

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

APPLICATION OF: **Derek & Denise Pierce**

BLOCK 70.25, LOT 2

WHEREAS, the applicants were represented by Michael J. Lario, Jr., Esquire; and

WHEREAS, a Survey of Property was submitted from Dynamic Survey, LLC, signed by Craig Black, PLS, NJ License No. 24GBO4257400, Job No. 6080 25-05263, dated January 12, 2026 and revised January 14, 2026; and

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 70.25, Lot 2,

also known as 304 East Seabright Road, Ocean City, New Jersey 08226; and

WHEREAS, the property is located in the Gardens R-1 Neighborhood 45/5000 Zone (the “G-45-5000 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 subject property. The rear portion of the property, consisting of an area that spans the width of the property for approximately 3 feet, is burdened by an Exclusive Temporary Easement for the benefit of the property located to the rear of the subject property, known as Lot 3 in Block 70.25 located at 311 Wesley Road (“Lot 3”). The easement area contain a fence, concrete, landscaping and a portion of a shed that extend from Lot 3 to the subject property and are allowed to remain on a temporary basis under the easement. The easement is temporary and its terms contain the precise provisions upon which it will terminate. The effect of the easement on the subject property is it reduces its usable depth by approximately 3 feet.

The applicants are proposing to construct a new in-ground swimming pool in the rear yard of the property. The size of the proposed swimming pool will be 8 feet by 20 feet. The proposed rear yard setback to the swimming pool is 4 feet, 4.5 inches (amended during the course of the hearing from a proposed rear yard setback of 3.5 feet). The minimum required setbacks for swimming pools to any property line is 6 feet. As a result, variance relief pursuant to N.J.S.A. 40:55D-70c is required by the applicants from this condition. The proposed swimming pool meets all other requirements of the City of Ocean City Zoning and Land Development Code (“Zoning Ordinance”).

The applicants provided testimony on their behalf that the proposed swimming pool is

modest in size and will not be visible in the rear yard. The applicants' testimony also indicated that the proposed rear yard setback to the swimming pool, at 4 feet, 4.5 inches, is less than a 20 inch deviation from the minimum 6 foot setback requirement. The testimony provided further stated that once the easement burdening the rear of the property is terminated, it will allow for that area between the proposed swimming pool and rear property line to become more open. The testimony on behalf of the applicants opined that for the aforementioned reasons, the proposal will advance that purpose of zoning set forth in the New Jersey Municipal Land Use Law of promoting the general welfare by making the property more functional, and that granting the variance would not result in a substantial detriment to the public good or substantially impair the intent and purpose of the Zoning Ordinance or Zone Plan of the City of Ocean City.

Public Comment: None

Exhibits: A-1 (easement) and A-2 (revised site plan)

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 in-ground swimming pool in the rear yard of the property and require variance relief pursuant to N.J.S.A. 40:55D-70c for the rear yard setback to the proposed swimming pool (4 feet, 4.5 inches where 6 feet is the minimum required). The applicants have demonstrated pursuant to N.J.S.A. 40:55D-70c(2) that their proposal would make the subject property more functional and thus promote the general welfare. Further, the proposal by the applicants, with the deviation sought, will not substantially impair the intent and purpose of the Zoning Ordinance or Zone Plan of the City of Ocean City as the proposed swimming pool is modest in size, will not be visible in the rear yard and deviates less than 20 inches from the required rear yard setback of 6 feet. In addition, once the easement burdening the rear of the property is

terminated, the area between the proposed swimming pool and rear property line of the property will become more open.

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 variance.

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

The purpose of the Municipal Land Use Act would be advanced by the deviation which would substantially outweigh any detriments. The granting of the variance to allow the departure would not substantially impair the Zoning Ordinance or Zone 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 City of Ocean City Zoning Board of Adjustment at its meeting on June 17, 2026, that the variance requested for a rear yard setback to the proposed in-ground swimming pool of 4 feet, 4.5 inches where 6 feet is the minimum required is hereby granted. Mr. Buck made the motion to grant the variance, Mr. Waddell seconded the motion. Members Mr. Waddell, Mr. Price, Mr. Logue, Mr. DeMarco, Mr. Becker, Mrs. Schneider, and Mr. Buck voted in favor \ Zero were opposed. Motion passed 7-0.

The granting of the variance 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 the applicants revise their plan to show the fence to be constructed at the rear of the in-ground swimming pool approved herein.

Further conditioned that the applicants revise their plan to show the rear yard setback to the in-ground swimming pool approved herein at 4 feet, 4.5 inches and the swimming pool equipment at an elevation of 10 feet.

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 March 23, 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: 7/15/26

/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 15th day of July 2026 as held at said meeting.

Dated: 7/15/26

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

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