

MINUTES

BUSINESS MEETING AND PUBLIC HEARING

March 13, 2014

The Board of Adjustment of New Castle County held a public hearing on **March 13**, **2014** at the Department of Land Use Conference Room, New Castle County Government Center, 87 Reads Way, New Castle, Delaware, beginning at 6:00 p.m., David H. Burt, Chairman, presiding:

CALL TO ORDER – 6:00 p.m.

David H. Burt
Francis McCann
Gregory Collins, absent
Marietta Whalen
Terry Parker
William Brooks
Karen Hartley-Nagle

Comprising a quorum of the Board; also: George O. Haggerty, Asst. General Manager Joe Abele, Department of Land Use Julie Sebring, Law Department

MINUTES

The minutes of January23, 2014 were presented for approval. Mr. Parker motioned to <u>Grant</u> the January 23, 2014 minutes and Mr. McCann seconded the motion, and the minutes were approved.

The minutes of February 27, 2014 were presented for approval. Ms. Whalen motioned to <u>Grant</u> the February 27, 2014 minutes and Mr. Brooks seconded the motion, and the minutes were approved.

PUBLIC HEARING

NEW BUSINESS

The Board heard and received testimony on the following application(s) and took action on the applications as follows:

Phone: 302-395-5400

Fax: 302-395-5587

1. App. #2014-0032-A - Beverly Testa

Mr. Burt moved to Grant only the last two variances; Mr. McCann seconded the motion.

VOTE: 5-0 (Parker absent)

ACTION: Grant – Area variances to maintain a detached carport 0 feet from the easterly side lot line (3-foot setback for a detached accessory structure), and to maintain a driveway 0 feet from the easterly side lot line (2-foot paving setback).

ACTION: <u>Deny</u> – Area variances to maintain a shed 2.5 feet from the westerly side lot line (6-foot side yard setback), and to maintain a second shed 2.5 feet from the westerly side lot line (6-foot side yard setback). NC6.5 Zoning. CD 9. TP 08-038.40-330.

2. App. #2014-0030-A - Lees Chapel Methodist Church

Mr. Burt moved to Amend; Mr. McCann seconded the motion.

VOTE: 6-0

ACTION: <u>Amend</u> – Area variances to maintain a church 17.5 feet from the Blackbird Landing Road right-of-way (50-foot street yard setback) and to construct a side addition for a hallway 17.5 feet from the Blackbird Landing Road right-of-way (50-foot street yard setback) to provide covered access to a detached hall structure abutting the church to the rear

Mr. Burt moved to Grant; Mr. McCann seconded the motion.

VOTE: 6-0

ACTION: Grant – Area variances to maintain a church 17.5 feet from the Blackbird Landing Road right-of-way (50-foot street yard setback) and to construct a side addition for a hallway 17.5 feet from the Blackbird Landing Road right-of-way (50-foot street yard setback) to provide covered access to a detached hall structure abutting the church to the rear, and to maintain an open porch 3.5 feet from the Blackbird Landing Road right-of-way (50-foot street yard setback). S Zoning. CD 12. TP 14-012.00-105.

3. App. #2014-0090-A - Renee Robinson

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

VOTE: 6-0

ACTION: Grant – Area variances to construct a rear addition 23 feet from the rear property line (25-foot rear yard setback). NC6.5 Zoning. CD 8. TP 06-146.00-622.

4. App. #2014-0089-A - Melissa and Ian Lewis

Mr. McCann moved to Grant; Ms. Whalen seconded the motion.

VOTE: 6-0

ACTION: Grant – Area variance to maintain a dwelling at 9 feet and to construct an attached garage addition 9 feet from the southerly side lot line (15-foot side yard setback). NC40 Zoning. CD 3. TP 08-013.00-030.

5. App. #2014-0081-A - Sherri Gaines Brown

Ms. Whalen moved to Grant; Mr. Parker seconded the motion.

VOTE: 6-0

ACTION: Grant – Area variances to maintain an open, covered porch 0 feet from the easterly side lot line (6-foot side yard setback), to maintain an open, covered front porch 20 feet from the Stanley Lane right-of-way (25-foot street yard setback), and to construct a rear addition to connect the existing dwelling to an existing, detached pool house 13

feet from the rear property line (25-foot rear yard setback). NC5 Zoning. CD 10. TP 10-015.20-049.

6. App. #2014-0009-A - William J. Rhodunda, Jr., Esq. for IKO Production, Inc. Mr. Burt moved to Amend; Ms. Whalen seconded the motion.

VOTE: 6-0

ACTION: <u>Amend</u> – Area variances to improve access and staging of trucks for raw materials and finished product and to improve circulation in the parking lot: 1. to maintain paving/parking 0 feet from westerly and southerly property line (40-foot street yard paving setback); 2. to construct paving 0 feet from easterly property line (10-foot other yard paving setback); 3. to maintain existing building, truck scale, and equipment 2 feet from the southerly property line (40-foot street yard setback); 4. to provide 0 bufferyard opacity along the northerly, southerly, and westerly property lines (0.6 minimum bufferyard opacity); 5. to provide 0 bufferyard opacity along the easterly property line (0.2 minimum bufferyard opacity requirement adjoining HI); 6. to provide 0 trees (66 street trees required/ 3,262 feet of frontage adjoining the northerly, southerly, westerly property lines at 1 tree for every 50 feet of frontage); 7. to provide 4 on-lot plant units (8.34 plant units required); and 8. to provide 38 parking spaces (66 parking spaces required).

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

VOTE: 6-0

ACTION: Grant – Area variances to improve access and staging of trucks for raw materials and finished product and to improve circulation in the parking lot: 1. to maintain paving/parking 0 feet from westerly and southerly property line (40-foot street yard paving setback); 2. to construct paving 0 feet from easterly property line (10-foot other yard paving setback); 3. to maintain existing building, truck scale, and equipment 2 feet from the southerly property line (40-foot street yard setback); 4. to provide 0 bufferyard opacity along the northerly, southerly, and westerly property lines (0.6 minimum bufferyard opacity); 5. to provide 0 bufferyard opacity along the easterly property line (0.2 minimum bufferyard opacity requirement adjoining HI); 6. to provide 0 trees ([66] 67 street trees required/[3,262] 3340 feet of frontage adjoining the northerly, southerly, westerly property lines at 1 tree for every 50 feet of frontage); 7. to provide 4 on-lot plant units (8.34 plant units required); and 8. to provide [38] 45 parking spaces (66 parking spaces required). HI Zoning. CD 8. TP 06-150.00-330.

7. App. #2014-0029-A - Mary K. Carpenter Trust

Mr. Burt made a motion that the Board had jurisdiction to hear the application for the requested variances; Mr. McCann seconded the motion.

VOTE: 6-0

ACTION: Grant – The Board of Adjustment will hear the subject application.

Mr. Burt moved to place a report submitted by Christopher Koyste, Esq. on behalf of Mrs Snyder into the permanent record; Ms. Whalen seconded the motion.

VOTE: 6-0

ACTION: <u>Grant</u> – A report submitted by Christopher Koyste, Esq. on behalf of Mrs Snyder was placed into the permanent record.

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

VOTE: 5-1 (Whalen in opposition)

ACTION: Grant with Conditions - Area variances to facilitate the recordation of a major land development plan and a partial rezoning from SE to S to create 12 new, clustered open space subdivision. Option 2 development - type lots and to maintain two existing dwellings on two new lots: 1. to provide 0 bufferyard opacity along a portion of the southerly lot line shared with tax parcel number 07-027.00-056 (proposed minimum buffer width of 5-feet) 150 feet from SR 100 in an easterly direction along the share lot line with tax parcel number 07-027.00-056 (0.2 minimum bufferyard opacity); 2. to allow protected resources (mature forests) in a conservation easement to be located on Lot 13 (protected resources shall not be located on an individual lot pursuant to Section 40.20.225.B.1); 3. to allow protected resources (mature forest and riparian buffer) in a conservation easement to be located on Lot 14 (protected resources shall not be located on an individual lot pursuant to Section 40.20.225.B.1); 4. to provide zero (0) percent open space for Lot 13 (5 percent minimum open space ratio for SE-zoned land and open space shall be contained on a separate parcel) Protected resources will be contained within Lot 13 and will be protected by a conservation easement; and 5, to provide zero (0) percent open space for Lot 14 (5 percent minimum open space ratio for SE-zoned land and open space shall be contained on a separate parcel) Protected resources will be contained within Lot 14 and will be protected by a conservation easement. SE Zoning. CD 2. TP 07-027.00-022.

CONDITIONS: The Applicant shall provide the following: a 125-foot minimum open space buffer along SR 100 (Montchanin Road), all perimeter buffers (as shown on the revised plan dated October 10, 2013), the relocated access to SR 100, and the preservation of the existing mature forest.

Joseph M. Abele, Jr.
Department of Land Use 3/17/14