

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

**PROPERTY: 254 Bay Road** **BLOCK 70.14, LOT 41.03**

**WHEREAS**, the applicant presented the testimony of George Wray Thomas, PE, PP, RA, a licensed professional engineer, planner and architect in the State of New Jersey, in support of its interpretation request and appeal; 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”) for its interpretation and appeal for the premises designated on the Tax Map of the City of Ocean City as Block 70.14, Lot 41.03, also known as 254 Bay Road, Ocean City, New Jersey 08226; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-72a, the Zoning Officer transmitted to the Zoning Board all papers and documents constituting the record upon which the Zoning Violation was issued; and.

**WHEREAS**, the property is located in the Gardens R-1 Neighborhood 60/6000 Zone; and

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

The subject property contains an existing single family dwelling. The applicant has installed artificial turf throughout the property, including the front yard, side yards and rear yard. The applicant also installed artificial turf in the curb strip in front of the property in the City of Ocean City right-of-way. The Zoning Officer issued the Zoning Violation on May 22, 2026 as a result of the artificial turf installed at and in front of the property (For purposes of this Resolution, when it is indicated that artificial turf was installed at the property, that shall include all artificial turf installed on the property and in front of the property in the City of Ocean City right-of-way).

The Zoning Violation specifically states:

Artificial turf is not considered a permeable surface under the current ordinance (Section 25-107). Therefore, the active installation occurring at the above-referenced site must cease immediately and the ground coverage must be restored to sod with underground irrigation. To be clear this includes all yard areas, the curb strip in the right-of-way, and the area between the driveway strips.

The applicant is requesting an interpretation of the Zoning Ordinance pursuant to N.J.S.A. 40:55-70b and §25-800.2a2 of the Zoning Ordinance as to whether artificial turf constitutes a

permeable surface under the Zoning Ordinance. It is the applicant's position that artificial turf, at least as it relates to the artificial turf installed at the subject property, should be interpreted by the Board as a permeable surface. In the alternative, the applicant is appealing the Zoning Violation issued by the Zoning Officer pursuant to N.J.S.A. 40:55-70a and §25-800.4a of the Zoning Ordinance seeking to overturn the Zoning Officer's decision, as set forth in the Zoning Violation, that artificial grass is not considered a permeable surface under the Zoning Ordinance.

Pursuant to the definitions section of the Zoning Ordinance, specifically §25-107, impervious surface shall mean any natural or man-made surface that does not permit the infiltration of water, including all principal and accessory buildings, decks, porches, driveways, sidewalks, patios and parking areas, constructed of gravel, crushed stone or crushed shells, brick pavers, asphalt or concrete, areas underlain with plastic sheeting, and other materials determined by the City Engineer. 'Impervious surface' does not include retaining walls eight (8) inches or less in width below the cap; landscaped areas in a natural state, vegetated, or mulched with stone such as river rock over a porous weed barrier; and permeable pavers utilized for the required number of off-street parking spaces in accordance with Subsection 25-300.12.4j.

Similarly, the definitions section of the Zoning Ordinance indicates that impervious surface coverage [s]hall mean any natural or man-made surface that does not permit the infiltration of water, including all principal and accessory buildings, decks, porches, driveways, sidewalks, patios and parking areas, constructed of gravel, crushed stone or crushed shells, brick pavers, asphalt or concrete, areas underlain with plastic sheeting, and other materials determined by the City Engineer. 'Impervious surface' does not include retaining walls eight inches or less in width below the cap; landscaped areas in a natural state, vegetated, or mulched with stone such as river rock over a porous weed barrier; and permeable pavers utilized for driveways and off-street parking

spaces in accordance with § 25-300.12.4i of this Ordinance.

The applicant provided testimony on its behalf that the artificial turf installed at the subject property is more permeable than natural grass. The testimony indicated that the artificial grass installed by the applicant is on No. 57 stone, which permits water to drain through the artificial turf and then through the stone base. The testimony on behalf of the applicant compared the artificial turf at the subject property to that of a football field with artificial turf and indicated that it allows for water infiltration and does not shed water. The testimony on behalf of the applicant indicated that the Zoning Ordinance does not prohibit artificial turf and that the purpose of requiring a certain percentage of a property to contain pervious surface is to ensure proper infiltration and drainage. The testimony opined that since the applicant's artificial turf at the property permits the infiltration of water and is not specifically included as an "impervious surface" in the Zoning Ordinance's definitions of impervious surface and impervious surface coverage, the plain language of those definitions supports the applicant's interpretation that artificial turf, at least as it relates to the applicant's property, does not constitute an impervious surface. The applicant's testimony further opined that at best the aforementioned definitions in the Zoning Ordinance are ambiguous and should be construed in the applicant's favor.

With respect to the appeal of the Zoning Violation issued by the Zoning Officer, it is the applicant's position, through the testimony and arguments on its behalf, that the Zoning Officer erred in issuing the Zoning Violation by (i) concluding that the artificial turf installed at the property constitutes impervious coverage, (ii) failing to consider the permeability and drainage characteristics of the artificial turf that was installed, (iii) applying a standard not expressly contained in the Zoning Ordinance, and (iv) issuing the Zoning Violation based upon an incorrect interpretation of the Zoning Ordinance.

Public Comment: Matthew Lange (258-62 Bay Road) and David Kennedy (222 Bay Road), each spoke, with Mr. Lange having no issue with the appearance of the artificial turf at the property and Mr. Kennedy stating that he had never seen standing water at the property.

Exhibits: None

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

The Board interprets the Zoning Ordinance, and the Zoning Ordinance's definitions of impervious surface and impervious surface coverage, to mean that artificial turf constitutes an impervious surface and is not a pervious surface, regardless of its permeability as applied to a specific property or artificial turf system. The Board also upholds the Zoning Officer's determination, as set forth in the Zoning Violation, that artificial turf is not considered a permeable surface under the Zoning Ordinance.

With respect to the interpretation, the Board finds that although the Zoning Ordinance does not specifically prohibit artificial turf, it also does not expressly permit artificial turf and a plain reading of the Zoning Ordinance does in fact dictate that artificial turf constitutes an impervious surface. In that regard, while the Zoning Ordinance, and the Zoning Ordinance's definitions of impervious surface and impervious surface coverage, do not include artificial turf as one of the enumerated examples of coverage types that is considered impervious, those enumerated coverage types are exhaustive. Further, and equally significant, the Zoning Ordinance's definitions of both impervious surface and impervious surface coverage do specifically enumerate coverage types that are not considered impervious surface and are thus pervious surfaces. To that end, those definitions, as quoted above, both indicate that "'impervious coverage' does not include retaining walls eight inches or less in width below the cap; landscaped areas in a natural state, vegetated, or

mulched with stone such as river rock over a porous weed barrier; and permeable pavers utilized for driveways and off-street parking spaces . . . .” Nowhere do these enumerated coverage types include artificial turf. Moreover, while the applicant has contended that its artificial turf system provides better infiltration and drainage than natural grass, and that the purpose of impervious coverage limitations (and pervious coverage requirements) in the Zoning Ordinance is to ensure proper infiltration and drainage, other purposes of artificial turf being considered an impervious surface under the Zoning Ordinance also exist, including without limitation aesthetics. For these reasons, the Board interprets the Zoning Ordinance, and specifically the Zoning Ordinance’s definitions of impervious surface and impervious surface coverage, to mean that artificial turf constitutes an impermeable surface and does not constitute a permeable surface. The Board’s interpretation of the Zoning Ordinance applies regardless of any purported permeability as applied to a specific property or artificial turf system. Stated differently, artificial turf, regardless of the permeability of any particular artificial turf system or the property upon which it is installed, is an impermeable surface and not a permeable surface under the Zoning Ordinance.

With respect to the applicant’s appeal of the Zoning Violation, it is denied and the Zoning Officer’s decision, as set forth in the Zoning Violation, and the Zoning Violation itself, are affirmed in light of the Board’s interpretation of the Zoning Ordinance. Given the Board’s interpretation of the Zoning Ordinance as set forth above, there is no basis to overturn the Zoning Officer’s decision, as set forth in the Zoning Violation, that “[a]rtificial turf is not considered a permeable surface under the current ordinance (Section 25-107).” The Zoning Officer’s decision and the Zoning Violation are affirmed.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Zoning Board of Adjustment at its meeting on September 23, 2026, that the applicant’s request that the Board make

an interpretation that the Zoning Ordinance does not consider artificial turf to be an impermeable surface, and thus constitutes a permeable surface, is hereby denied. Mr. DeMarco made the motion, Mr. Waddell seconded the motion. Members Mr. Waddell, Mr. Becker, Mrs. Schneider and Mr. Price voted against the interpretation requested by the applicant. Mr. DeMarco voted in favor of the interpretation requested by the applicant. Motion failed 4-1, with the interpretation of the Zoning Ordinance, and its definitions of impervious surface and impervious surface coverage, being that artificial turf is an impermeable surface and is not a permeable surface.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the Ocean City Zoning Board of Adjustment at its meeting on September 23, 2026, that the applicant's appeal seeking to overturn the Zoning Officer's decision, as set forth in the Zoning Violation, and the Zoning Violation itself is also denied. Mr. Waddell made the motion, Mr. DeMarco seconded the motion. Members Mr. Waddell, Mr. Becker, Mrs. Schneider and Mr. Price voted to deny the appeal and affirm the Zoning Officer's decision, as set forth in the Zoning Violation, and the Zoning Violation itself. Mr. DeMarco voted to grant the appeal and to reverse the Zoning Officer's decision, as set forth in the Zoning Violation, and the Zoning Violation itself. Motion failed 4-1. The Zoning Officer's decision, as set forth in the Zoning Violation, and the Zoning Violation itself are affirmed.

Prior to the commencement of the hearing on the application, Mr. Gallagher recused himself and removed himself from the dais.

ZONING BOARD OF ADJUSTMENT  
CITY OF OCEAN CITY

Dated: 10/21/26

/s/ \_\_\_\_\_  
RYAN PRICE, 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 21st day of October 2026 as held at said meeting.

Dated: 10/21/26

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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 hours.