	
Sushi Bar & Asian Latino Grill,	§	
	§	C.A. No. S11A-07-010-ESB
Petitioner Below,	§	
Appellee.	§	

Submitted: October 9, 2013

Decided: December 9, 2013

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 9th day of December, 2013, on consideration of the briefs and arguments of the parties, it appears to the Court that:

1) The Board of Adjustment of the City of Rehoboth Beach appeals from a Superior Court decision reversing the Board’s denial of a petition to add an outdoor patio to the restaurant owned by Stingray Rock, LLC. The Board argues that the trial court erred in two respects: 1) it misconstrued §215-7(B) of the City of Rehoboth Beach Code; and 2) it applied the wrong standard in reversing the Board’s denial of a variance.

2) We affirm the Superior Court's holding that Stingray was not required to obtain a certificate of compliance under §215-7(B) for the reasons stated in its February 28, 2013 decision.

3) Because we have concluded that no certificate of compliance was required, we do not reach the Superior Court's alternate holding with respect to the standard that should have been applied in evaluating Stingray's request for a variance.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice