



BOARD OF ADJUSTMENT

MINUTES

July 13, 2023

The Board of Adjustment of New Castle County held a public hearing on July 13, 2023 utilizing ZOOM Webinar and located at the Government Center at 87 Reads Way, New Castle, Delaware, beginning at 6:00 p.m.
Chairman David H. Burt,
presiding:

CALL TO ORDER – 6:00 p.m.

David Burt
Terry Parker
Nina David (absent)
Richard Farmer
Keith Rolph
Edward Thomas

Comprising a quorum of the Board; also:
Mary Jacobson, Office of Law
Janet Vinc, Department of Land Use
Melissa Hughes, Department of Land Use
Klesa Achaibar, Department of Land Use

MINUTES

PUBLIC HEARING

OLD BUSINESS

App. #2023-0075-A – Country Club Estates LLC.

Mr. Burt moved to **Grant**; Mr. Parker seconded the motion.

VOTE: 0 - 5 Motion fails

ACTION: Deny - Area variances to facilitate the recordation of a Land Development Plan: To permit 60 percent disturbance within a Water Resource Protection Area (WRPA) Recharge Area (50-percent protection level) see UDC Table 40.10.010. S Zoning. CD 6. (App 2023-0075-A) TPs 13-011.00-001, 13-011.00-002, 13-011.00-033, 13-011.00-162 & 13-011.00-163

NEW BUSINESS

1. App. #2023-0241-A – Russell & Lillie Fox

Mr. Burt moved to **Grant**; Mr. Parker seconded the motion.

VOTE: 5 - 0

ACTION: Grant - Area variance: To construct an addition 20 feet from the rear property line (25-foot rear yard setback) see UDC Table 40.04.110.B. NC6.5 Zoning. CD 9. (App 2023-0241-A) TP 08-032.40-167.

2. App 2023-0176-A – HES Signs Services Inc.

Mr. Burt moved to **Grant with Condition**; Mr. Parker seconded the motion.

VOTE: 5 -0

ACTION: Grant with Condition - Area variance: 1. To permit 1 additional shopping center identification sign along the E. Chestnut Hill Road right-of-way (1-shopping center identification sign per street frontage) see UDC Table 40.06.060. 2. To permit a shopping center identification ground sign 10 feet from the E. Chestnut Hill Road right-of-way (40-foot ground sign setback) see UDC Table 40.06.060. CR Zoning. CD 9. (App 2023-0176-A) TP 11-006.20-109.

CONDITION: The proposed shopping center identification sign shall be consistent with the renderings submitted into evidence.

3. App 2023-0177-A – HES Signs Services Inc.

Mr. Burt moved to **Grant with Condition**; Mr. Parker seconded the motion.

VOTE: 5 -0

ACTION: Grant with Condition - Area variance: To permit a 49 square foot ground sign with a 11-square foot Electronic Variable Message Sign (EVMS) 15 feet from the Bethel Street right-of-way (25-foot street yard setback) see UDC Table 40.06.060. CN Zoning, CD 2. (App 2023-0177-A) TP 06-064.00-091.

CONDITION: The proposed ground sign shall be consistent with the renderings submitted into evidence.

4. App 2023-0240-A – AFR Furniture Rental

Mr. Parker moved to **Grant with Condition**; Mr. Burt seconded the motion.

VOTE: 5 -0

ACTION: Grant with Condition - Area variance: To permit a ground sign 25 feet from the W. Basin Road right-of-way (40-foot ground sign setback) see UDC Table 40.06.060. I Zoning. CD 7. (App 2023-0240-A) TP 10-019.10-292.

CONDITION: The proposed ground sign shall be consistent with the renderings submitted into evidence.

5. App 2023-0150-A – JAT Property Management, LLC.

Mr. Burt moved to **Grant with Condition**; Mr. Parker seconded the motion.

VOTE: 5 -0

ACTION: Grant with Condition - Area variances to establish a restaurant use: **1.** To permit a restaurant building 17 feet from the rear property line (20-foot rear yard setback) see UDC Table 40.04-110.B. **2.** To permit paving 1 foot from the rear property line (10-foot other yard paving setback) see UDC Table 40.04.110.B. **3.** To permit paving 9 feet from the Becker Avenue right-of-way (40-foot street yard paving setback) see UDC Table 40.04.110.B. **4.** To permit paving 0 feet from E. Newport Pike right-of-way (40-foot street yard paving setback) see UDC Table 40.04.110.B. **5.** To permit paving 0 feet from the E. Highland Avenue right-of-way (40-foot street yard paving setback) see UDC Table 40.04.110.B. **6.** To permit 0 on-lot plant units (8 plant units per 1-acre required. Total 2.96 plant units

required) see UDC Table 40.04.111.A. **7.** To permit 0 street trees along the Becker Avenue right-of-way (3 street trees required) see UDC Table 40.04.111.C. **8.** To permit 0 street trees along the E. Newport Pike right-of-way (3 street trees required) see UDC Table 40.04.111.C. **9.** To permit 0 street trees along the E. Highland Avenue right-of-way (3 street trees required) see UDC Table 40.04.111.C. **10.** To permit 0.0 bufferyard opacity along the E. Newport Pike right-of-way (0.3 bufferyard opacity required) see UDC Table 40.04.111.A. **11.** To permit 0.0 bufferyard opacity along the E. Highland Avenue right-of-way (0.3 bufferyard opacity required) see UDC Table 40.04.111.A. **12.** To permit 0.0 bufferyard opacity along the Becker Avenue right-of-way (0.3 bufferyard opacity required) see UDC Table 40.04.111.A. **13.** To permit 0.0 bufferyard opacity along rear property line (0.3 bufferyard opacity required) see UDC Table 40.04.111.A & Section 40.04.320. **14.** To permit 10 parking spaces (11 parking spaces required) see UDC Table 40.03.522. **15.** To permit a landscape surface ratio (LSR) of 0.20 (0.50 minimum LSR required) see UDC Table 40.04.110.A. CN Zoning. CD 1. (App 2023-0150-A) TP 07-047.20-197.

- CONDITIONS:**
- 1. The Applicant shall work with the Department to provide plantings in the grass area located in the northerly corner of the Subject Property to provide screening to mitigate the visual impact of the proposed restaurant use on the neighboring residential properties; and**
 - 2. The existing solid fence shall be extended along the entire length of the rear property line.**

6. App 2023-0108-A – R. J. Andrews.

Mr. Burt moved to **Grant with Condition**; Mr. Farmer seconded the motion.

VOTE: 5 -0

ACTION: Grant with Condition - Area variances to facilitate the recordation of a Land Development Plan:

- 1.** To construct a warehouse building 25 feet from the rear yard property line on Parcel 1 (50-foot rear yard setback require where an I-zoned parcel abuts a residentially-zoned parcel) see UDC Table 40.04.110.B.
- 2.** To permit paving 8 feet from the rear property line on Parcel 1 (10-foot other yard paving setback) see UDC Table 40.04.110.B.
- 3.** To permit paving 8 feet from the rear property line on Parcel 2 (10-foot other yard paving setback) see UDC Table 40.04.110.B.
- 4.** To permit paving 0 feet from the southerly side lot line on Parcel 1 (10-foot other yard paving setback) see UDC Table 40.04.110.B.
- 5.** To permit paving 0 feet from the northerly side lot line on Parcel 2 (10-foot other yard paving setback) see UDC Table 40.04.110.B.
- 6.** To permit a 0.0 bufferyard opacity along the rear property line on Parcel 1 (0.6 bufferyard opacity required) see UDC Table 40.04.111.B.
- 7.** To permit a 0.0 bufferyard opacity along the rear property line on Parcel 2 (0.6 bufferyard opacity required) see UDC Table 40.04.111.B.
- 8.** To permit a 0.5 bufferyard opacity along the northerly side lot line of Parcel 1 (0.6 bufferyard opacity required) see UDC Table 40.04.111.B.
- 9.** To provide a 0.00 afforestation ratio (minimum 0.10 afforestation ratio required in the I Zoning District) see UDC Section 40.04.241. I & ST Zoning (processed as I pending proposed rezoning). CD 5. (App 2023-0108-A) TPs 11-014.00-048 & 11-014.00-083.

CONDITION: The Applicant continue to work with the Department on developing a landscape plan that meets the Applicant’s stated intent of providing a solid fence and plantings equal to a 0.5 bufferyard opacity along the rear and side property lines

Melissa A. Hughes
Melissa Hughes
Department of Land Use
9/25/2023