

**CITY OF NEW CASTLE
BOARD OF ADJUSTMENT**

NOTICE OF DECISION

APPLICANT: N&C, LLC
(Crystal Arcidiacono & Nichol Arcidiacono Blevins)
1004 Gray Street
New Castle, Delaware 19720

OWNER: N&C, LLC
846 Bayview Road
Middletown, Delaware 19709

NCC TAX PARCEL NO. 21-014.00-190
PUBLIC HEARING DATES: September 23, 2025
DATE OF DECISION: October 9, 2025

REQUESTED: Applicant requested variances from various provisions of the City of New Castle Zoning Code, including the Schedule of District Regulations, for property located at 1004 Gray Street, New Castle, Delaware 19720, Tax Parcel 21-014.00-190, to subdivide the property and support construction of six new residential duplex style dwelling units.

BOARD MEMBERS: Mayor Valarie Leary, Chair, Steve Zorrer, and Assunta Scarpitti. Non-voting attendees included Michael Hoffman, City Solicitor, Jeff Bergstrom, City Building Official and Christopher Rogers, City Planner. Board Members Robert Irwin and Angel Ramos were absent.

The Board of Adjustment may grant an area variance from the requirements of Chapter 230 of the City of New Castle Code, (the “Zoning Code”), where it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Code would result in exceptional practical difficulty or unnecessary or undue hardship, and where the applicant has demonstrated: (a) that special conditions and circumstances exist which are peculiar to the land, structure or buildings involved and which are not applicable to other lands, structures or buildings in the same district; (b) that literal interpretation of the

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provisions of the Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Code; (c) that special conditions and circumstances do not result from the actions of the applicant; and (d) that granting the variance requested will not convey on the applicant any special privilege that is denied by the Zoning Code to other lands, structures or buildings in the same district.

Mayor Leary convened the meeting at 6:30pm. Mr. Hoffman noted for the record that the meeting was properly noticed and advertised, and identified the following exhibits in the record: (1) the Application as submitted; (2) the Proof of Publication and Property Posting; (3) the Applicant's PowerPoint Presentation; and (4) the Applicant's Petition from Neighboring Properties. Mr. Hoffman then swore in the following Applicant-identified witnesses: Dennis Hume, Crystal Arcidiacono, and Nichol Blevins.

Michael DeNote, Esquire, an attorney representing the Applicant, presented, among other things, that the subject property is located on a corner lot with an address of 1004 Gray Street within the municipal limits of the City of New Castle. Mr. Denote explained that the Applicant desires to subdivide the subject property to support three duplex style semi-detached buildings, resulting in a total of six (6) individual dwelling units. Each dwelling unit is proposed to be three stories (but within the maximum 35' height requirement) and have two dedicated off-street parking spaces, one in the garage and one in the corresponding driveway. Also, each unit is proposed to include an uncovered back deck.

To support the proposed subdivision and six (6) individual duplex style dwelling units, the Applicant requested several variances from the requirements of the Zoning Code for each proposed lot. For ease of reference, the requested variances were grouped together based on the proposed lots. For Lots 1 and 6, the Applicant requested variances: (i) from the minimum lot size of 3,000 SF to allow 1,720 SF; (ii) from the minimum lot width of 25-feet to allow 21.5-feet; (iii) from the minimum lot depth of 100-feet to allow 80-feet; (iv) from the minimum street yard setback for a corner lot of 20-feet to allow 3.5-feet; (v) from the minimum rear yard setback of 25-feet to allow 17-feet (to support construction of decks); and (vi) from the maximum permitted height of 2.5 stories to allow 3 stories (but still subject to the

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required maximum permitted height of 35-feet).

For Lots 2, 3, 4, and 5, the Applicant requested variances: (i) from the minimum lot size of 3,000 SF to allow 1,840 SF; (ii) from the minimum lot width of 25-feet to allow 23-feet; (iii) from the minimum lot depth of 100-feet to allow 80-feet; (iv) from the minimum side yard setback of 7.5-feet to allow 5-feet; (v) from the minimum rear yard setback of 25-feet to allow 17-feet (to support construction of decks); and (vi) from the maximum permitted height of 2.5 stories to allow 3 stories (but still subject to the required maximum permitted height of 35-feet).

Mr. DeNote stated that the property is located within the R-3 zoning district and within a State Investment Level 1 area. The proposed use is permitted in the R-3 zoning district so no rezoning is requested. Under the City's Comprehensive Plan, property in the R-3 zoning district is "intended to permit the widest range of residential density and dwelling type while preserving the amenities of the higher restricted residential districts." Here, Mr. Denote stated that the character of the immediate vicinity is residential, with a variety of dwelling types and lot sizes. He specifically highlighted a 2012 subdivision of nearby property, approved as a redevelopment, that created smaller lots for a townhome development than those proposed here. Mr. DeNote also highlighted that the property's frontage along Gray Street, 10th Street, and School Street contribute to the Applicant's need for many of the variances, which is a condition peculiar to this property. Ultimately, Mr. DeNote stated that the proposed development is more compliant with the immediate area than many other nearby properties, such that denying the variances would unnecessarily impede the Applicant's ability to develop the property in a manner similar to others in the neighborhood.

In response to questions from the Board, Mr. Hume testified that: (1) the Applicant intentionally opted to pursue three semi-detached structures (as opposed to a single row of townhomes) to make it more attractive for the neighborhood; (2) that the rear setback variances are necessary to accommodate the proposed rear decks; (3) no variance is requested from the maximum allowable building bulk; and (4) reducing the development to only two semi-detached structures would still require some variances.

Phil Gross spoke against the proposed variances, opining that single family homes would be preferred and more consistent with the character of the neighborhood, and John DiMondi submitted a written letter opposing the Applicant's request.

Norma Harlow identified herself as an adjacent neighbor and spoke in support of the proposed development and requested variances.

Following the close of the time for public comments, Mr. Zorrer made a Motion to close the Public Hearing and proceed to Board discussion and deliberation. The Motion was seconded by Ms. Scarpitti and the Public Hearing portion of the meeting was closed. As more fully stated on the record by the members of the Board at the time of their deliberation and vote (the reasoning of which is incorporated herein as if fully set forth verbatim), the Board unanimously voted to grant each of the requested variances.

The variances were granted based on, *inter alia*, the presentation of Mr. DeNote and Mr. Hume and their testimony that the property is unique given its frontage along three streets. The Board observed that there are other 3-story homes in this residential area, that the development fits in within the nature and character of the neighborhood, where lot sizes and home types vary, that the proposed off-street parking will be beneficial to the area, that the development as proposed will not negatively affect the neighboring homes or the general area, and that it would be unreasonable to deny the setback variances in light of the property's frontage along three streets. A literal interpretation of the Code in this case would effectively deny the Applicant the ability to use its property in a similar manner as other properties of the same size in the same zoning district and area. The harm to the Applicant if the variances were to be denied would be greater than the probable effect on neighboring properties if the variances were granted. Ultimately, the Board concluded that the Applicant met its burden of establishing an exceptional practical difficulty.

Therefore, for the reasons set forth by the Applicant, and for the reasons outlined on the record by the Board members presiding, and after considering the exceptional practical difficult standard governing area variances and the enumerated

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standards within 230-57.C of the Zoning Code, including making the necessary findings required therein, the following variance requests are GRANTED:

For Lots 1 and 6:

1. From the minimum lot size of 3,000 SF to allow 1,720 SF;
2. From the minimum lot width of 25-feet to allow 21.5-feet;
3. From the minimum lot depth of 100-feet to allow 80-feet;
4. From the minimum street yard setback for a corner lot of 20-feet to allow 3.5-feet;
5. From the minimum rear yard setback of 25-feet to allow 17-feet (to support construction of decks);
6. From the maximum permitted height of 2.5-stories to allow 3-stories (while still complying with the 35-foot maximum height requirement).

For Lots 2, 3, 4, and 5

1. From the minimum lot size of 3,000 SF to allow 1,840 SF;
2. From the minimum lot width of 25-feet to allow 23-feet;
3. From the minimum lot depth of 100-feet to allow 80-feet;
4. From the minimum side yard setback of 7.5-feet to allow 5-feet;
5. From the minimum rear yard setback of 25-feet to allow 17-feet (to support construction of decks);
6. From the maximum permitted height of 2.5-stories to allow 3-stories (while still complying with the 35-foot maximum height requirement).

Vote: 3-0

BOARD OF ADJUSTMENT OF
THE CITY OF NEW CASTLE



Mayor Valarie Leary, Chair

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Date of Hearing and Vote: September 23, 2025

Date of Written Decision: October 9, 2025

Date of Filing: October 9, 2025

NOTE: This variance is neither a building permit nor a Certificate of Occupancy. Appropriate permits must be obtained from the applicable governmental agencies prior to construction or establishment of any use on the property. This decision should be kept in a safe place with the property deed. This decision may be appealed to the Superior Court by any person aggrieved by it within 30 days of its filing in the Office of the Board of Adjustment.