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**CITY OF OCEAN CITY
ZONING BOARD OF ADJUSTMENT
RESOLUTION ZBA-26-008**

APPLICATION OF: PD Management LLC

PROPERTY: 3323 Simpson Avenue

BLOCK 3305, LOT 3

WHEREAS, PD Management LLC (“applicant”) is the owner of Block 3305, Lot 3 as the same is designated on the Tax Map of the City of Ocean City; and

WHEREAS, the applicant was represented by Jon D. Batastini, Esquire; and

WHEREAS, a Variance Plan / Minor Subdivision / Minor Site Plan (consisting of six sheets, including a Top Sheet (sheet ZB-1), Plot Plan and Details (sheet ZB-3), Lot 3.01 Elevations (sheet ZB-4), Lot 3.01 Floor Plans (sheet ZB-5), Lot 3.02 Elevations (sheet ZB-6) and Lot 3.02 Floor Plans (sheet ZB-7) was submitted from Thomas/Bechtold Architecture and Engineering, signed by Andrew Bechtold, RA, PP, NJ Architect License No. 21AI01764200, NJ Planners License No. 33LI00653500, File No. 5726, dated April 20, 2026, and who testified on behalf of the applicants; and

WHEREAS, a Minor Subdivision Plat was submitted from Design Land Surveying P.A., signed by Thomas N. Tolbert, PLS, NJ License No. GS 38608, File No. 2603003, dated March 2, 2026 and March 10, 2026; and

WHEREAS, the applicant has filed a complete application with the City of Ocean City

Zoning Board of Adjustment (sometimes referred to as the “Zoning Board” or “Board”) seeking minor subdivision approval to create two new lots, and use variance pursuant to N.J.S.A. 40:55D-70d(1) to construct a new duplex on each of the newly created lots, for the premises located at Block 3305, Lot 3, also known as 3323 Simpson Avenue, Ocean City, New Jersey 08226; and

WHEREAS, the property is located in the Neighborhood Business Zone (“NB Zone”); and

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

The subject property is 80 feet wide by 115 feet deep, for a total lot area of 9,200 square feet. The minimum required lot width for the NB Zone is 30 feet, the minimum required lot depth is 100 feet and the minimum required lot area is 3,000 square feet. The property previously contained a two story office building which has been demolished and the property is now vacant land. The NB Zone permits residential uses over commercial space at the ground level but does not permit stand-alone duplexes or any stand-alone residential uses.

The applicant is proposing to subdivide the property into two new lots and construct a new duplex on each of the newly created lots. Each of the proposed lots will be 40 feet wide by 115 feet deep, for a total lot area of 4,600 square feet for each lot. The two proposed lots thus each exceed the minimum required lot width, lot depth and lot area for the NB Zone and the proposed subdivision is “by-right.” However, since duplexes are not a permitted use in the NB Zone, the applicant requires use variance approval pursuant to N.J.S.A. 40:55D-70d(1). Each of the proposed duplexes do meet or exceed each of the bulk requirements for the NB Zone as set forth in the City of Ocean City Zoning and Land Development Code (“Zoning Ordinance”), including but not limited to four on-site parking spaces for each duplex.

The applicant provided testimony that the proposed minor subdivision is “by-right” in that each proposed lot exceeds the minimum required lot width, lot depth and lot area requirements for the NB Zone. The applicant’s testimony indicated that there was a six unit residential condominium building directly adjacent to the subject property and other duplex uses in the area. The testimony stated that the applicant could provide for the same density (i.e. two residential units on each proposed newly created lot) if the applicant were to construct the required commercial space at the ground level. The applicant’s testimony was that providing for commercial space would be a more intensive use and more impactful than two stand-alone residential duplexes, and that duplexes without commercial grade is more consistent with the development pattern of the neighborhood. The applicant, through the testimony provided, opined that granting the use variance will advance the general welfare as the proposed duplexes will be less intense without a commercial component and will reduce traffic, provide for an appropriate location for the duplex use, make efficient use of the property and would improve the aesthetics of the property. The testimony by the applicant also opined that granting the use variance will not have a substantial negative impact on the public good as the proposed duplexes are less impactful without commercial being constructed at the ground level and will not have a substantial negative impact on the zone plan or Zoning Ordinance of the City of Ocean City as the proposed duplexes are consistent with the development pattern of the neighborhood.

Public Comment: James Harris (3312-14 Haven Avenue), Frank Worrell (3307 Simpson Avenue), Fran Worrell (3307 Simpson Avenue), Maureen Boyle (3301 Simpson Avenue), Stephanie Tomlin (3325 F Simpson Avenue), Janice Meyer (3325 C Simpson Avenue), Denise Santella (3325 D Simpson Avenue) and Patricia Frasier (3328 Haven Avenue) each spoke in favor

of the application and indicated that they did not want any commercial development to occur at the subject property.

Exhibits: None.

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

The applicant proposes to subdivide the property into two new lots and construct a new duplex on each of the newly created lots. Each of the proposed new lots to be created through the minor subdivision exceed the minimum required lot width, lot depth and lot area for the NB Zone. The NB Zone does not permit stand-alone duplexes as permitted uses and thus the applicant requires use variance approval pursuant to N.J.S.A. 40:55D-70d(1).

The proposal by the applicant for two new duplexes on the subdivided property would advance several purposes of the New Jersey Municipal Land Use Law. In that regard, the proposal will advance the general welfare as the proposed duplex use is particularly suited for the property as it consistent with the neighborhood, being directly adjacent to a six unit residential condominium building and other duplexes in the area. The proposal will also promote the general welfare and the free flow of traffic as providing for stand-alone duplexes with no commercial space at the ground level, each with four on-site parking spaces, will be less impactful and will reduce traffic. The applicant is further providing for an appropriate location for duplexes and making efficient use of the property by constructing each duplex on an oversized lot and meeting or exceeding all other bulk requirements for the NB Zone. The proposal will additionally improve the aesthetics of the property as the proposed duplexes are well designed and will enhance the property and the neighborhood. Moreover, there will be no substantial negative impacts to the public good associated with the proposed duplexes as providing for the required commercial space

on the ground floor would be more impactful, parking for each duplex will be compliant and the duplexes meet or exceed all bulk requirements of the NB Zone. There will additionally be no substantial negative impact to the zone plan or Zoning Ordinance of the City of Ocean City as the proposed duplexes are consistent with the development pattern of the neighborhood, with a six unit residential condominium building on the adjacent property and other duplexes in the area.

For these reasons, the applicant has established the necessary criteria pursuant to N.J.S.A. 40:55D-70d(1) of the New Jersey Municipal Land Use Law to support the requested use variance

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

The purpose of the Municipal Land Use Act would be advanced by allowing the stand-alone duplexes in the NB Zone and those advancements would substantially outweigh any detriments. The proposed duplex use is also particularly suited for the subject property. The granting of the use variance to allow the duplex use in the NB Zone would not substantially impair the zone plan or Zoning Ordinance of the City of Ocean City. The minor subdivision plat is also in accordance with the Zoning Ordinance in that each of the two proposed new lots to be created exceed the minimum required lot width, lot depth and lot area for the NB Zone such that minor subdivision approval can be granted.

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 June 17, 2026, that the minor subdivision requested by the applicant to create two new lots is hereby granted. Mr. Buck made the motion to grant the minor subdivision approval, Mr. Waddell seconded the motion. Members Mr. Waddell, Mr. Price, Mr. Logue, Mr.

DeMarco, Mrs. Schneider, Mr. Becker and Mr. Buck voted in favor. Zero were opposed. Motion passed 7-0.

AND BE IT FURTHER RESOLVED by the Ocean City Zoning Board of Adjustment at its meeting on June 17, 2026, that the use variance requested by the applicant pursuant to N.J.S.A. 40:55D-70d(1) to allow the proposed duplexes in the NB Zone is hereby granted. Mr. Buck made the motion to grant the use variance, Mr. Waddell seconded the motion. Members Mr. Waddell, Mr. Price, Mr. Logue, Mr. DeMarco, Mrs. Schneider and Mr. Becker voted in favor. Mr. Buck was opposed. Motion passed 6-1.

The minor subdivision approval and the granting of the use variance is conditioned upon the applicant providing on the subject property ground level plant material of either grass or some other permanent green vegetative cover.

Further conditioned upon the Tax Assessor assigning the official new block and lot numbers, and street addresses, of each of the newly created lots through the minor subdivision approved herein.

Further conditioned upon the applicant providing sewer availability letters and other utilities availability letters for the subject property and the proposal approved herein.

Further conditioned upon the applicant perfecting the minor subdivision approved herein through the filing of a plat with the Cape May County Clerk's Office.

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 Zoning Board.

Further conditioned that the applicant will provide cost estimates for improvements in the event the Board Engineer deems same appropriate as well as providing adequate performance guarantees.

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 applicant 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 applicant provide copies of all approvals from any agency having jurisdiction over this application.

Further conditioned that the applicant 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 report by Joseph Maffei, PE, PP, CME, of the firm of EDA, dated May 12, 2026 being complied with but not further contained herein.

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

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

The applicant 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 applicant 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 Zoning Board of Adjustment of the City of Ocean City 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 Ocean City Zoning Board of Adjustment and is available for inspection during regular business hours.