

Elias T. Manos, Esquire
Attorney for Ocean City Zoning Board of Adjustment

APPLICATION OF: **David & Lisa Rodak**

BLOCK 5305, LOT 2

WHEREAS, the applicants were represented by Avery S. Teitler, Esquire; and

WHEREAS, a Survey of Premises was submitted from Design Land Surveying P.A., signed by Thomas N. Tolbert, PLS, NJ License No. GS 38608, Survey No. 1507003, dated May 30, 2025; and

WHEREAS, the property is located in the OCHN Zone; and

WHEREAS, the Board has considered the plan submitted and the testimony on behalf of the applicants and it makes the following findings of fact:

There is an existing single family dwelling on the property with a detached garage. An HVAC unit located in the side yard is encroaching into the side yard setback, however will be moved to a compliant location.. Following a hearing before the Board on January 20, 2016, the applicants obtained variance approval pursuant to N.J.S.A. 40:55D-70c to make certain renovations to the single family dwelling, including the construction of a new front porch. The variances previously granted to the applicants allowed for a front yard setback to the porch of 11.79 feet where 18 feet is required and building coverage of 29% where 25% is permitted. The applicants' prior approval was memorialized in a written Decision and Resolution (ZC15-048) adopted by the Board on February 17, 2016. The improvements have since been constructed by the applicants.

The applicants are now proposing a second floor addition to the single family dwelling at the back southwest corner. During this process it was discovered that the front porch constructed by the applicants following their approval from the Board in 2016 was at a front yard setback of 10.8 feet, which is approximately one foot closer to the front yard than previously approved. In turn, building coverage is also at 30.5% which is slightly greater than the 29% previously approved. The aggregate side yard setbacks to the porch, at 16.42 feet where 20 feet is required, are additionally nonconforming as is the minimum required distance between the principal single family dwelling and the detached garage (4.81 feet where eight feet is required).

The applicants now require variance relief pursuant to N.J.S.A. 40:55D-70c to legitimize the decreased front yard setback (10.8 feet where 18 feet is required and 11.79 feet was previously approved) and increased building coverage (30.5% where 25% is permitted and 29% was

previously approved) related to the front porch that was constructed. Variance relief pursuant to N.J.S.A. 40:55D-70c is additionally required by the applicants for the aggregate side yard setbacks to the porch (16.42 feet where 20 feet is required) and from the minimum required distance between the principal single family dwelling and the detached garage (4.81 feet where eight feet is required). As part of their proposal, the applicants are also replacing the existing concrete ribbon driveway at the property with a permeable paver driveway, which decreases impervious coverage from 51% to a conforming 44.9% as 50% is the permitted maximum. The applicants have further agreed to relocate the HVAC unit on the side of the property from its existing noncompliant location to a compliant one.

The applicants provided testimony on their behalf that even with the front yard setback being slightly reduced over what was previously approved, the front yard setback to the porch is consistent with the others in the neighborhood, provides an aesthetic enhancement to the property and allows for adequate light, air and open space. The applicants' testimony indicated that constructing the porch at its current location was an unfortunate oversight but it has not resulted in any complaints in the approximately 10 years since it was constructed. The applicants' testimony further indicated that the second floor addition is modest in size, the single family dwelling is well below the maximum permitted building height and that impervious coverage was being reduced on the property to a compliant condition.

Public Comment: None

Exhibits: A-1 (aerial map); A-2 (before and after photos); and A-3 (pre-existing HVAC unit).

The Board having considered the testimony and evidence presented made the following findings of fact and conclusions of law.

The applicants previously obtained variance approval from the Board in 2016 to allow a new front porch to the single family dwelling on the property to have a front yard setback of 11.79 feet and for building coverage to be 29%. The porch constructed by the applicants with a front yard setback of 10.8 feet and with building coverage on the property at 30.5% are *de minimis* deviations from what was previously approved by the Board in 2016. Even with the slightly reduced front yard setback to the porch and the increased building coverage, the porch location is consistent with the neighborhood, enhances the aesthetics of the property and provides for adequate light, air and open space. The applicants are additionally reducing total impervious coverage on the property to a conforming condition and relocating the HVAC unit to a compliant location, which promotes the general welfare. The addition proposed by the applicants is also modest in size and the single family dwelling is well below the maximum permitted building height. Moreover, the aggregate side yard setbacks to porch and the distance between the principal single family dwelling and the detached garage are existing conditions that are not changing.

For these reasons, the applicants have established the necessary criteria pursuant to N.J.S.A. 40:55D-70c(2) of the New Jersey Municipal Land Use Law to support the requested variances.

The Board determined that the variances could be granted without substantial detriment to the Master Plan or Zoning Ordinance of the City of Ocean City.

The purpose of the Municipal Land Use Act would be advanced by the deviations which would substantially outweigh any detriments. The granting of the variances to allow the departures would not substantially impair the Zoning Ordinance or Master Plan of the City of Ocean City.

Prior to issuance of a certificate of occupancy all escrow monies must be paid to the City of Ocean City in full.

NOW, THEREFORE, BE IT RESOLVED by the Ocean City Zoning Board of Adjustment at its meeting on March 18, 2026, that the variances requested for front yard setback to the porch (10.8 feet where 18 feet is required and 11.79 feet was previously approved), building coverage (30.5% where 25% is permitted and 29% was previously approved), aggregate side yard setbacks to the porch (16.42 feet where 20 feet is required) and distance between the principal single family dwelling and the detached garage (4.81 feet where eight feet is required) are hereby granted. Mr. DeMarco made the motion to grant the variances, Mr. Logue seconded the motion. Members Mr. Waddell, Mr. Price, Mr. Geary, Mr. Logue, Mr. DeMarco, Ms. Schneider, and Mr. Gallagher voted in favor \ zero members were opposed. Motion passed 7-0.

The granting of the variances is conditioned upon the applicants providing on the subject property ground level plant material of either grass or some other permanent green vegetative cover.

Further conditioned on there being no crushed stone or like material in any area that is not in compliance with the City design standards.

Further conditioned that there be no substantial deviation in the design, construction material or building elevations from that which was presented to the Zoning Board.

Further conditioned that no subsequent additions, alterations or changes can be made without further review by the Ocean City Zoning Board.

Further conditioned that any plan revisions as required from the approval must be completed.

Further conditioned that the storage areas do not exceed the minimum IBC requirements as to lighting and electrical outlets; that the storage area not contain egress windows and that there be no phone jacks or cable outlets permitted.

Further conditioned that the applicants comply with Section 25-1700.3.1 and Section 25-1700.3.2 of the City Ordinance and/or as conditioned by the Board Engineer.

Further conditioned that the applicants provide copies of all approvals from any agency having jurisdiction over this application.

Further conditioned that the applicants provide seventy-two hour notice to the Board Secretary for all required inspections.

Further conditioned that all fees and real estate taxes associated with the application to the Zoning Board of Adjustment, shall be paid current prior to building permits being issued.

Further conditioned upon any conditions in the Engineering and Planning report by Joseph Maffei, PE, PP, CME, of the firm of EDA, dated January 14, 2026 being complied with but not further contained herein.

Further conditioned upon the applicants relocating the HVAC unit on the property to a compliant location and showing that compliant location on their plan revisions.

Further conditioned upon the applicants providing an inspection escrow for the proposed permeable paver driveway, to remain open for required pervious paver inspections.

Further conditioned upon the zoning chart being revised to provide existing and proposed

setbacks consistent with the setbacks shown on the plan.

Further conditioned upon agreement by the applicants to specific items not contained within this Decision and Resolution, but which were otherwise set forth in the record of the hearing before the Ocean City Zoning Board of Adjustment, which are incorporated herein by reference though not set forth at length herein.

Further conditioned upon the applicants paying all fees pursuant to Section 25-1900 Affordable Housing Development Fees (COAH), if applicable.

The applicants shall comply with all provisions of the Ocean City Zoning and Land Development Ordinance and any and all municipal, County, State and/or Federal laws or regulations relating or applicable to the proposed project.

Any variance granted by the Zoning Board of Adjustment shall expire one (1) year subsequent to the grant of said variance unless within that period of time the applicants has received a building permit from the Construction Official. In the event a building permit is obtained it shall be acted upon in conformity with the Uniform Construction Code.

Dated: 4/15/26

ZONING BOARD OF ADJUSTMENT
CITY OF OCEAN CITY

/s/
RICHARD WADDELL, Vice Chairperson

The foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the City of Ocean City at its meeting on the 15th day of April 2026 as held at said meeting.

Dated: 4/15/26

Jaime M. Felker, Secretary
Ocean City Zoning Board of Adjustment

A copy of this Resolution has been filed in the office of the Ocean City Zoning Board of Adjustment and is available for inspection during regular business hours.