

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

PROPERTY: 3829-31 Central Avenue **BLOCK 3801, LOT 5**

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 variance pursuant to N.J.S.A. 40:55D-70c and a waiver (all as detailed more fully herein) to construct a new single family dwelling on an existing foundation for the premises designated on the Tax Map of the City of Ocean City as Block 3801, Lot 5, also known as 3829-31 Central Avenue, Ocean City, New Jersey 08226; and

WHEREAS, the property is located in the Residential Oceanfront Two-Family R-O-2-40 Zone (“R-O-2-40 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 40 feet wide by 100 feet deep, for a total lot area of 4,000 square feet, which is in excess of the 3,600 minimum lot area required by the R-O-2-40 Zone. An alley runs along the rear of the property that dead ends at the beach behind the subject property and contains a retaining wall. There existed a two-family dwelling on the property that had several nonconforming conditions pursuant to the City of Ocean City Zoning and Land Development Code (“Zoning Ordinance”). Those nonconforming conditions included a side yard setback on the south side of 4.7 feet where five feet is required, combined side yard setbacks of 9.82 feet where 11 feet is required, a rear yard setback to the two-family dwelling and deck/balcony of 13.85 feet where 25 feet is required, building coverage of 45.7% where 38% is the permitted maximum, impervious coverage of 93.1% where 55% is the permitted maximum, and parking consisting of four parking spaces from a driveway off of the front yard along Central Avenue where alley parking access is required. The existing driveway curb depression along Central Avenue is also 26.81 feet wide where the design standards in the Zoning Ordinance permit a maximum driveway curb depression of 25 feet in width. Further, the two-family dwelling that existed on the property was not flood

compliant. The applicant obtained all required permits and approvals from the City of Ocean City to lift and renovate the two-family dwelling that existed without requiring variance relief from the Board. The two-family dwelling was elevated and a new foundation constructed. However, during construction the applicant's contractor removed too much of the two-family dwelling itself such that the City of Ocean City Zoning Officer determined that the lift and renovation had become new construction and issued a stop work order. The result of the stop work order was that the applicant was required to seek variance relief from the Board pursuant to N.J.S.A. 40:55D-70c in order to construct a new two-family dwelling on the existing foundation.

The applicant is now seeking variance relief pursuant to N.J.S.A. 40:55D-70c and a waiver to construct a new-two family dwelling on the existing foundation. The variances requested by the applicant are for a total side yard setback of 10.96 feet where 11 feet is required, a rear yard setback to the proposed two-family dwelling of 17 feet and to the deck/balcony of 12.02 feet where 25 feet is required, building coverage of 43.8% where 38% is the permitted maximum, impervious coverage of no greater than 73.3% where 55% is permitted, and to allow parking access off of the front yard along Central Avenue where alley parking access is required. The waiver is to allow the existing driveway curb depression of 26.81 feet in width to remain where 25 feet is the permitted maximum. From the conditions that existed prior to the attempted lift to the current proposal by the applicant, the side yard setback on the south side has been made compliant, the total side yard setbacks have been increased to an almost conforming condition of 10.96 feet (where as noted 11 feet is required), the rear yard setback to the two-family dwelling has been increased to 17 feet, building coverage has been reduced to 43.8% and impervious coverage has been reduced to no greater than 73.3%. Six parking spaces on the property, three for each dwelling unit, are also now proposed by the applicant and the foundation that existed prior to the attempted

lift has been slightly reduced.

The applicant provided testimony that the foundation to the proposed two-family dwelling is lawfully existing, has been slightly reduced in size from that which previously existed prior to the attempted lift and that constructing a conforming two-family dwelling would require removing that foundation entirely. The applicant's testimony indicated that the new proposed two-family dwelling would be virtually identical to what was approved as a "by-right" lift, except that now the proposed two-family dwelling would be a new structure on the existing foundation as opposed to a lift and renovation. In terms of the alley along the rear of the property, the testimony on behalf of the applicant stated that the majority of the dwellings that have access to the alley park in driveways located along Central Avenue. The testimony was that the alley dead ends at the subject property where the alley meets the beach, contains a retaining wall and becomes inundated with sand such that requiring parking via the alley creates a congested and unsafe condition. The applicant, through the testimony provided, opined that granting the variances would advance several purposes of zoning set forth in the New Jersey Municipal Land Use Act, including promoting the general welfare by constructing a new two-family dwelling on an existing foundation that is flood compliant, more conforming than the two-family dwelling that had existed on the property and has six parking spaces on the subject property, providing for flood protection with a new flood compliant two-family dwelling and creating a desirable visual environment. The testimony by the applicant also opined that granting the variances would not have a substantial negative impact on the public good or the Zone Plan or Zoning Ordinance of the City of Ocean City as the proposed two-family dwelling is consistent with the development pattern of the neighborhood, provides for six on-stie parking spaces, and makes conforming or more conforming many nonconforming conditions of the two-family dwelling that had existed on the property.

Public Comment: David Liess (3820 Wesley Avenue), Katy Matthew (3825 Central Avenue), Gene Cichanowski (3821 Central Avenue) and Linda Rohrer (3833-35 Central Avenue) each spoke in favor of the application and were opposed to parking off of the alley to the subject property.

Exhibits: A-1 (Google Earth view of the alley of the previously existing two-family dwelling) and A-2 (aerial photograph).

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 new two-family dwelling on an existing foundation and requires several variances pursuant to N.J.S.A. 40:55D-70c and a waiver as detailed above.

The proposal by the applicant would advance several purposes of the New Jersey Municipal Land Use Act. In that regard, the proposal will advance the general welfare as the new two-family dwelling will be flood compliant and more conforming than the two-family dwelling that had existed on the property, including a now compliant side yard setback on the south side, total side yard setbacks at an almost conforming condition of 10.96 feet (where as noted 11 feet is required), an increased rear yard setback to the two-family dwelling (from 13.85 feet to 17 feet), reduced building coverage (from 45.7% to 43.8%), decreased impervious coverage (from 93.1% to no greater than 73.3%), and increased parking on the property (from four parking spaces to six parking spaces). The applicant's proposal will also provide flood protection as the proposed two-family dwelling will be, as noted, flood compliant and will create a desirable visual environment with a new two-family dwelling on an existing foundation. The proposed two-family dwelling on the existing foundation would be virtually identical to that approved as a "by-right" lift and renovation, except that now the proposed two-family dwelling would be a new structure on the

existing foundation. The majority of other properties that have alley access on the block park via driveways from the front yards along Central Avenue. Moreover, the alley where the subject property is located dead ends at the beach, has a retaining wall and is inundated with blowing sand such that allowing parking via the driveway along Central Avenue at the front of the property is a safer condition.

In addition, there will be no substantial negative impact on the public good or the Zone Plan or Zoning Ordinance of the City of Ocean City as the proposed two-family dwelling is consistent with the development pattern of the neighborhood, provides for six parking spaces on the subject property (three for each dwelling unit), and makes conforming or more conforming many nonconforming conditions of the two-family dwelling that had existed on the property.

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 variances requested.

The Board determined that the variances 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 deviations which would substantially outweigh any detriments. The granting of the variances to allow the departures would not substantially impair the Zone Plan or Zoning Ordinance of the City of Ocean City. The waiver request is also reasonable, appropriate and justified as the driveway curb depression is remaining at its existing width of 26.81 feet where 25 feet is the permitted maximum width.

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 variances requested by the applicant pursuant

to N.J.S.A. 40:55D-70c and the waiver are hereby granted. The specific variances granted are to allow a total side yard setback of 10.96 feet where 11 feet is required, a rear yard setback to the proposed two-family dwelling of 17 feet and to the deck/balcony of 12.02 feet where 25 feet is required, building coverage of 43.8% where 38% is the permitted maximum, impervious coverage of no greater than 73.3% where 55% is permitted, and to allow parking access from the driveway off of the front yard along Central Avenue where alley parking access is required. The specific waiver granted is to allow the driveway curb cut depression to be 26.81 feet in width where 25 feet is the permitted maximum width. Mr. DeMarco made the motion, Mr. Waddell 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 variances and waiver is conditioned upon the applicant providing for permeable pavers across the driveway on the subject property and stepping stones down both sides of the property such that impervious coverage of the property shall be no greater than 73.3%.

Further conditioned upon the applicant providing for six total parking spaces on the subject property, those being three parking spaces for each of the dwelling units of the proposed two-family dwelling.

Further 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 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 June 10, 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: 8/19/26

/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 19th day of August 2026 as held at said meeting.

Dated: 8/19/26

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.