

**RULES OF PROCEDURE
FOR THE
CITY OF OCEAN CITY
NEW JERSEY
ZONING BOARD OF ADJUSTMENT**

Note: For internal Ocean City Zoning Board of Adjustment use only. This document is not intended for legal guidance or advice.

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Organization, Officers, General Provisions

RULE 1:1

Organization, Officers, General Provisions

1:1-1 Title of the Board.

The Title of the Board shall be "The Zoning Board of Adjustment of Ocean City, New Jersey."

1:1-2 Annual Meeting; Officers.

The annual meeting of the Board shall be held on the third Wednesday of January each year, at which time the Board shall elect, from among its' members, a Chairperson and a Vice-Chairperson. The Board shall also appoint a Secretary, and a Board Attorney, all of whom shall serve for one year and until their successors have been appointed. The Board may appoint such other officers and assistants and employ such experts or staff as it may deem necessary, pursuant to N.J.S.A. 40:55D-71. Only the Chairperson and Vice-Chairperson must be members of the Board.

1:1-3 Chairperson.

The Chairperson, subject to these rules, shall decide all points of order and matters of procedure governing the meetings, unless otherwise directed by a majority of the Board in session at the time. She/he shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally pertaining to the office. He/she or his/her designee shall swear all testifying witnesses giving testimony before the Board.

1:1-4 Vice-Chairperson.

The Vice-Chairperson shall preside at all Board meetings and hearings in the absence of the Chairperson.

1:1-5 Secretary.

- (a) Subject to these rules, and under the direction of the Chairperson, the Secretary shall conduct all official correspondence, compile the required records, maintain and keep in order the necessary files and indices, and generally perform the secretarial work of the Board. He/she may assign such parts of his/her duties to the Assistant Secretary, if such there be, and he/she or his/her assistant, shall notify the Municipal Clerk and the Officer charged with enforcement of the Zoning Ordinance of all meetings of the Board and shall provide them with a list of the matters scheduled for hearing at each meeting. He/she shall give all notices of meetings required to be given by the Open Public Meetings Law, the Municipal Land Use Law or any other applicable law or ordinance.
- (b) The Secretary (or his/her designate) shall attend all meetings of the Board and shall have the care and custody of all records, documents, maps, plans and papers of the Board, for the care and custody of which no other provision is made by statute. When the "yeas" and "nays" are taken, he/she shall call the roll call, with the Vice-Chairperson voting first and then in the order of decreasing Board seniority, and the Chairperson shall be called last.
- (c) He/she shall make a record of, and keep on file, the minutes of the proceedings at each meeting or hearing held by the Board and shall enter therein with the other proceedings, such resolutions and orders as are adopted and a copy of the minutes of that meeting.
- (d) He/she shall publish the notice and serve copies of the Board's resolution as provided in Rule 2:8-5.

RULE 1:2 Meetings

1:2-1 Regular Meetings.

The regular meetings of the Board shall be held at the Municipal Building, Ocean City, New Jersey, or any other appropriate pre-determined and appropriately noticed Ocean City municipal site at 7:00 p.m. on the third and/or fourth Wednesday of each month and shall be held as scheduled unless a lack of applications should result in a vacant agenda, in which case the meeting may be cancelled. If the regular meeting day falls on a legal holiday, the meeting shall be held on the next secular day. A second monthly meeting, to be held on the fourth Wednesday of specific months to be determined at the first meeting of the year will also be included in the Board schedule. The Secretary shall annually furnish a copy of the regular meeting dates of the year, to include the aforementioned second monthly meeting dates, to the news media designated by the municipal governing body in accordance with the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq.

1:2-2 Special Meetings.

Meetings may be called by the Chairperson or in his/her absence the Vice-Chairperson, at any time or upon the written request of two members, provided notice thereof to be mailed or given to each member at least two days thereto, and to the public as required by the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq.

1:2-3 Meetings Open to the Public.

All meetings shall be open to the public, except executive sessions as authorized by N.J.S.A. 40:55D-9b and N.J.S.A. 10:4-6 et eq.

1:2-4 Order of Business.

The order of business at all meetings shall be as follows: (Note: this sequence may be changed at the discretions of the Chairperson or Vice-Chairperson in his/her absence.)

- (a) Open Meeting to the Public
- (b) Flag Salute (Pledge of Allegiance)
- (c) Roll call
- (d) Approval of minutes of previous meeting
- (e) Voting on any open resolutions
- (f) Hearing of Scheduled Applications
- (g) Motions for adjournment of scheduled cases and other motions
- (h) Calendar of unfinished business
- (i) Communications
- (j) Adjournment

Note: the sequence of these items may be changed at the beginning of each year as pre-determined by the incoming Chairman.

RULE 1:3 Quorum and Voting

1:3-1 Quorum.

At all meetings of the Board a quorum for the conducting of business shall consist of four members. In the absence of a quorum, the members present may adjourn the meeting and the hearing upon motion or application to another date.

RULE 1:4
Alternate Members

1:4-1 Designation.

The two alternate members of this Board appointed by the Governing Body shall be designated by the appointing authority as "Alternate No. 1" and "Alternate No. 2," respectively, and each alternate shall retain said designation during the term for which he/she is appointed.

1:4-2 Appointment of Alternate to Serve on Case.

During the absence, recusal, or disqualification of any regular member, the Chairperson shall appoint one of the alternate members to serve in the place of said regular member. The alternate member shall be designated to serve in place of the regular member only with respect to such case.

1:4-3 Alternate to Serve Until Final Disposition.

An alternate member who has been designated to sit in place of a regular member and who has participated in any hearing or matter coming before the Board shall continue to act in the place of such regular member until the final disposition of said matter by the Board.

1:4-4 Alternate No. 1 to Vote.

In the event that a choice must be made as to which of the two alternate members is to vote, Alternate No. 1 shall vote.

1:4-5 Alternate Not to Serve at Adjourned or Continued Hearing Unless present at Prior Hearing.

When a regular member has been present and has participated in the first hearing on any matter, no alternate member shall be designated to serve during the absence of such regular member during any adjourned or continued hearing or hearings in the same matter unless said alternate member was present at such first hearing or any other prior adjourned or continued hearing on such matter.

1:4-6 Rights and Privileges.

An alternate member who has been designated to serve in the place of an absent, recused, or disqualified regular member shall, during the period of his/her service, enjoy all of the rights and privileges and shall be subject to all the duties and disabilities pertaining to regular members but no alternate member shall be eligible to serve as Chairperson or Vice-Chairperson of the Board.

1:4-7 Participation in Discussions; Voting.

Alternate members may participate in discussions of the proceedings, but may not vote except in the absence, recusal, or disqualification of a regular member (as indicated in Article 1:4-2), nor shall any vote be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which of the two alternate members is to vote, Alternate No. 1 shall vote.

RULE 2:1
Commencement of Action; Service and Filing of Papers

2:1-1 Commencement of Action.

- (a) **Appeals of Decision by Officials.** An action in the nature of an appeal alleging that there is error in any order, requirement, decision or refusal made by the Building Inspector, Zoning Officer, or other official based on or made in the enforcement of the Zoning Ordinance shall be commenced by the filing of 21 copies of a notice of appeal, (Part I in the Application to the Zoning Board of Adjustment) in accordance with the provisions of the statute within 20 days from the date of the order, decision or refusal appealed from, which the officer from whom the appeal is taken and shall specify the grounds of such appeal. Said officer shall immediately transmit to the Board Secretary all papers constituting the record upon which the action appealed from was taken and the Board Secretary shall proceed to place the matter on the calendar in accordance with the provisions of Rule 2:2-1. The applicant shall pay at the time of such filing the fee required by ordinance.
- (b) **Applications to Board of Adjustment.** An application for a variance or for any other relief shall be commenced by the filing of one (1) original and 20 copies of an application (Part II in the Application to the Zoning Board of Adjustment) with the Secretary of the Board of Adjustment along with the fee required by ordinance.
- (c) **Other Requirements.**
1. Every application must be signed by the owner of the lands and premises so affected, or by his/her duly authorized agent, and may be signed by any other person having an interest in the action. This provision shall not apply to an appeal from a decision of the Administrative Officer by one who has no ownership or contractual interest in the property affected.
 2. Any maps or documents for which approval is sought at a public hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the Planning Office. This filing shall be in addition to the maps and other documents required to be filed with the application, as set forth in the application form and the checklist of items required by ordinance, a copy of which is given to the applicant.
 3. One photograph of the subject premises shall be submitted with every application.
 4. The application form shall be filled out completely and, where necessary, supplemented by additional information in order to make it clear to the Board what relief is being sought. No action shall be considered complete until all applicable requirements of Rule 2:1-1 have been complied with. For the assistance of the applicant, the Board's Secretary may render such other assistance to the applicant as may be practical.
 5. When an application is made for any variance relating to a use or structure which is not permitted in the district in which the lands are located or for other relief pursuant to N.J.S.A. 40:55D-70d, the applicant may submit at the time of filing his/her application for a variance, an application for site plan review or subdivision approval, prepared in accordance with all applicable ordinance requirements and regulations of the Planning Board of the City of Ocean City, New Jersey together with fees and deposits in the amount which would have been charged by the Planning Board in connection with the submission of a similar site plan review application.
 6. Application for site plan review need not be filed at the time of filing an application for a use variance, but any use variance granted by the Board shall be subject to proper submission of a site plan in accordance with the Ocean City, New Jersey, Zoning and Land Development Ordinance 88-27 as amended.

7. If the applicant is not the owner of the premises affected by the variance requested in the application, an affidavit or consent executed by the owner of the affected premises shall be filed with the Board consenting to the filing of the application, except as otherwise provided in Rule 2:4-2.
8. A corporation or partnership applying for relief from this Board which involves subdivision of land into six (6) or more lots, or a variance to construct a multiple dwelling of twenty-five (25) or more family units, or for approval of a site plan for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least ten (10) percent of the interest in the partnership as the case may be, in accordance with the requirements of N.J.S.A. 40:55D-48.1. If a corporation or partnership owns 10% or more of the stock of a corporation, or 10% or greater interest in a partnership, subject to disclosure pursuant to N.J.S.A. 40:55D-48.1, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock or of 10% or greater interest in the partnership, as the case may be; and this requirement shall be followed by every corporate stockholder or partner in a partnership, until the names and addresses of the non-corporate stockholders and individual partners exceeding the 10% ownership criterion established in this act have been listed in accordance with the requirements of N.J.S.A. 40:55D-48.2.
9. Applicant shall file informational copy of his/her application with the Environmental Commission and the Historic Preservation Commission and the proof of such filings with the Secretary of the Zoning Board of Adjustment.

(d) **Fees.** Fees established by ordinance shall be paid simultaneously with the filing of an application.

1. In accordance with the provisions of the Ocean City, New Jersey, Zoning and Land Use Development Ordinance 88-27 as amended, an applicant, in connection with an application involving site plan or subdivision approval, shall pay deposits to cover special expenses incurred by the Board for the rendering of services in its Planning Consultant, Engineer, Attorney, and other experts in the amount set forth in said ordinance.
2. In addition to the fees herein above specified, the applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which application is made, in accordance with the provisions of N.J.S.A. 40:55D-65(h) and the Ocean City, New Jersey Zoning and Land Development Ordinance 88-27 as amended.

2:1-2 Certification of Completeness.

The Committee or other authorized designees of the Board shall examine each application to ascertain that all required checklist items required by municipal ordinance are shown or furnished in the application or accompanying documents, or that otherwise a waiver has been requested. If all checklist items are provided and no waivers are requested, the application shall be deemed complete and the applicant shall be notified. If waivers are requested as to any items the Board shall, at its next ensuing regular or special meeting held not later than 45 days from the date of submission of such application, decide whether to grant or deny the waiver or waivers requested and applicant shall be notified promptly. If an application is neither found to be complete nor found to be incomplete and the applicant was notified of the deficiencies with 45 days from the date of filing, the application shall be deemed to be complete as of the 45th days following the date of submission.

2:1-3 Copies to Zoning Officer, Attorney, etc.; Filing.

One copy of every application shall be forwarded by the Secretary to the Zoning Officer, one copy to the Board's Attorney and one copy to the Environmental Commission. (note: Required by N.J.S.A. 40:55D-27 if Environmental Commission has filed an index of the natural resources of the municipality with the Board of Adjustment). The Secretary shall also give notice to the Zoning Officer and Attorney of the time set for the hearing on the application. The original copy of the application shall be filed in the case docket for the Board.

2:1-4 Docket Number.

The Secretary shall assign to each new action a docket number, which shall thereafter appear on all subsequent papers filed in the case.

RULE 2:2 Hearing Date

2:2-1 Hearing Date.

As soon as any complete appeal or application is filed in accordance with the foregoing rules, the case shall be placed on the calendar. The applicant shall be notified of the time set for the hearing thereon.

2:2-2 Adjournment.

The time for hearing may be adjourned from the time fixed therefore, for good cause, upon the motion of the applicant or other person interested in the action, or on the Board's own motion, provided, however, that where such adjournment would extend the statutory period within which the Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

2:2-3 Bifurcation.

An applicant seeking a variance pursuant to N.J.S.A. 40:55D-70(d) may either simultaneously file an application for any required site plan or subdivision approval or make a subsequent application to this Board for such approval. The Board may consider the variance request before dealing with the subdivision or site plan.

RULE 2:3 Notice; Upon Whom Served; Time

2:3-1 Notice; Upon Whom Served.

All provisions of N.J.S.A. 40:55D-11 through N.J.S.A. 40:55D-15 shall be strictly adhered to. Pursuant to N.J.S.A. 40:55D-11, N.J.S.A. 40:55D-13 and N.J.S.A. 40:55D-15 notice shall be given by the Secretary of the Board. All other notice required by N.J.S.A. 40:55D-11 and N.J.S.A. 40:55D-12 shall be given by the applicant at his/her expense.

Public notice of a hearing shall, in accordance with N.J.S.A. 40:55D-12, be given for Appeal of Determinations of Administrative Officers pursuant to N.J.S.A. 40:55D-70a and for requests for interpretation pursuant to N.J.S.A. 40:55D-70b.

Notice shall be given to all persons and officials entitled thereto by the requirements to N.J.S.A. 40:55D-12.

In addition to the above, all notices shall comply with 25-900.7 of the Revised General Ordinances, City of Ocean City, Vol. II.

2:3-2 Notice; Form.

The notice required to be served and published pursuant to Rule 2:3-1 shall be in substantially the form set forth as Form No. IV in the Appendix to these rules.

2:3-3 List of Owners Supplied by Tax Assessor.

Where the Tax Assessor of the municipality has furnished applicant with a list of property owners entitled to notice pursuant to the provisions of N.J.S.A. 40:55D- 12(c), a copy of the official certification and list shall be annexed to applicant's proof of service.

2:3-4 Proof of Service.

The service and publication of notices as herein above provided is a jurisdictional requirement. Proof of the service and publication of all required notices in accordance with these Rules shall be made by affidavit of the person or persons who actually served or mailed said notices as required by law and by the authorized official of the newspaper which published same.

RULE 2:4 Appeals

2:4-1 Form.

Every appeal shall be filed in triplicate on the appropriate form provided to the applicant by the Board's Secretary and which is set form as Form No. I in the Appendix of these Rules.

2:4-2 By Whom Filed.

Every appeal must be signed by the owner of the lands and premises so affected, or by his/her duly authorized agent, and may be signed by any other person having an interest in the action. This provision shall not apply to an appeal from a decision of the Administrative Officer by one who has no ownership or contractual interest in the property affected.

RULE 2:5 Hearings

2:5-1 Appearances.

At the hearing upon the application, the applicant or any other party shall appear in person, or may be represented by an Attorney-at-Law of New Jersey. Every corporation shall be represented by an Attorney-at-Law of New Jersey.

2:5-2 Oath.

At the hearing, the applicant (if testifying) and all testifying witnesses shall be sworn by the Chairperson or his/her designee before giving testimony.

2:5-3 Order of Presentation.

- (a) When the hearing is called to order, the Chairperson or the Secretary shall state the name and docket number of the application.
- (b) The applicant and/or representative shall then indicate the relief sought and present, by his/her testimony and the testimony of his/her witnesses, or by such documentary evidence or exhibits as he/she may submit, proof of all facts upon which he/she relies to establish his/her right to such relief sought in this application.

- (c) Any other persons interested in the action shall then be heard and may present any relevant testimony or evidence in support of the application.
- (d) Any other persons interested in the action shall then be heard and may present any relevant testimony or evidence tending to show the relief sought by the applicant should not be granted.
- (e) Rebuttal testimony or evidence shall then be admitted in such order as the Chairperson shall designate.
- (f) All witnesses may be cross-examined by any member of the Board and/or the Board Attorney.

2:5-4 Examination of Board; Testimony.

The application and every other person appearing and presenting testimony at any hearing may be examined by any member of the Board and the Board Attorney for the purpose of eliciting any relevant information which may assist the Board in deciding the issue. Any member of the Board may testify as to any relevant matter of which he/she has personal or official knowledge as ascertained from a viewing of the premises in question and the general area.

2:5-5 Closing of Hearing; Continuation.

- (a) When the applicant and all other interested persons have had an opportunity to be heard, the Chairperson may declare the hearing to be closed. Thereafter, no further evidence will be received in the action unless the matter is reopened in accordance with the rules.
- (b) The applicant or any other interested person, prior to the closing of the hearing, may move the Board for a continuance of the hearing for the purpose of presenting further relevant evidence, which the Board acting in its sound discretion, may either grant or deny.
- (c) In cases where the Board feels that testimony or other evidence should be received in the public interest from any municipal, county, or state official or from any other persons to assist in the rendering a just decision, the Board may, on its own motion, continue the hearing to another day certain for such purposes.

RULE 2:6 Evidence

2:6-1 Competent Evidence.

Although formal rules of evidence are not enforced before the Board, every fact indispensably necessary to establish the applicant's right to the relief sought shall be based upon the consideration of any facts or matters which are in the record, unless they be such as to which the Board is entitled to take judicial notice. The Board may limit irrelevant, immaterial or redundant testimony.

2:6-2 Documents and Exhibits.

When any papers, documents or exhibits are admitted into evidence during a hearing they shall be marked by the Secretary and/or Board Attorney and may be retained by the Board until the termination of the matter, at which time they shall be returned by the Secretary to the person who offered them.

2:6-3 Judicial Notice.

The Board may take judicial notice of the provisions of any ordinance of the municipality, any public statute of the State of New Jersey and any officially reported judicial decision.

2:6-4 Burden of Proof.

It is the applicant's responsibility to supply competent and credible evidence to apprise the Board of the nature and degree of the zoning burden sought to be alleviated and to demonstrate that a proposed use will not impair the zone plan or be inconsistent with the purpose of zoning, and the burden of proof remains upon the applicant at all times.

RULE 2:7 Dismissal of Actions

2:7-1 Voluntary.

Any applicant may at any time before the commencement of hearing, voluntarily withdraw his/her application, in which case the action shall be dismissed without prejudice. After commencement of the hearing a voluntary dismissal may be taken only with the approval of the Board.

2:7-2 Nonappearance.

When, at the time set with the provisions of Rule 2:2, the Board shall, and for failure to comply with any other rule, the Board may dismiss the application.

2:7-3 Infraction of Rules.

For failure to comply with the provisions of Rule 2:2, the Board shall, and for failure to comply with any other rule, the Board may dismiss the application.

2:7-4 Preliminary Reports.

- (a) In any case where, prior to consideration of any appeal or application by the Board, a report or recommendation is required by the terms of the Zoning Ordinance of the City of Ocean City, to be made to the Board by the Planning Board or other public agency, such report shall have been received at least ten days prior to the time within which the Board must render its decision pursuant to Rule 2:8-1; otherwise, the appeal or application shall be dismissed without prejudice unless the applicant consents in writing to an extension of time.
- (b) The Board may, at any time, request a written report on any particular matter from any officer, board or agency in connection with a pending case provided, however, that a copy of such report shall be made available to the applicant who shall, if requested, have an opportunity to question the maker of such report as to any fact or conclusion therein contained.
- (c) The Board may arrange to take the testimony of any expert witness employed by it.

2:7-5 Transfer of Actions.

Whenever an application is filed with the Zoning Board of Adjustment, which pursuant to the provisions of the Municipal Land Use Law ought to have been filed with the Planning Board, the Zoning Board of Adjustment may, by resolution, cause said application to be transferred to the Planning Board at the Planning Board's earliest open schedule, making public announcement of the time and place thereof at the meeting and causing notice of its action to be published as in all other cases. Likewise, the Planning Board may cause appropriate applications to be transferred from it to this Board. In case of such transferred actions, the Board of Adjustment shall examine the application and notices given by applicant and, if same are in proper form, shall proceed to hear the application as if it had been filed with this Board in the first instance.

RULE 2:8 Decision; Resolution of Board

2:8-1 Time.

The Board of Adjustment shall render a decision not later than 120 days after the date:

- (1) An appeal is taken from the decision of the Administrative Officer, or
- (2) Of the certification of completeness of an application to the Board, unless the applicant has consented in writing or on the record, to an extension of time. Failure of the Board to render a decision within such 120 day period or within such time as may be consented to by the applicant shall constitute a decision favorable to the applicant. Every decision shall be made by proper motion duly made and seconded, with the votes of all members recorded on a roll-call vote.

2:8-2 Form.

The judgment of the Board shall be in the form of written resolution containing findings and conclusions which shall be adopted on the date of the meeting at which the Board granted or denied approval. If the meeting at which such action was taken occurs within the final 45 days of the applicable time period for rendering a decision on the application, within 45 days of such meeting with the adoption of a resolution of memorialization setting forth the decision and findings and conclusion of the Board shall be issued. An action resulting from failure of a motion to approve an application shall likewise be memorialized by resolution regardless of the time at which such action occurs within the 120 day time period for rendering decision. Whenever a resolution of memorialization is adopted in accordance with the provisions of N.J.S.A. 40:55D-10, the date of such adoption shall constitute the date of decision for purposes of the mailings, filings and publications required by statute. A copy of the Board's resolution shall be furnished to the applicant or his/her attorney within 10 days from the date of adoption thereof. A copy of the resolution shall also be made available to any person who has filed a completed OPRA (Open Public Records Act) request to the City Clerk and has paid the appropriate fees.

2:8-3 Relief Granted.

Where an applicant has demonstrated his/her right to relief, the Board may grant such relief as it may deem appropriate and in keeping with the intent and purpose of the zone plan and zoning ordinance, even though the relief granted may be different in kind or degree from that asked for in the appeal or application.

2:8-4 Conditions.

The resolution of the Board granting any variance, may subject such grant to such conditions as the Board may impose in the public interest for the purpose of furthering any of the purposes of the zoning.

2:8-5 Publishing Notice; Service of Copy of Resolution.

The Board Secretary shall cause notice of the Board's action to be published once in the official newspaper of the municipality in accordance with the provisions of N.J.S.A. 40:55D-10i, and shall also serve copies of the Board's decision to the applicant and to all who have requested copies, pursuant to N.J.S.A. 40:55D-10h.

RULE 2:9 Motions

2:9-1 Rehearing.

Any applicant or other interested person may, within 20 days after publication of notice of the decision, move the Board for a rehearing of the matter by filing an application in the form of a letter addressed to the Board containing a brief statement of the grounds relied upon. If the motion is granted by the Board, it shall fix a date for rehearing and shall require the moving party to give notice to all persons who participated in the original hearing or hearings, upon such terms as the Board may deem adequate. The Board may grant a rehearing on its own motion when unusual circumstances so require in the interest of justice.

2:9-2 Vacation or Modification.

At any time after the adoption of a resolution granting a variance, any person having an interest in such decision may move the Board for an order vacating or modifying any term or condition of said decision by filing with the Board a petition in the form of a letter setting forth the reasons therefore and the grounds relied upon. If the petition is granted, the Board shall fix a date for hearing and the movant shall give notice of such hearing in the same form and manner as required by Rule 2:3 in the case of original petitions. The Board, on its own motion, may in a proper case similarly order all parties in interest to show cause at a time and place fixed in the notice why the terms or provisions of any variance ought not to be vacated or modified.

RULE 2:10 Qualification and Disqualification of Members of the Board

2:10-1 Qualification to Act.

- (a) Whenever a hearing is continued over two or more sessions, or the Board has reserved decision on any matter, any member of the Board, even though he/she did not sit upon the hearing of the action, may, nevertheless, participate in the decision of the case if, but only if, he/she has read or listened to a recording of the entire record of the proceedings and has certified in writing that he/she has done so. However, this provision shall not apply if an alternate member has been assigned by the Chairperson to sit upon the hearing of the application.
- (b) This rule shall in no way be construed as authorizing any hearing to be held before less than four members of the Board.

2:10-2 Disqualification of Member.

- (a) Any member of the Board of Adjustment shall disqualify him/herself from sitting in the hearing of any interest, such as, but not limited to, the following situations:
1. Where he/she owns property located within 200 feet of the property affected by the action.
 2. Where the applicant is related within the third degree of consanguinity to the member by blood or is the husband or wife of any person so related.
 3. Where the applicant or his/her attorney is the employer, employee or partner of the member, or is a corporation in which the member is a shareholder or has other financial interest.
 4. Where he/she has any other personal or pecuniary interest in the proceeding.

Any member so disqualifying him/herself shall not sit with the Board for participation in any executive session or conference during the hearing or determination of the case in question.

- (b) When a member fails to disqualify him/herself, any interested party may move the Board for an order or determination that such member is or was disqualified to act and may, even after entry of judgment, seek the vacation of the judgment and rehearing or other appropriate relief. The motion shall contain a statement of the facts upon which it is based and the Board may thereupon hold a hearing on the matter or take whatever action it may deem appropriate.

RULE 2:11 Record of Testimony

2:11-1 Stenographic or Other Records; Transcripts.

In accordance with provisions of N.J.S.A. 40:55D-10f, the Board shall provide for the verbatim recording of all hearings by either a stenographer, or by mechanical or electronic means. A transcript or duplicate recording in lieu thereof shall be furnished to any interested party at his/her expense.

2:11-2 Notes by Secretary.

The Board's Secretary or other designated person, shall take notes of all testimony, and shall, as soon as possible after the hearing, prepare copies of the minutes thereof for distribution to the members of the Board. If a transcript of the testimony has been filed with the Board, such transcript shall be filed in the case docket.

RULE 2:12 Moot Questions: Advisory Opinions

2:12-1 Prohibition.

- (a) The Board shall not hear an action based upon and presenting a question which is moot, or becomes moot or hypothetical or render any decision in such an action.
- (b) The Board shall not render any advisory opinion to any person or persons; provided, however, that this rule shall not be construed as a prohibition to the Board from submitting recommendations or advice to the governing body in accordance with the applicable provisions of the Zoning Ordinance or any statute.

2:12-2 Communications.

Any communication purporting to be a petition asking for a modification or change in the Zoning Ordinance or for any other relief shall be regarded as a mere notice of intention to seek such relief until a formal application is filed in the manner required by these rules.

RULE 2:13

Subpoenas

2:13-1 Issuance.

The Board, by its subpoena issued under its seal and under hand of its Chairperson or Vice-Chairperson and Secretary or Assistant Secretary, as the case may be, may compel the attendance and testimony of witnesses, and the production of books, papers, documents or tangible things related to any matter or subject within the Board's power of inquiry. The issuance of a subpoena may be requested by the applicant or any other interested person.

2:13-2 Service.

Any such person subpoenaed may be served by the Sheriff, Under-Sheriff or Deputy, or any person 18 or more years of age. Service of a subpoena shall be made by delivering a copy thereof to the person named, or as otherwise permitted by law.

2:13-3 Failure to Comply.

If a person under subpoena shall refuse or fail to appear or refuse to be examined or to answer any proper question, or to produce any books, papers, documents or tangible things, in accordance with the subpoena, the Board may apply to the Superior Court for an order to compel him/her to do so.

RULE 2:14

False Testimony

2:14-1 Perjury.

Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J.S.A. 2A:67-1 et seq.) , be guilty of perjury.

The Board shall submit transcript of testimony it believes may be perjurious to the County Prosecutor for investigation.

RULE 3:1

Relaxation of Rules

3:1-1 Where Rules May Be Relaxed.

For good cause shown, or where the strict application of any rule would work surprise or injustice, the Board may relax the requirement of such rule, except where the provisions of the rule are also statutory requirements.

RULE 3:2
Meaning of Certain Terms

3:2-1 Person; Interested Person.

Whenever in these rules reference is made to “any person,” “any interested person,” “any interested in the action” or the like, such term refers to any “interested party” as defined in N.J.S.A. 40:55D-4.

RULE 3:3
Applicable of Certain Laws

3:3-1 Laws Applicable.

The provisions of the County and Municipal Investigations Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers conferred by said act. These rules are adopted pursuant to the provisions of N.J.S.A. 40:55D-8, and subject generally to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey.

RULE 3:4
Removal of Member

3:4-1 Grounds; Recommendation.

Whenever a member of this Board shall absence him/herself from meetings of the Board, without just cause, for a period deemed detrimental to the conduct of Board business, the Board may recommend to the City Council of the City of Ocean City in writing that such member be removed in accordance with the provisions of N.J.S.A. 40:55D-69.

RULE 3:5
Citation of Rules and Decisions

3:5-1 Citation.

- (a) Any correspondence/communications referencing these rules shall be cited as “ZBR 1:1-1” etc. indicating that the rule is a Zoning Board Rule.
- (b) Decisions of the Board of Adjustment shall be cited as “Matter of x,” x being the name of the principal applicant.

RULE 3:6
Amendments

3:6-1 Amendments.

Amendments to these rules may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board at least three days prior to such meeting. In no case, however, shall any rule as amended be applicable to any action commenced prior to the adoption of such amendment where the application thereof to such action would result in surprise, hardship or injustice to the petitioner or other interested persons.

RULE 3:7
Duration

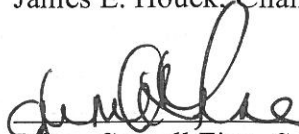
3:7-1 Duration.

These rules shall remain in effect until such time, as the Zoning Board of Adjustment should deem it necessary to amend or change such rules.

- (a) These rules were duly adopted by the Zoning Board of Adjustment of the City of Ocean City at their regular meeting of this 19th day of November, 2014.



James E. Houck, Chairman



Jaime Cornell Fine, Secretary



CITY OF OCEAN CITY
DEPARTMENT OF COMMUNITY OPERATIONS
DIVISION OF PLANNING
115 12th Street
OCEAN CITY, NJ 08226
609-399-6111 * FAX 609-525-2496

FORM 1

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FORM 1

PART I

INSTRUCTIONS TO THE APPLICANT

A. APPLICATION REQUIRED

Applications for development in which the Zoning Board has the power to hear the application for development pursuant to N.J.S. 40:55D-70 and 40:55D-76, or Planning Board pursuant to N.J.S. 40:55D-25 and 40:55D:60, shall be filed, according to these instructions. Application shall only be made on the form supplied by the Board Secretary. All the information requested must be provided.

B. NUMBER OF COPIES

The applicant shall file with the Board an original and five (5) copies of the application and an equal amount of all supporting documents. All documents must be PRE-PACKAGED, SORTED AND FOLDED. Forms dealing with service and proof of service are to be filed in duplicate prior to the hearing date. *Once the application has been deemed Administratively Complete, you will be notified to submit fifteen (15) additional copies for the Zoning Board or twenty (20) additional copies for the Planning Board.

C. PROVIDE A LIST OF PROPERTY OWNERS SERVED

The applicant shall provide a list of the property owners served, including the block and lot number of each property and designate the method of service using the form provided with the application. The entire form must be completed and the Affidavit of Service must be signed and notarized. The Affidavit of Service must be filed with the Board Secretary at least five (5) days prior to the date of the scheduled hearing. The certified list of persons to whom notice must be sent, as compiled by the proper administrative officer of the appropriate municipality, must be attached to the Affidavit of Service. Where notice has been made by certified mail, the postmarked receipt must also be attached to the Affidavit of Service.

D. OWNERSHIP

If the applicant does not own the property described in the application, the affidavit of ownership on page 8 of the application form must be completed, signed and notarized.



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FORM 1

E. CONFIRMATION OF PAID TAXES

The applicant shall file with the application, proof that there are no taxes or assessments for local improvements due or delinquent on the property for which the application is made. Such proof shall be in the form of a certification from the Tax Assessor (form attached).

F. APPLICANTS

Applicants may proceed with or without an attorney. Persons without an attorney must be physically present at the hearing.

G. COMPLETE APPLICATIONS

The Administrative Officer will deem the application complete when the applicant has complied with all the submission requirements.

H. SPECIAL MEETING

An applicant may request that the Board consider his/her application at other than a regular meeting. The request must set forth the reason that a special meeting is required. If a special meeting is held at an applicant's request, the applicant is responsible for all additional fees.

I. ORDER OF HEARINGS

Applicants will be heard in the order in which the applications are received or as directed by the Board Chairman.

NEW CASES WILL NOT COMMENCE AFTER 10:30 PM.
ADDITIONAL TESTIMONY WILL NOT BE TAKEN AFTER 11:00 PM.



CITY OF OCEAN CITY
DEPARTMENT OF COMMUNITY OPERATIONS
DIVISION OF PLANNING
115 12th Street
OCEAN CITY, NJ 08226
609-399-6111 * FAX 609-525-2496

FORM 1

PART II

DEVELOPMENT APPLICATION

PLEASE COMPLETE ALL SECTIONS OF THIS APPLICATION

CHECK ONE: **ZONING BOARD APPLICATION** _____ **PLANNING BOARD APPLICATION** _____

A. Applicant's Name _____

Applicant's Mailing Address _____

***Applicant's E mail Address** _____

Phone Number (Home) _____ (Work) _____

Owner's Name _____

Owner's Mailing Address _____

Relationship of applicant to owner (i.e. same person, tenant, agent, purchase under contract or other)
(Circle one)

Location of Premises _____
(Street address)

Block(s) _____ Lot(s) _____ **Zone** _____
(Tax Map reference)

B. Description the application: _____

C. Please check the type(s) of approvals requested:

☐ Minor Subdivision ☐ Major Subdivision ☐ "C" Variance ☐ "D" Variance

☐ Preliminary Site Plan ☐ Final Site Plan ☐ Conditional Use ☐ Appeal

☐ Interpretation ☐ Use Variance ☐ Minor Site Plan ☐ Amendment



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115 12th Street
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FORM 1

D. Request is hereby made for permission to (erect, alter, convert, use) a _____

1) Said property is: _____
(Give dimensions and area)
and has the following structures: _____

2) Size and setbacks of existing building:

Width of building: _____	Length of building: _____
Height: _____	Stories: _____
Front: _____	Rear: _____
Side: _____	Side: _____
% Building Coverage: _____	% Impervious Surface Coverage: _____

3) Size and setbacks of proposed building and/or addition:

Width of building: _____	Length of building: _____
Height: _____	Stories: _____
Front: _____	Rear: _____
Side: _____	Side: _____
% Building Coverage: _____	% Impervious Surface Coverage: _____

4) Date property acquired and prevailing zoning at time of acquisition: _____

5) Has there been any previous appeal, requests or applications to this or any other City Boards, Construction Official, or other City Official involving these premises? YES _____ NO _____

"If yes, state the nature, date and the disposition of said matter include a copy of the Resolution, a copy of the building permit or any other pertinent information previously submitted"



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DEPARTMENT OF COMMUNITY OPERATIONS
DIVISION OF PLANNING
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FORM 1

- 6) When variance approvals are requested:
- Describe the exceptional conditions of property preventing application from complying with Zoning Ordinance.
 - Supply a statement of facts showing why relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

- 7) All applicants must complete the following, as applicable:

Type of construction: (frame, stone, brick, cement)_____

Present use of existing building(s) and premises:_____

Describe any deed restrictions affecting this property:_____

Existing and proposed number of dwelling units:_____

Existing and proposed square footage of professional office:_____

Existing and proposed gross floor area:_____

Existing and proposed parking spaces:_____

Existing and proposed number of lots:_____

Portion of lot being subdivided:_____

Purpose for which lots will be utilized:_____

Facilities for solid waste and recyclables.

A photograph(s) of the land and building(s) involved in the application.

Names, addresses and E-mail of all expert witness proposed to be used:_____

- 8) If the applicant is a corporation or partnership, the names and addresses of all stockholders or partners owning 10% or greater interest in said corporation or partnership shall be set forth in accordance with P.L. 1977 Ch. 336.

(If applicable, attach list)



CITY OF OCEAN CITY
DEPARTMENT OF COMMUNITY OPERATIONS
DIVISION OF PLANNING
115 12th Street
OCEAN CITY, NJ 08226
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FORM 2

PART III

ADMINISTRATIVE COMPLETENESS

APPLICATION CHECKLIST

(Please submit with your application document)

NAME OF APPLICANT: _____
NAME OF OWNER: _____
NAME OF PROFESSIONAL(S): _____

Required Documents

- a) One original & 5 copies of the application WITH the completed Checklist _____
- b) One original & 5 copies of the required plat meeting requirements set forth in Chapter 1500 of the City Ordinance _____
- c) Required Application Fees as set forth in Chapter XXX of the City Code _____
- d) Copy of CAFRA application or written explanation of why one isn't needed _____
- e) Copy of NJDEP Wetlands application or written explanation of why one isn't needed _____
- f) Current signed and sealed Survey of property (less than 1 year old) _____
- g) Other submittals required by Board Professionals (if any) _____
- h) Written description and justification for Waivers & Variances _____
- i) Certified list of persons to whom notice must be sent, as compiled by the proper administrative officer of the appropriate municipality (Tax Assessor). _____
- j) Proof from the Tax Collector that real estate taxes and local Assessments have been paid to date _____
- k) (For Subdivisions only) A Certificate of Title _____



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

FORM 3

DEPARTMENT OF COMMUNITY OPERATIONS

Code Enforcement • Construction • Engineering • Environmental Management • Parks and Recreation • Planning • Zoning

ADMINISTRATIVE COMPLETION REVIEW

TO: SAMPLE

FROM: Jaime M. Cornell-Fine
Zoning Board Secretary

DATE:

RE: ZX-XXX
Block: Lot:
XX Avenue

This memo shall serve as an official completion notice as required by Municipal Land Use Law and Section 25-1500.6.2 (Required Documents) of the Ocean City Zoning Ordinance. The application as submitted is deemed administratively complete, see items listed below.

	Submission Requirements per Section 25-1500.6 – Required Documents	Complies
A	One (1) Original and five (5) copies of the completed application form	Yes
B	One (1) Original and five (5) copies of a plat and attachments meeting the requirements set forth below.	Yes
C	Required Application fees as set forth in Chapter XXX, Schedule L, Volume I	Yes
D	Copy of application for a CAFRA Permit, where required	NA
E	Copy of application for a NJDEP Permit, where required	NA
F	A current survey (not older than one year), signed and sealed by a NJ Licensed Surveyor	Yes
G	Other submittals that may be required by the Board Engineer, Board Planner, Board of Adjustment, or Federal State, County or local law.	Yes
H	Written description and justification for all checklist waivers, design waivers and variances requested	Yes
I	Proof or service of notice in conformance with Section 25-900.7.	- See Comment
J	Proof from the Tax Collector that real estate taxes and local assessment have been paid to date	Yes

B/F/G/H. Please refer to the Planner/Engineer's report dated XX.

I. Must be complied with prior to hearing and submitted to Secretary no less than 10 days prior to hearing.

If you have any questions, or wish to discuss this application any further, please do not hesitate to call me at 399-6111, extension 9733.

PLANNING DIVISION
115 12th STREET, OCEAN CITY, NJ 08226
609-399-6111 ext. 9733 FAX: 609-525-2496

FORM 4

NOTICE TO OWNERS WITHIN 200 FEET Municipal Zoning Board

TO: _____ Owner of Premises at _____

PLEASE TAKE NOTICE:

That the undersigned has made application to the Municipal Zoning Board of the City of Ocean City, New Jersey for _____ (describe work to be done and variances required) _____ and any and all other waivers and variances that may be required, on the premises at _____, designated as Block _____ Lot _____ on the Ocean City Tax Map. This notice is sent to you as an owner of property within 200 feet of the aforesaid site.

A public hearing has been set down for _____, 20____ at _____ pm in the _____, _____ Ocean City, New Jersey and when
(NAME OF LOCATION) (STREET ADDRESS)
the case is called you may appear in person or by attorney and present any comments you have on the application.

All of the papers in connection with this application are on file in the Office of the Secretary of the Municipal Planning Board which is located at the Office of the City Planning, 115 E 12th Street, Ocean City, New Jersey and are available for inspection during regular business hours.

Applicant

FORM 5

NOTICE
TO BE PUBLISHED IN OFFICIAL NEWSPAPER
ZONING BOARD OF ADJUSTMENT CITY OF OCEAN CITY

(Must be published at least 10 days prior to hearing date)

TAKE NOTICE that on the _____ day of _____ 20____, a hearing will be held at _____, Ocean City NJ at _____ P.M. before the Ocean City Zoning Board of Adjustment on the appeal or application of the undersigned for a site plan and/or a variance or other relief so as to permit.

on the premises at _____

and designated as Block _____ Lot _____ on the Official Ocean City Tax map.

The following described maps and papers are on file in the office of Planning & Engineering, 115 12th Street and are available for inspection during regular business hours.

*

*

*

Any interested party may appear at said hearing and participate therein in accordance with the rules of the Zoning Board of Adjustment.

(Applicant)

Publication Date: _____



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

DEPARTMENT OF COMMUNITY OPERATIONS

FORM 6

Code Enforcement • Construction • Engineering • Environmental Management • Parks and Recreation • Planning • Zoning

CONSENT TO CONTINUANCE OF HEARING

The undersigned, applicant in the matter pending before the () Planning Board () Zoning Board of Adjustment, bearing Application Number _____,

hereby consents to the continuance of the hearing in said matter to _____ at _____.

If at said time and place a quorum of the Board is not present, said matter shall be further continued to the next succeeding regularly scheduled meeting of said Board.

Date

Applicant or Attorney

Date

Chairperson

Date

Secretary

AFFIDAVIT OF SERVICE

FORM 7

State of New Jersey:

County of Cape May:

_____ of full age, being duly sworn according to law, on this oath deposes and says that
(NAME)
he/she resides at _____ in the municipality
(STREET ADDRESS)
of _____ County of _____, and State of
(CITY/TOWN)
_____ and that he/she did on _____,
20 _____, at least ten (10) days prior to hearing date, give personal notice to all property
owners within 200 feet of the property affected by an appeal located at
_____ (site address) and to all other Federal, State and Municipal
Government(s) as required by NJSA40-:55D-12.

Said notice was given by sending said notice by certified mail, copies of the registered receipts are
attached hereto.

Notices were also served upon:

- () 1. County Planning Board. (If Applicable).
- () 2. The Ocean City Clerk (If Applicable).
- () 3. The Director of the Division of State and Regional Planning. (If Applicable).
- () 4. The Department of Transportation (If Applicable).

Also attached to this affidavit is the list of owners of property within 200 feet of the affected
property who were served, showing the lot and block numbers of each property as they appear on
the Municipal Tax Map, and also a copy of the certified list of such owners prepared by the Tax
Assessor's Office.

(Signature of Applicant)

Sworn and subscribed to

before me this _____ day of _____ 20_____.
(Notary Seal)



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

FORM 8

DEPARTMENT OF COMMUNITY OPERATIONS

CERTIFICATION BY ABSENT MEMBER
THAT HE/SHE HAS EXAMINED THE RECORD
AND IS ELIGIBLE TO VOTE

I, Sample do hereby certify that I have listened to the recording of the hearing held on
XX/XX/XX in the matter of the application of ZX-XXX requiring _____ variance(s) approval
for Block(s) _____ Lot(s) _____, and that I am familiar with and examined exhibits submitted in
said proceeding, so I am eligible to vote on the decision of said matter.

Name of member

Sworn to and subscribed before
me this _____ day of _____, 20XX

Jaime M. Cornell-Fine
Board Secretary



CITY OF OCEAN CITY

OPEN PUBLIC RECORDS ACT REQUEST FORM

861 ASBURY AVENUE, OCEAN CITY, NJ 08226

TEL: (609) 525-9328 FAX: (609) 399-6366

Agency e-mail address: lmacintyre@ocnj.us

LINDA P. MACINTYRE, CITY CLERK

OPRA # _____

FORM 9**Important Notice**

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name _____ MI _____ Last Name _____

E-mail Address _____

Mailing Address _____

City _____ State _____ Zip _____

Telephone _____ FAX _____

Preferred Delivery: Pick Up _____ US Mail _____ On-Site _____ Inspect _____ Fax _____ E-mail _____

If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE / HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Signature _____ Date _____

Payment InformationMaximum Authorization Cost
\$ _____**Select Payment Method**

Cash _____ Check _____ Money Order _____

Fees: Letter size pages : 1 page to 20 pages – no charge
21 or more pages \$.05 per pg
Data supplied on compact disk (CD) 1-4 CDs no charge;
5 or more \$.25 per CD
Blueprint doc. \$1.00 per pg
Delivery Delivery / postage fees additional depending upon delivery type.

Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

AGENCY USE ONLY

Est. Document Cost _____
Est. Delivery Cost _____
Est. Extras Cost _____
Total Est. Cost _____
Deposit Amount _____
Estimated Balance _____

Deposit Date _____

Rev. 2-28-11

AGENCY USE ONLY**Disposition Notes**

Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress - Open _____
Denied - Closed _____
Filled - Closed _____
Partial - Closed _____

AGENCY USE ONLY**Tracking Information**

Tracking Information		Final Cost
Tracking #	_____	Total _____
Rec'd Date	_____	Deposit _____
Ready Date	_____	Balance Due _____
Total Pages	_____	Balance Paid _____
Records Provided		

Custodian Signature _____

Date _____

DEPOSITS

The custodian may require a deposit against costs for reproducing documents sought through an anonymous request, whenever the custodian anticipates that the documents requested will cost in excess of \$5 to reproduce.

FORM 9

Where a special service charge is warranted under OPRA, that amount will be communicated to you as required under the statute. You have the opportunity to review and object to the charge prior to it being incurred. If, however, you approve of the fact and amount of the special service charge, you may be required to pay a deposit or pay in full prior to reproduction of the documents.

YOUR REQUEST FOR RECORDS IS DENIED FOR THE FOLLOWING REASON(S):

(To be completed by the Custodian of Records – check the box of the numbered exemption(s) as they apply to the records requested. If multiple records are requested, be specific as to which exemption(s) apply to each record. Response is due to requestor as soon as possible, but no later than seven business days.)

N.J.S.A. 47:1A-1.1

- ☐ Inter-agency or intra-agency advisory, consultative or deliberative material
- ☐ Legislative records
- ☐ Law enforcement records:
 - ☐ Medical examiner photos
 - ☐ Criminal investigatory records (however, N.J.S.A. 47:1A-3.b. lists specific criminal investigatory information which must be disclosed)
 - ☐ Victims' records
- ☐ Trade secrets and proprietary commercial or financial information
- ☐ Any record within the attorney-client privilege
- ☐ Administrative or technical information regarding computer hardware, software and networks which, if disclosed would jeopardize computer security
- ☐ Emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein
- ☐ Security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software
- ☐ Information which, if disclosed, would give an advantage to competitors or bidders
- ☐ Information generated by or on behalf of public employers or public employees in connection with:
 - ☐ Any sexual harassment complaint filed with a public employer
 - ☐ Any grievance filed by or against an employee
 - ☐ Collective negotiations documents and statements of strategy or negotiating
- ☐ Information that is a communication between a public agency and its insurance carrier, administrative service organization or risk management office
- ☐ Information that is to be kept confidential pursuant to court order
- ☐ Certificate of honorable discharge issued by the United States government (Form DD-214) filed with a public agency
- ☐ Social security numbers
- ☐ Credit card numbers
- ☐ Unlisted telephone numbers
- ☐ Drivers' license numbers
- ☐ Certain records of higher education institutions:
 - ☐ Research records
 - ☐ Questions or scores for exam for employment or academics
 - ☐ Charitable contribution information
 - ☐ Rare book collections gifted for limited access
 - ☐ Admission applications
 - ☐ Student records, grievances or disciplinary proceedings revealing a students' identification
- ☐ Biotechnology trade secrets N.J.S.A. 47:1A-1.2
- ☐ Convicts requesting their victims' records N.J.S.A. 47:1A-2.2
- ☐ Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest) N.J.S.A. 47:1A-3.a.
- ☐ Public defender records N.J.S.A. 47:1A-5.k.
- ☐ Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders, Rules of Court, and privileges created by State Constitution, statute, court rule or judicial case law N.J.S.A. 47:1A-9
- ☐ Personnel and pension records (however, the following information must be disclosed):
 - An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason for such separation, and the amount and type of any pension received
 - When required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the US, or when authorized by an individual in interest
 - Data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information N.J.S.A. 47:1A-10

N.J.S.A. 47:1A-1

- ☐ "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

Burnett v. County of Bergen, 198 N.J. 408 (2009). Without ambiguity, the court held that the privacy provision "is neither a preface nor a preamble." Rather, "the very language expressed in the privacy clause reveals its substantive nature; it does not offer reasons why OPRA was adopted, as preambles typically do; instead, it focuses on the law's implementation." "Specifically, it imposes an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests."

Executive Order No. 21 (McGreevey 2002)

- ☐ Records where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.
- ☐ Records exempted from disclosure by State agencies' proposed rules.

Executive Order No. 26 (McGreevey 2002)

- ☐ Certain records maintained by the Office of the Governor
- ☐ Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing
- ☐ Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments
- ☐ Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation
- ☐ Information in a personal income or other tax return
- ☐ Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed
- ☐ Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing
- ☐ Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by regulation or EO 9.

Other Exemption(s) contained in a State statute, resolution of either or both House of the Legislature, regulation, Executive Order, Rules of Court, any federal law, federal regulation or federal order pursuant to N.J.S.A. 47:1A-9.a.

(Please provide detailed information regarding the exemption from disclosure for which you are relying to deny access to government records. If multiple records are requested, be specific as to which exemption(s) apply to each record.)

REQUEST FOR RECORDS UNDER THE COMMON LAW

If, in addition to requesting records under OPRA, you are also requesting the government records under the common law, please check the box below.

A public record under the common law is one required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done, or a written memorial made by a public officer authorized to perform that function, or a writing filed in a public office. The elements essential to constitute a public record are that it be a written memorial, that it be made by a public officer, and that the officer be authorized by law to make it.

☐ Yes, I am also requesting the documents under common law.

If the information requested is a "public record" under common law and the requestor has a legally recognized interest in the subject matter contained in the material, then the material must be disclosed if the individual's right of access outweighs the State's interest in preventing disclosure.

Please set forth your interest in the subject matter contained in the requested material:

Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.

FORM 9

1. All government records are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5.g. The seven (7) business day response time does not commence until the records custodian receives the request form. If you submit the request form to any other officer or employee of the **Name of Agency**, that officer or employee must either forward the request to the appropriate custodian, or direct you to the appropriate custodian. N.J.S.A. 47:1A-5.h.
3. Requestors may submit requests anonymously. If you elect not to provide a name, address, or telephone number, or other means of contact, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request.
4. The fees for duplication of a government record in printed form are listed on the front of this form. We will notify you of any special service charges or other additional charges authorized by State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the **Name of Agency**.
5. **You may be charged a 50% or other deposit when a request for copies exceeds \$25.** The **Name of Agency** custodian will contact you and advise you of any deposit requirements. You agree to pay the balance due upon delivery of the records. Anonymous requests in excess of \$5.00 require a deposit of 100% of estimated fees.
6. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, and who is seeking government records containing personal information pertaining to the person's victim or the victim's family. This includes anonymous requests for said information.
7. By law, the **Name of Agency** must notify you that it grants or denies a request for access to government records within seven (7) business days after the agency custodian of records receives the request. If the record requested is not currently available or is in storage, the custodian will advise you within seven (7) business days after receipt of the request when the record can be made available and the estimated cost for reproduction.
8. You may be denied access to a government record if your request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you.
9. If the **Name of Agency** is unable to comply with your request for access to a government record, the custodian will indicate the reasons for denial on the request form or other written correspondence and send you a signed and dated copy.
10. Except as otherwise provided by law or by agreement with the requester, if the agency custodian of records fails to respond to you within seven (7) business days of receiving a request, the failure to respond is a deemed denial of your request.
11. If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the **Name of Agency** to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.
12. Information provided on this form may be subject to disclosure under the Open Public Records Act.

FORM 10

NOTICE OF APPEAL TO GOVERNING BODY

TAKE NOTICE that the undersigned appeals to the City of Ocean City, City Council from the decision of the Zoning Board of Adjustment of the City of Ocean City in the matter of the

application of _____ decided by said Board on _____,
(Applicant's name) (Date)

Wherein said Board granted a subsection "d" variance to permit _____
(Use granted)

_____ in a _____.
(Zone)

This appeal is taken pursuant to the authority of N.J.S. 40:55D-17 on the grounds that: _____

(statement of basis of appeal)

Undersigned certifies that this notice of appeal is filed within the time specified therein.

Name

Address

City/State/Zip

Phone

Please note: Pursuant to §25-1000.2, Appeals from Zoning Board of Adjustment to Governing Body, *any interested party may appeal to the governing body any final decision of the Zoning Board of Adjustment approving an application for development, pursuant to the provisions of N.J.S.A. 40:55D-70(d) (a use variance), providing such appeal shall be made within ten (10) days of the date of publication of such final decision, pursuant to N.J.S.A. 40:55D-10(i). The provisions of N.J.S.A. 40:55D shall control all such appeals.*

