



70.40, Lot 5, also known as 21 Nassau Road, Ocean City, New Jersey 08226; and

**WHEREAS**, the property is located in the Gardens R-1 Neighborhood 40/3500 Zone (“G-40/3500 Zone”); and

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

The subject property is 3,200 square feet in total lot area, with lot depth of 80 feet. The minimum required lot area for the subject property in the G-40/3500 Zone is 3,500 square feet, while the minimum required lot depth is 100 feet. Thus, the property is undersized but is considered a buildable lot pursuant to §25-105.3e of the Ocean City Zoning and Land Development Ordinance (the “Zoning Ordinance”) and does not require variance relief for the deficient lot area and lot depth. There is an existing single family dwelling under construction on the property that meets all bulk requirements of the G-40/3500 Zone and the Zoning Ordinance.

Through this application, the applicant is now proosing to construct a covered porch that is 4.43 feet in depth at the first living level of the single family dwelling under construction. Pursuant to note 23 of the Gardens R-1 Neighborhood Zone Schedule of District Regulations in the Zoning Ordinance, up to two percent of the lot area of a property may be excluded from the calculation of building coverage for front porches constructed in accordance with §25-300.16.1.d of the Zoning Ordinance. That section of the Zoning Ordinance, in particular §25-300.16.1.d.4, requires porches to be a minimum of eight feet in depth. Since the porch proposed by the applicant is only 4.43 feet in depth, the applicant does not qualify for the building coverage exclusion and the proposed porch will result in total building coverage of 37.37% where 35% is the permitted maximum. As a result, variance relief pursuant to N.J.S.A. 40:55D-70c is required by the applicant for the excess building coverage. This is the only variance required by the applicant.

The applicant provided testimony that the requested building coverage deviation of 2.37% is *de minimis*. The applicant's testimony also indicated that the applicant was unable to take advantage of the building coverage exclusion detailed above since the proposed deck is less than eight feet in depth. The applicant's testimony further opined that the proposal for the covered porch, with the building coverage deviation, advances several purposes of zoning set forth in the New Jersey Municipal Land Use Act, including advancing the general welfare by being consistent with the Zone Plan of the City of Ocean City and the development pattern of similar covered porches in the neighborhood, promoting light, air and open space by the single family dwelling meeting all other bulk requirements of the G-40/3500 Zone and the Zoning Ordinance other than building coverage, and providing an aesthetic enhancement to the front of the single family dwelling under construction. The applicant's testimony additionally opined that granting the variance would not result in a substantial detriment to the public good or substantially impair the Zoning Ordinance or Zone Plan of the City of Ocean City as the single family dwelling, with the covered front porch, is consistent with the development pattern of the neighborhood and the building coverage deviation is *de minimis*.

Public Comment: David Beyel (38 W. 8<sup>th</sup> Street) and Bill Leighton (30 Gardens Road) each spoke in favor of the application

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 construct a covered porch that is 4.43 feet in depth at the first living level of the single family dwelling under construction on the subject property. The applicant requires variance relief pursuant to N.J.S.A. 40:55D-70c for building coverage of 35.37% where

35% is the permitted maximum. Pursuant to N.J.S.A. 40:55D-70c(2), the proposal by the applicant advances several purposes of zoning set forth in the New Jersey Municipal Land Use Act. Those purposes include advancing the general welfare by being consistent with the Zone Plan of the City of Ocean City and the development pattern of the neighborhood with several other covered porches, promoting light, air and open space by the single family dwelling meeting all other bulk requirements of the G-40/3500 Zone and the Zoning Ordinance other than building coverage, and providing an aesthetic enhancement to the front of the single family dwelling under construction through the proposed covered porch. Granting the variance also will not result in a substantial detriment to the public good or substantially impair the Zone Plan or Zoning Ordinance of the City of Ocean City as the single family dwelling, with the covered front porch, is as noted consistent with the development pattern of the neighborhood and the building coverage deviation is *de minimis*. In addition, the deviation from building coverage is at least partially driven by the fact that the proposed porch is not at least eight feet in width and thus the applicant does not qualify for the building coverage exclusion detailed above.

For these reasons, the applicant has 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 building coverage variance.

The Board determined that the 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 the deviation which would substantially outweigh any detriments. The granting of the variance to allow the departure would not substantially impair the Zone 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 Ocean City Zoning Board of Adjustment at its meeting on July 15, 2026, that the variance requested for building coverage (specifically 37.37% where 35% is the permitted maximum) is hereby granted. Mr. Waddell made the motion to grant the variance, Mr. Logue seconded the motion. Members Mr. Price, Mr. Geary, Mr. Logue, Mr. DeMarco, Mr. Becker, Mrs. Schneider, and Mr. Waddell voted in favor. Zero members were opposed. Motion passed 7-0.

The granting of the 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 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 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 14, 2026 being complied with but not further contained herein.

Further conditioned upon agreement by the applicant 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 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 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: 8/19/26

/s/ \_\_\_\_\_  
RICHARD WADDELL, Vice-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 19th day of August 2026 as held at said meeting.

Dated: 8/19/26

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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 ho

