

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

PROPERTY: 1833-35 Wesley Avenue **BLOCK 1801, LOT 3, C1 and C2**

WHEREAS, the applicants have filed a complete application with the City of Ocean City Zoning Board of Adjustment (sometimes referred to as the “Zoning Board” or “Board”) seeking variance relief pursuant to N.J.S.A. 40:55D-70c for the premises located at Block 1801, Lot 3, C1

and C2, also known as 1833-35 Wesley Avenue, Ocean City, New Jersey 08226; and

WHEREAS, the property is located in the R-2-50 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:

The subject property is 5,100 square feet in total lot area, with lot width of 42.5 feet and lot depth of 120 feet. The lot area and lot depth are compliant with the minimum requirements of the R-2-50 Zone of 5,000 square feet for lot area and 100 feet for lot depth, but the lot width is deficient in that 50 feet is required. There is an existing two-family dwelling on the property that has several nonconforming conditions, including that it is not flood compliant, lacks required gutters and has a zero foot parking setback where one foot is required. Building coverage, at 30.76% where 25% is permitted, and impervious coverage, at 96.14% where 55% is permitted, are also existing nonconforming conditions of the property. Access to the property is along the eastern or beach side of the property via a 20 foot wide paved driveway easement that a number of other dwellings on the block are affected by and utilize. This paved driveway easement is located on the applicants' deeded property boundary. The properties on each side of the subject property are developed.

The applicants are now proposing to demolish the existing two-family dwelling on the property and construct a new two-family dwelling. The proposed two-family dwelling will be flood compliant as required and will contain gutters and a greater than one foot parking setback, thereby eliminating each of these nonconforming conditions of the existing two-family dwelling. Six parking spaces will be provided on the property, which is an increase over the existing number of parking spaces. Impervious coverage will decrease from 96.14% to 59.9% but still requires variance relief pursuant to N.J.S.A. 40:55D-70c as the permitted maximum is 55%. Building

coverage is proposed at 35% and thus also requires variance relief pursuant to N.J.S.A. 40:55D-70c as the permitted maximum is 25%. In addition, variance relief pursuant to N.J.S.A. 40:55D-70c is required for the deficient lot width of the property.

The applicants provided testimony on their behalf that the paved driveway easement is on their property and must be maintained, partially resulting in a hardship in complying with the allowable impervious coverage on the property despite such impervious coverage being reduced from its existing condition. The applicants' testimony also indicated that the properties on both sides of the subject property are developed and they have no ability to acquire more land to make the lot width of the property conforming or more conforming. The testimony provided further stated that the building coverage deviation stems from the applicants' not meeting all of the design incentives set forth in the City of Ocean City Zoning and Land Development Code ("Zoning Ordinance"), which would increase allowable building coverage to 35% if such incentives were met. The testimony on behalf of the applicants opined that the proposal advances several purposes of zoning set forth in the New Jersey Municipal Land Use Law, including providing flood protection to the property through a new flood compliant two-family dwelling, advancing the general welfare by eliminating or making more conforming several existing nonconforming conditions, promoting the free flow of traffic with increased parking on the property and providing an aesthetic enhancement with a brand new two-family dwelling. The applicants' testimony also opined that granting the variances would not result in a substantial detriment to the public good or substantially impair to the Zoning Ordinance or Zone Plan of the City of Ocean City as the height of the proposed two-family dwelling is compliant and the proposed two-family dwelling is consistent with the majority of other dwellings in the neighborhood.

Public Comment: None

Exhibits: None

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

The applicants propose to construct a new two family dwelling on the property and require variance relief pursuant to N.J.S.A. 40:55D-70c for lot width (42.5 feet where 50 feet is required minimum), impervious coverage (59.9% where 55% is the permitted maximum) and building coverage (35% where 25% is the permitted maximum). The applicants have demonstrated a hardship pursuant to N.J.S.A. 40:55D-70c(1) to support the grant of the lot width and impervious coverage variances. In that regard, the existing lot width of the property is 42.5 feet and the properties on each side of the subject property are developed. The applicants thus have no ability to acquire more land to make the lot width of the property conforming or more conforming. Further, the paved driveway easement on the east or beach side of the property is on the subject property and impacts the permeable area of the property, making it impracticable for the applicants to comply with the maximum permitted impervious coverage of 55%. Pursuant to N.J.S.A. 40:55D-70c(2), the proposal by the applicants also advances several purposes of zoning set forth in the New Jersey Municipal Land Use Law. Those include providing flood protection to the property through a new flood complaint two-family dwelling; advancing the general welfare by eliminating or making more conforming several existing nonconforming conditions such as providing for gutters, meeting the parking setback and reducing impervious coverage; promoting the free flow of traffic with increased parking on the property consisting of six parking spaces; and providing an aesthetic enhancement with a brand new two-family dwelling. Moreover, as it pertains to the building coverage variance, that variance is a function of the applicants not satisfying all of the design incentives set forth in the Zoning Ordinance, which would permit

maximum building coverage to be 35%. Granting the variances for the proposed new two-family dwelling will not have any substantial negative impact on the public good as the two-family dwelling does not exceed the maximum permitted height and the majority of the bulk requirements of the R-2-50 Zone are being met. Further, the proposal by the applicants, with the deviations sought, will not substantially impair the intent and purpose of the Master Plan or Zoning Ordinance of the City of Ocean City as the proposed two-family dwelling is consistent with the majority of other dwellings in the neighborhood.

For these reasons, the applicants have established a hardship pursuant to N.J.S.A. 40:55D-70c(1) of the New Jersey Municipal Land Use Law to support the variances for lot width and impervious coverage. The applicants have additionally established the necessary criteria pursuant to N.J.S.A. 40:55D-70c(2) of the New Jersey Municipal Land Use Law to support each of 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 Master Plan or Zoning Ordinance 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 City of Ocean City Zoning Board of Adjustment at its meeting on April 15, 2026, that the variances requested for lot width (42.5 feet where 50 feet is required), impervious coverage (59.9% where 55% is the permitted maximum) and building coverage (35% where 25% is the permitted maximum) are hereby granted. Mr. Buck

made the motion to grant the variances, Mr. DeMarco seconded the motion. Members Mr. Price, Mr. Logue, Mr. DeMarco, Mrs. Schneider, Mr. Gallagher and Mr. Buck voted in favor \ Mr. Becker was opposed. Motion passed 6-1.

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 of Ocean 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 of Ocean 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 shall be paid current prior to building permits being issued.

Further conditioned upon any conditions in the Engineering and Planning review memorandum 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 agreement by the applicants to specific items not contained within this Resolution, but which were otherwise set forth in the record of the hearing before the City of 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 Zoning 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 City of Ocean City 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.

ZONING BOARD OF ADJUSTMENT
CITY OF OCEAN CITY

Dated: 5/20/26

/s/
MICHAEL BUCK, Chairperson

The foregoing is a true copy of the Resolution adopted by the City of Ocean City Zoning Board of Adjustment at its meeting on the 20th day of May 2026 as held at said meeting.

Dated: 5/20/26

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

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