



BOARD OF ADJUSTMENT

MINUTES

August 26, 2021

The Board of Adjustment of New Castle County held a public hearing on August 26, 2021 utilizing ZOOM Webinar, beginning at 6:00 p.m.

Chairman David H. Burt,
presiding:

CALL TO ORDER – 6:00 p.m.

David Burt
Terry Parker
William Brooks
Edward Thomas
Izuru Osegbu-Rivers
Richard Farmer

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

MINUTES

The minutes of June 24, 2021 were presented for approval and Mr. Brooks motioned to Grant the June 17, 2021 minutes and Mr. Parker 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:

1. App. #2021-0464-A - Jeffrey White.

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

VOTE: 6-0

ACTION: Grant with Condition– Area variance: Area variance: To construct an addition 16 feet from the rear property line (25-foot rear yard setback) see UDC Table 40.04.110.B. Jeffrey White. S Zoning. CD 12. (App 2021-0464-A) TP 14-013.31-271.

CONDITION: The screened porch shall not be further enclosed.

2. App #2020-0347-A – Astoria Builders, LLC.

Applicant requested application be continued to a later date.

Mr. Burt moved to Continue; Mr. Brooks seconded the motion.

VOTE: 5-0

ACTION: Continue- Area variances to facilitate the recordation of a Land Development Plan:

1. To permit a 0.50 acre lot size for Lot 1 (1.00 acre minimum lot size) see UDC Table 40.04.110.B. **2.** To permit a 0.38 acre lot size for Lot 2 (1.00 acre minimum lot size) see UDC Table 40.04.110.B. **3.** To permit a 0.67 acre lot size for Lot 3 (1.00 acre minimum lot size) see UDC Table 40.04.110.B. **4.** To permit a 0.52 acre lot size for Lot 4 (1.00 acre minimum lot size required) see UDC Table 40.04.110.B. **5.** To permit a 0.52 acre lot size for Lot 5 (1.00 acre minimum lot size) see UDC Table 40.04.110.B. **6.** To permit a 0.64 acre lot size for Lot 6 (1.00 acre minimum lot size exclusive of protected resources) see UDC Table 40.04.110.B. **7.** To permit a lot width of 98 feet for Lot 1 (150-foot minimum lot width) see UDC Table 40.04.110.B. **8.** To permit a lot width of 113.38 feet for Lot 2 (150-foot minimum lot width) see UDC Table 40.04.110.B. **9.** To permit a lot width of 30.55 feet for Lot 3 (150-foot minimum lot width) see UDC Table 40.04.110.B. **10.** To permit a lot width of 0 feet for Lot 4 (150-foot minimum lot width) see UDC Table 40.04.110.B. **11.** To permit a lot width of 0 feet for Lot 5 (150-foot minimum lot width) see UDC Table 40.04.110.B. **12.** To permit a lot width of 0 feet for Lot 6 (150-foot minimum lot width) see UDC Table 40.04.110.B. **13.** To maintain a dwelling 37 feet from the Shipley Road right-of-way on Lot 2 (40-foot street yard setback) see UDC Table 40.04.110.B. **14.** To maintain a dwelling 12 feet from the Shipley Road right-of-way on Lot 1 (40-foot street yard setback) see UDC Table 40.04.110.B. **15.** To permit a detached accessory structure 0 feet from the southerly side lot line on Lot 2 (3-foot setback for detached accessory structures) see UDC Section 40.03.410.A. S Zoning. CD 2. (App 2020-0347-A) TPs 06-065.00-334 & 06-065.00-284.

3. App. #2021-0160-A – Reybold Realty Associates, LLC.

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

VOTE: 5-0

ACTION: Grant- Special Use Permit to permit a 45 foot tall telecommunication monopole and area variances:

1. Special Use Permit to permit a 45 foot tall telecommunication monopole 80 feet from a residential use (500 foot minimum distance required for a residential use) see UDC Sections 40.03.326 & 40.31.430. **2.** To permit a 45-foot tall telecommunication monopole 2 feet from the McKennans Church Road right-of-way (15-foot setback required (1/3 height of tower)) see UDC Section 40.03.326.G. **New Cingular Wireless, PCS, LLC.** ON Zoning. CD 9 (App 2021-0160-A) TP 08-038.30-154 & 08-038.30-371.

4. App. #2020-0730-A – Sunbelt Rentals.

Mr. Burt moved to Amend to remove Variance 5; Mr. Thomas seconded the motion.

VOTE: 5-0

ACTION: Amend to remove Variance 5- Area variances to facilitate the recordation of a Land Development Plan:

1. To permit paving 0 feet from the rear property line (10-foot other yard paving setback) see UDC Table 40.04.110.B. **2.** To permit paving 0 feet from the Happy Lane right-of-way (40-foot street yard paving setback) see UDC Table 40.04.110.B. **3.** To permit 0 open space plant units (5 plant units per acre required) see UDC Table 40.04.111.A. **4.** To permit a 0.3 bufferyard opacity along the Ruthar Drive right-of-way (0.5 bufferyard opacity required) see UDC Table 40.04.111.A. ~~**5.** To permit a 0.0 bufferyard opacity along the Happy Lane right-of-way (0.5 bufferyard opacity required) see~~

~~UDC Table 40.04.111.A.~~ **6.** To maintain 0 street trees along the Happy Lane right-of-way (5 street trees required) see UDC Table 40.04.111.C. I Zoning. CD 9. (App 2020-0730-A) TP 09-016.00-020. **(continued from May 27, 2021).**

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

VOTE: 5-0

ACTION: Grant with Conditions- Area variances to facilitate the recordation of a Land Development Plan: **1.** To permit paving 0 feet from the rear property line (10-foot other yard paving setback) see UDC Table 40.04.110.B. **2.** To permit paving 0 feet from the Happy Lane right-of-way (40-foot street yard paving setback) see UDC Table 40.04.110.B. **3.** To permit 0 open space plant units (5 plant units per acre required) see UDC Table 40.04.111.A. **4.** To permit a 0.3 bufferyard opacity along the Ruthar Drive right-of-way (0.5 bufferyard opacity required) see UDC Table 40.04.111.A. ~~**5.** To permit a 0.0 bufferyard opacity along the Happy Lane right-of-way (0.5 bufferyard opacity required) see UDC Table 40.04.111.A.~~ **6.** To maintain 0 street trees along the Happy Lane right-of-way (5 street trees required) see UDC Table 40.04.111.C. I Zoning. CD 9. (App 2020-0730-A) TP 09-016.00-020. **(continued from May 27, 2021).**

- CONDITIONS:**
- 1. The landscaping shall be consistent with the renderings submitted into evidence.**
 - 2. No storage activities shall occur in the dedicated parking area.**
 - 3. Slats or canvas shall be installed on the fence.**

Executive Session

To discuss legal strategy for pending litigation in accordance with 29 Del. C. § 10004(b)(4).

Melissa A. Hughes

Melissa Hughes
Department of Land Use
10/06/2021