



BOARD OF ADJUSTMENT

MINUTES

May 23, 2019

The Board of Adjustment of New Castle County held a public hearing on May 23, 2019 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.
Chairman David H. Burt,
presiding:

CALL TO ORDER – 6:00 p.m.

David H. Burt
Terry Parker
William Brooks
Richard Farmer
Izuru Osegbu-Rivers

Comprising a quorum of the Board; also:
Aysha Gregory, Esq., Office of Law
Melissa Hughes, Department of Land Use
Conor Gibbons, Department of Land Use

MINUTES

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. #2019-0206-A – Larry Marshal.

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

VOTE: 5-0

ACTION: Grant – Area variance: Area variance: To construct an addition 13 feet from the rear property line (25-foot rear yard setback) see UDC Table 40.04.110.B. S Zoning. CD 12. TP 14-013.31-158.

2. App. #2019-0213-A – Jeff & Kim Miller.

Mr. Burt moved to **Grant with Condition** the application; Ms. Osegbu-Rivers seconded the motion.

VOTE: 5-0

ACTION: Grant with Condition- Area variance: To construct an addition 11 feet from the rear property line (25-foot rear yard setback) see UDC Table 40.04.110.B. S Zoning. CD 9. TP 08-049.10-

114.

Condition: The porch remain open.

3. App. #2019-0235-A – Bradley Rozmarynoski.

Mr. Parker moved to **Grant** the application; Mr. Farmer seconded the motion.

VOTE: 5-0

ACTION: Grant – Area variances: 1. To construct a detached accessory structure 28 feet in height (20-foot maximum height for detached structures) see UDC Section 40.03.410.A. **2.** To construct a detached accessory structure 4 feet from the rear property line (40-foot rear yard setback) see UDC Section 40.03.410.A. S Zoning. CD 12. TP 13-012.00-030.

4. App. #2019-0236-A – J & B Contractors, LLC.

Mr. Burt moved to **Amend** the application; Mr. Farmer seconded the motion.

VOTE: 5-0

ACTION: Amend – Area variances to facilitate the recordation of a Land Development Plan: 1. To permit a lot size of 0.10 acres for Lot 1 (0.50-acre minimum lot size exclusive of protected resources) see Table 40.04.110.B. **2.** To permit a lot size of 0.22 acres for Lot 2 (0.50-acre minimum lot size exclusive of protected resources) see Table 40.04.110.B. ~~**3.** To disturb 0.71 acres/56 percent of the Cookeysville Formation Water Resource Area/WRPA of Lot 2 (50 percent protection level for Cookeysville WRPA) see UDC Table 40.10.010. NC21 Zoning. CD 3. TP 08-008.00-041.~~

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

VOTE: 5-0

ACTION: Grant – Area variances to facilitate the recordation of a Land Development Plan: 1. To permit a lot size of 0.10 acres for Lot 1 (0.50-acre minimum lot size exclusive of protected resources) see Table 40.04.110.B. **2.** To permit a lot size of 0.22 acres for Lot 2 (0.50-acre minimum lot size exclusive of protected resources) see Table 40.04.110.B. ~~**3.** To disturb 0.71 acres/56 percent of the Cookeysville Formation Water Resource Area/WRPA of Lot 2 (50 percent protection level for Cookeysville WRPA) see UDC Table 40.10.010. NC21 Zoning. CD 3. TP 08-008.00-041.~~

5. App. #2019-0207-A – Tupps Signs Inc.

Mr. Brooks moved to **Grant with Condition** the application; Ms. Osegbu-Rivers seconded the motion.

VOTE: 5-0

ACTION: Grant with Condition – Area variances: 1. To permit 2 additional wall identification sign (1 wall or ground identification sign permitted) see UDC Table 40.06.60. **2.** To permit an 80 square foot wall identification sign (20-square foot maximum) see UDC Table 40.06.060. S Zoning. CD 11. TP 11-025.00-169.

Condition: Timer mechanism to be added sign be placed on a timer to turn off at 10:00 pm or end of school functions.

6. App. #2019-0218-A – F&H Transport Inc

Mr. Burt moved to **Grant with Conditions** the application; Mr. Parher 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 northerly side lot line (10-foot other yard paving setback) see UDC Table 40.04.110.B. **2.** To provide a 0.0 bufferyard opacity along the

Terminal Avenue right-of-way (0.5 bufferyard opacity) see UDC Table 40.04.111.A. **3.** To provide a 0.0 bufferyard opacity along the northerly side lot line (0.2 bufferyard opacity) see UDC Table 40.04.111.B. HI & CR Zoning. CD 10. TPs 10-002.30-075 through 10-002.30-078.

Condition: The Applicant shall provide landscaping consistent with the renderings submitted into evidence.

7. App. #2019-0216-A – Newark Kubota, Inc

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

VOTE: 5-0

ACTION: Grant with Condition – Area variances to facilitate the recordation of a Land Development Plan: **1.** To permit 11 parking spaces (21 parking spaces required) see UDC Table 40.03.522. **2.** To maintain existing building 10 feet from the easterly side lot line (20-foot side yard setback) see UDC Table 40.04.110.B. **3.** To maintain existing paving 0 feet from the Pulaski Highway right-of-way (25-foot street yard paving setback) see UDC Table 40.04.110.B. **4.** To maintain paving 0 feet from the easterly side lot line (5-foot other yard paving setback) see UDC Table 40.04.110.B. **5.** To permit paving 0 feet from the Pulaski Highway right-of-way (25-foot street yard paving setback) see UDC Table 40.04.110.B. **6.** To provide 0.0 bufferyard opacity along the Pulaski Highway right-of-way (0.4 bufferyard opacity) see UDC Table 40.04.111.A. **7.** To disturb 0.168 acres of zone 2 of the riparian buffer area (100% protection level) see UDC Table 40.10.010. CR Zoning. CD 11. TP 11-027.00-026.

Condition: The Applicant shall provide landscaping consistent with the renderings submitted into evidence.

8. App. #2019-0132-A – TowerNorth Development, LLC.

Mr. Brooks moved to **Grant with Conditions** the application; Mr. Parker seconded the motion.

VOTE: 4-1 (Parker oppose)

ACTION: Grant with Conditions– Special Use Permit to permit a 168 foot tall cell tower disguised as a windmill and area variances: **1.** Special Use permit to permit a 168 foot tall cell tower disguised as a windmill see UDC Sections 40.03.326 & 40.31.430. **2.** To permit paving 10 feet from the westerly side lot line (40-foot other yard paving setback) see UDC Table 40.04.110.B. TowerNorth Development, LLC. SR Zoning. CD 6. (App 2019-0132-A) TP 14-015.00-254.

Conditions: Landscaping be added to the base of the tower

Melissa Hughes
Department of Land Use
6/13/2019