

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

February 26, 2025

7:00 pm

Chairman Hartney called the meeting to order.

Board member Jaime Ryan was sworn by Board Attorney, Kevin Quinlan, Esq.

The Open Public Meeting Statement was read by Chairman Hartney, as follows: in compliance with the "Open Public Meetings Act" of the State of New Jersey, adequate notice of this meeting of the Board of Surf City Land Use Board has been provided to three newspapers & published in the January 30, 2025, edition of the Beach Haven Times.

All members present joined Chairman Hartney in a salute to the flag.

The following members were present: Peter Hartney, John Franzoni, Alan Mannherz, James Russell, Jaime Ryan, Richard Savianeso, and David Wright. Absent: Joe DeBenedetto, Gavin Hodgson, Sandy Klose & George Wachter.

The Board Attorney, Kevin Quinlan, was also present.

Chairman Hartney also read the following statement: this meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Borough of Surf City Land Use Board may legally consider in reaching a decision. Decorum appropriate to a judicial hearing must be maintained all the time.

Mr. Russell moved to approve the January 22, 2025, regular meeting minutes. Mr. Wright seconded the motion. With a vote in the affirmative, the minutes were approved.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Franzoni, Mr. Mannherz, Mr. Russell, Mr. Savianeso, and Mr. Wright. Nays: none. Abstentions: Mr. Ryan. Absent: Mr. DeBenedetto, Mr. Hodgson, Mrs. Klose & Mr. Wachter.

Mr. Russell moved to approved Resolution 2025-05 releasing escrow funds. Mr. Mannherz seconded the motion. With a vote in the affirmative, Resolution 2025-05 was approved.

WHEREAS, the Borough is in receipt of escrow bonds posted pertaining to professional fees, performance guarantees and inspection fees; and

WHEREAS, the Land Use Board Members have agreed with the recommendation that the professional invoices pertaining to the following listed applications have been received and all professional fees have been satisfied for the dockets listed below; and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Surf City recommends that the following listed escrow bonds be released to the corresponding applicants with the balances to be released to the Borough of Surf City.

<u>Applicant</u>	<u>Type</u>	<u>Posted Amount</u>	<u>Amount to Applicant</u>	<u>Amount to Borough</u>
Step Into Liquid	Professional	\$4,000.00	\$688.97	\$3,311.03

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Franzoni, Mr. Mannherz, Mr. Russell, Mr. Ryan, Mr. Savianeso, and Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. DeBenedetto, Mr. Hodgson, Mrs. Klose & Mr. Wachter.

Mr. Wright moved to approve Resolution 2025-07. Mr. Mannherz seconded that motion. With a vote in the affirmative, the following resolution was approved.

RESOLUTION 2025-07

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY DENYING VARIANCE RELIEF TO ADAM HEYDT AND FATEMEH HAGHIGHI FOR PREMISES IDENTIFIED AS LOT 9, BLOCK 20, 25 N 3rd STREET.

WHEREAS, Adam Heydt and Fatemeh Haghighi are the owners of the premises identified as Block 20, Lot 9 on the official tax maps of the Borough of Surf City also known as 25 N 3rd Street and have standing to make the application.

WHEREAS, the applicants were represented by James S. Raban, Esq.

WHEREAS, the applicants have applied to the Borough of Surf City Land Use Board for variances to demolish the existing single-family dwelling and to construct a new single-family dwelling on an undersized lot as well as installation of a 10 ft. by 20 ft. in-ground pool.

WHEREAS, the site is in the RA Residential Zone.

WHEREAS, the following variances and waiver are sought:

1. Minimum Lot Area of 3,000 sq. ft. where 5,000 sq. ft. is required. This is a preexisting non-conformity which is not being expanded.
2. Minimum Lot Frontage of 30 ft. where 50 ft. is required. This is a pre-existing non-conformity which is not being expanded.
3. Minimum Side Yard Setbacks of 5 ft. and 5 ft. where 5 ft. on one side and 10 ft. on the other side are required.
4. Ground Floor Enclosure of 503 sq. ft. where 720 sq. ft. is required.
5. Building Wall Length adjacent to a street of 19.84 ft. where 20 ft. is required.
6. Pool Side Yard Setbacks of 5 ft. and 5 ft. where 5 ft. and 10 ft. are required.

7. Parking Stall Size of 9 ft. x 18 ft. within the garage area where 9 ft. x 20 ft. is required.

8. A waiver for depressed curb opening of 18 ft. where 12 ft. is permitted.

WHEREAS, in support of the application, the following exhibits were offered and entered in evidence:

A-1 Application.

A-2 Variance Plan prepared by East Coast Engineering, Inc., dated 2/2/24.

A-3 Architectural Plans prepared by Walters Architecture last revised 2/2/24. A-3 Color Photos (4).

A-5 Tax Map Sheet No. 3.

B-1 Board Engineer Review Letter dated 3/11/24.

The foregoing exhibits being marked and admitted into evidence.

WHEREAS Arnold E. Boyle, AIA who was sworn and qualified as an expert in architectural design testified as follows:

1. Proposed dwelling will comply with all flood requirements.
2. Ground floor will not contain bedroom space.
3. Width of dwelling is necessary to provide 4 bedrooms.
4. The proposed development represents a better zone plan.
5. Location of the pool was determined taking into consideration safety and functionality of rear yard.
6. Pool is appropriately sized and will not obstruct neighboring property views.
7. The dwelling will comply with the height requirements.
8. Adjacent properties are fully developed and there is no opportunity to acquire any additional property.
9. The proposed dwelling will be aesthetically appealing and consistent with the neighborhood scheme.
10. The proposed dwelling will be an improvement in housing stock.

WHEREAS, Jason M. Marciano, P.E., P.P. who was sworn and qualified as an expert in professional planning testified as follows:

1. The proposed dwelling will be centered on the property which represents a better zone plan.
2. The two parking spaces proposed will comply.

3. Existing development does not provide off-street parking. The proposed addition of off-street parking brings the property more into conformity.
4. Proposed 18' depressed curb is a better zone plan and allows for more on-street parking.
5. Adjacent properties are fully developed and there is no land available to remove or reduce the need for variance relief.
6. While the side yard will still require a variance the proposed dwelling location centers the dwelling on the lot and brings one side yard more into conformity.

The plan will be revised to reflect 5.17 ft. side yard setback at southeast corner.

1. Lot coverage is a pre-existing non-conformity which is being brought into conformity.
2. Relief is sought under C (1) and C (2).
3. Benefits of bring property more into conformity outweigh any detriments which are not substantial.
4. A hardship exists due to the pre-existing lot area and lot width.
5. The proposed development represents a better zone plan.
6. Under C (2) the MLUL is being advanced by upgrading an existing dwelling to current building codes and flood regulations.
7. The proposed dwelling provides sufficient open air and light.
8. The proposed dwelling is an appropriate density which fits within the neighborhood scheme and is aesthetically appealing.
9. Granting the requested relief would not be detrimental to the zone plan or ordinances of the Borough of Surf City.

WHEREAS, Adam Heydt was sworn and testified as follows:

1. He owns the property with his wife.
2. He is authorized to speak on behalf of himself and his wife and has the authority to bind same.
3. They have owned the property since 2020.
4. The proposed development would not impair open air and light but rather increase open air and light which was impacted by the new dwelling constructed on the adjacent property.
5. The pool was located to provide more usable rear yard but can be relocated to remove need for variance.

WHEREAS the public was given an opportunity to be heard and no interested parties testified.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicants are authorized to make the application and have standing.
2. The application is deemed complete, and Jurisdiction lies within the Surf City Land Use Board.
3. Proof of service and publication as required by law has been provided and determined to be in proper order.
4. The pre-existing non-conformities of lot area and lot frontage are not being expanded.
5. The proposed dwelling will comply with height, lot coverage and parking requirements.

The Board finds that the applicant failed to satisfy his burden of proof under N.J.S.A. 40:55D-70(c)(1) and C(2) in that the applicant failed to offer credible testimony that the purpose of the Land Use Law would be advanced by deviation from the zoning ordinance requirements, that the variances could be granted without substantial detriment to the public good, that the benefits of granting the variances would substantially outweigh the detriment, nor that granting of the variances will not substantially impair the purpose and intent of the zone plan and/or zoning ordinances of the Borough of Surf City. Specifically, the Board finds that the addition of the proposed development is a detriment that will negatively impact open air and light of surrounding properties and the public in general. Minimum side yard setbacks are intended to provide adequate space between structures for open air and light, safety and access. Additionally, a smaller dwelling with fewer bedroom could be constructed with fewer variances and less density for the undersized lot.

1. The Board finds that the Applicant has failed to establish that a hardship exists. The hardship is personal to the Applicant in needing more space for a growing family and not the public in general. While there are some limitations imposed due to the undersized nature of the lot a conforming dwelling could be built.
2. The Board further finds that the purposes of the ordinances and master plan of the Borough of Surf City would not be advanced by the granting of a variance whereas the benefit is to the Applicant and not the general public.
3. The Board finds that the Applicant has not established special reasons for the granting of variance relief.
4. The board has reviewed and adopts the report of Frank J. Little, Jr., P.E., P.P.,

5. C.M.E. of Owen Little and Associates dated March 11, 2024, which comments therein shall be incorporated herein as if set forth in length in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Surf City that the relief requested by the applicants, for variance relief is hereby denied.

IT IS FURTHER RESOLVED that the contents of the preamble and Board Engineer's review admitted as B-1 is adopted and made part of this resolution; and

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Franzoni, Mr. Mannherz, Mr. Russell, Mr. Savianeso, and Mr. Wright. Nays: none. Abstentions: Mr. Ryan. Absent: Mr. DeBenedetto, Mr. Hodgson, Mrs. Klose & Mr. Wachter.

Mr. Wright moved to approve Resolution 2025-07. Mr. Mannherz seconded that motion. With a vote in the affirmative, the following resolution was approved.

RESOLUTION NO. 2025-18

RESOLUTION OF THE LAND USE BOARD OF THE BOROUGH OF SURF CITY, COUNTY OF OCEAN, STATE OF NEW JERSEY GRANTING VARIANCE RELIEF TO JAMES P. AND ALICIA W. CALLAN FOR PREMISES IDENTIFIED AS LOT 3, BLOCK 79, 1615 SUNSET AVENUE.

WHEREAS James P. Callan and Alicia W. Callan are the owners of the premises identified as Block 79, Lot 3 on the official tax maps of the Borough of Surf City, also known as 1615 Sunset Avenue and have standing to make the application.

WHEREAS the applicants were represented by James S. Raban, Esq.

WHEREAS the applicants have applied to the Borough of Surf City Land Use Board for variances to construct a second floor addition over a portion of the first floor, renovation of the existing first floor and construction of a roof over a portion of the existing first floor deck.

WHEREAS the site is in the RA Zone.

WHEREAS the following variances are sought:

1. Minimum Lot Area of 3,750 sq. ft. where 5,000 sq. ft. is required. *
2. Minimum Front Yard Setback of 9.4 where 10 ft. is required.
3. Minimum Side Yard Setback of 4.8 ft. where 5 ft. one side and 10 ft. the other side is required.
4. Minimum Ground Floor Area of 549 sq. ft. where 720 sq. ft. is required. *
5. Minimum Ground Floor Width of 13 ft. where 20 ft. is required. *
6. Maximum Lot Coverage of 35.6% where 37% is existing and 35 % is permitted.

*Pre-existing non-conformity.

WHEREAS, in support of the application, the following exhibits were offered and entered in evidence:

- A-1 Application.
- A-2 Variance Plan prepared by East Coast Engineering, Inc. dated 10/11/2024.
- A-3 Architectural Plans prepared by CWB Architecture dated 10/1/24.
- A-3 Color Photos (4).
- A-5 Tax Map Sheet No. 11.
- B-1 Board Engineer Review Letter dated 11/20/24.

The foregoing exhibits were marked and admitted into evidence.

WHEREAS Jason M. Marciano, P.E., P.P. was sworn and qualified as an expert in professional planning and testified as follows:

1. Most houses along Sunset Avenue face East-West.
2. The majority of lots on Sunset Avenue have 75 ft. lot depth.
3. The existing footprint and setbacks are not being expanded.
4. The northerly side yard setback is increasing.
5. The proposed deck will have a width of 8 ft. which is minimally necessary for functionality.
6. Swelling height will comply.
7. Lot coverage is being reduced from 37% to 35.6%, bringing the property more into conformity.
8. Parking will comply. The plan will be revised to show conforming parking stalls.
9. Existing curb cuts to remain.
10. Air conditioning units to be relocated with a 13.35 ft. setback.
11. Shower to be located within building footprint.
12. Adjacent lots are fully developed and there is no land available for acquisition to remove the need for variance relief.
13. Applicant seeking relief under C (1) and C (2).
14. A hardship exists due to the location of the existing swelling, lot size

and existing lot coverage.

15. The benefits of granting the relief requested outweigh any detriment. Reducing non-conforming lot coverage, improvements in aesthetics, improved safety with covered ingress and egress are all improvements.
16. Detriments, if any, are not substantial.
17. There are no detriments to the zone plan, ordinances and master plan of the Borough of Surf City.
18. The proposed development provides adequate open air and light.

WHEREAS Sarah Jennings, AIA was sworn and qualified as an expert in architectural design and testified as follows:

1. The proposed dwelling will comply with applicable flood regulations.
2. Mechanical systems will be located in the attic.
3. The improvements are an aesthetic improvement and consistent with the neighborhood scheme.
4. The proposed development is of an appropriate density and does not represent a significant increase in intensification of use.

WHEREAS James P. Callan was sworn and testified as follows:

1. He owns the property with his wife who was present in the meeting room.
2. He is authorized to speak on behalf of himself and his wife and has the authority to bind same.
3. They have never owned any adjacent property.
4. They have owned the property for eight years.
5. They need a 4th bedroom which cannot be added within the existing footprint.

WHEREAS the public was given an opportunity to be heard and no interested parties testified.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicants are authorized to make the application and have standing.
2. The application is deemed complete, and Jurisdiction lies within the Surf City Land Use Board.
3. Proof of service and publication as required by law has been provided and determined to be in proper order.

4. The pre-existing non-conforming lot area is not being expanded.
5. The lot coverage is being brought more into conformity, which is a benefit.
6. The proposed development represents an improvement in the housing stock and is an aesthetic improvement consistent with the neighborhood scheme.
7. The pre-existing under-sized lot represents a hardship which is not being increased.
8. The benefits of granting the relief requested outweigh any detriments. The Board specifically finds benefits are improvements in housing stock, safety, aesthetics and reduction of pre-existing non-conforming lot coverage.
9. The granting of the relief will not impair the purpose of the master plan or ordinances of the Borough.
10. There is no detriment to open air and light of adjacent properties whereas neither the height nor lot coverage is being expanded.
11. The proposed development is of an appropriate density and consistent with the neighborhood.
12. The plan shall be revised to show the parking stalls will comply with the required stall size.

NOW, THEREFORE, BE IT RESOLVED that variance relief to construct a second-floor addition over a portion of the first floor, renovation of the existing first floor and construction of a roof over a portion of the existing first floor deck is hereby granted.

IT IS FURTHER RESOLVED that the contents of the preamble and Board Engineer's review letter admitted as B-1 is adopted and made part of this resolution; and

IT IS FURTHER RESOLVED that this approval is subject to all conditions and representations as set forth herein and as placed on the record at the public hearing conducted on January 22, 2025 when this matter was considered.

IT IS FURTHER RESOLVED that this approval is subject to and conditioned upon applicants complying with all technical revisions and submissions as the Board Engineer may require.

IT IS FURTHER RESOLVED that the Applicant submit revised plans within 45 days.

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;
2. Payment of any outstanding professional fees;
3. Obtain any and all local building permits and pay all associated fees;

4. Posting of any performance guarantees and inspection fees, and
5. Obtain any outside agency approval as required.
6. Compliance with applicable flood zone regulations.

Mr. Russell moved to approve the bills. Mr. Wright seconded the motion. With a vote in the affirmative, the bills were paid. Roll call reflected the following in favor: Mr. Hartney, Mr. Franzoni, Mr. Mannherz, Mr. Russell, Mr. Ryan, Mr. Savianeso, and Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. DeBenedetto, Mr. Hodgson, Mrs. Klose & Mr. Wachter.

Mr. Russell has moved to adjourn the meeting. Mr. Wright seconded the motion. With a vote in the affirmative, the meeting was adjourned. Roll call reflected the following in favor: Mr. Hartney, Mr. Franzoni, Mr. Mannherz, Mr. Russell, Mr. Ryan, Mr. Savianeso, and Mr. Wright. Nays: none. Abstentions: none. Absent: Mr. DeBenedetto, Mr. Hodgson, Mrs. Klose & Mr. Wachter.

Respectfully submitted,

Kathleen Gigantino

Administrative Assistant