



**BOARD OF ADJUSTMENT**

**MINUTES**

**September 28, 2023**

The Board of Adjustment of New Castle County held a public hearing on September 28, 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 Burt,  
presiding:

CALL TO ORDER – 6:00 p.m.

**David Burt**  
**Terry Parker**  
**Cora Castle**  
**Nina David**  
**Richard Farmer**  
**Keith Rolph**  
**Edward Thomas**

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

MINUTES

The minutes of July 13, 2023 were presented for approval and Mr. Parker motioned to **Grant** July 13, 2023 minutes and Mr. Burt seconded the motion, and the minutes were approved.

The minutes of July 27, 2023 were presented for approval and Mr. Parker motioned to **Grant** July 27, 2023 minutes and Mr. Burt seconded the motion, and the minutes were approved.

PUBLIC HEARING

Swearing in of new Board Member Cora Castle

OLD BUSINESS

NEW BUSINESS

**1. App. #2023-0392-A – Steven Olson.**

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

**VOTE: 7 - 0**

**ACTION: Grant with Condition - Area variance:** To construct an addition 22 feet from the Potomac Road right-of-way (25-foot street yard setback) see UDC Table 40.04.110.B. NC5 Zoning. CD. 2 (App 2023-0392-A) TP 06-101.00-156.

**CONDITION: The porch addition shall remain open and not further enclosed.**

**2. App 2023-0438-A – Michael Tavani.**

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

**VOTE: 7 - 0**

**ACTION: Grant - Area variance:** To maintain an addition 30 feet from the rear property line (40-foot rear yard setback) see UDC Table 40.04.110.B. NCTH Zoning. CD. 1 (App 2023-0438-A) TP 07-039.20-136.

**3. App 2023-0474-A –Miriam Santiago.**

Mr. Burt moved to **Grant with Conditions**; Dr. David seconded the motion.

**VOTE: 7 - 0**

**ACTION: Grant with Conditions- Area variance:** To maintain a detached accessory structure under construction 1 foot from the westerly side lot line (3-foot side yard setback for detached accessory structure) see UDC Section 40.03.410.A. NC21 Zoning. CD 11. (App 2023-0474-A) TP 11-031.00-148.

**CONDITIONS:** **1. The detached accessory structure shall remain open, enclosed only on three sides and open on the fourth side as represented in the renderings submitted into evidence; and,**  
**2. Any future alterations and/or enclosures of the detached accessory structure shall be reviewed by the Board.**

**4. App 2023-0447-A – Shelly Stewart.**

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

**VOTE: 7 - 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 11 (App 2023-0447-A) TP 09-029.10-131.

**5. App 2023-0365-A – Tupps Signs, Inc.**

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

**VOTE: 5 - 0**

**ACTION: Grant with Condition - Area variances:** **1.** To permit 1 additional identification sign (1 identification sign permitted) see UDC Table 40.06.060. **2.** To permit 140 square foot identification wall sign (75-square foot maximum sign area) see UDC Table 40.06.060. OR Zoning. CD 1. (App 2023-0365-A) TP 09-019.00-043.

**CONDITIONS:** **1. The Applicant shall construct signage in general accordance with the renderings submitted into evidence; and**  
**2. The proposed wall shall not be internally illuminated sign cabinetry.**

**6. App 2023-0412-A – Oekos Kirkwood LLC**

Mr. Burt moved to **Grant with Conditions**; Mr. Rolph seconded the motion.

**VOTE: 7 -0**

**ACTION: Grant with Conditions - Area Variance Amendment:** To amend a previously approved Area Variance (App 2023-0047-A) to amend Condition 5 requiring the existing wall signs for the various tenants on the smaller building’s façade facing Kirkwood Highway shall be removed in exchange for a tenant panel on Sign 4 except for the proposed bank logo who has a storefront along this façade, in order to permit an additional 60-square foot wall sign for a tenant other than the bank, who has storefront along this façade. See UDC Section 40.31.455. CR Zoning. CD 9. (App 2023-0412-A) TP 08-044.20-028.

**CONDITIONS:** The proposed wall sign shall be consistent with the renderings submitted into evidence.

**Condition 5 that was incorporated in the February 23, 2023 decision (App 2023-0047-A) shall be amended to read:**

**The existing wall signs for the various tenants on the smaller building’s façade facing Kirkwood Highway shall be removed in exchange for a tenant panel on Sign 4 except for a total of two signs representing the two tenants that have storefronts along this façade.**

**7. App 2023-0415-A – Knight Owl Holdings IV LLC.**

Mr. Burt moved to **Grant with Conditions**; Mr. Rolph seconded the motion.

**VOTE: 7 -0**

**ACTION: Grant with Conditions - Area variances to facilitate the recordation of a Land Development Plan:** **1.** To Permit 100-percent disturbance within the Water Resource Protection Area (WRPA) Class C Wellhead (100-percent protection level) see UDC Table 40.10.010. **2.** To permit a 0.78 acre lot size exclusive of protected resources (1-acre minimum lot size) see UDC Table 40.04.110.B. I Zoning. CD. 5 (App 2023-0415-A) TP 11-010.00-023 through -025.

**CONDITIONS:**

- 1. Only rooftop runoff shall be directed to an infiltration facility.**
- 2. The infiltration area shall be protected during construction according to State stormwater regulations.**
- 3. Snow and ice control should be addressed within the Water Management Plan, if a plan is required.**
- 4. It is prohibited to store any hazardous material at the site or transfer any hazardous material to the site.**
- 5. Spill prevention and response materials should be required to be maintained on site at all times, including educational materials and spill hotline information.**

**8. App 2023-0321-A – Club 28 LLC.**

Mr. Burt moved to **Grant with Conditions**; Dr. David seconded the motion.

**VOTE: 7 -0**

**ACTION: Grant with Conditions - Special Use Permit:** Special Use Permit to establish a high intensity recreational use in I Zoning District see UDC Sections 40.03.210 & 40.31.430. **Area variances: 1.** To maintain 0.0 bufferyard opacity along all property lines (additional 0.2 bufferyard opacity required along all property lines) see UDC Table 40.03.210.A. **2.** To provide 68 parking spaces (73 parking spaces required) see UDC Table 40.03.522. I Zoning. CD 12. (App 2023-0321-A) TP 10-030.00-099.

**CONDITION: The Special Use Permit for the high intensity recreational use applies only to this particular unit of the building and shall not function outside of the building.**

*Melissa A. Hughes*

Melissa Hughes  
Department of Land Use  
10/31/2023