

Resolution No. 2023-14

**BEFORE THE NEW BRITAIN BOARD OF SUPERVISORS
BUCKS COUNTY, PENNSYLVANIA**

IN RE: CONDITIONAL USE APPLICATION :
 OF HERDING BUTTERFLIES, L.P. :

ADJUDICATION

Herding Butterflies, L.P. (*“Applicant”*) filed a Conditional Use Application (*“Application”*) with the New Britain Township Board of Supervisors (*“Board”*) seeking conditional use approval so as to be able to continue the permitted principal use of K3 Warehousing with the addition of a gravel lot to be used for use L2, Outside Storage, (*“Project”*). The property in question is located in the IO Industrial Office Zoning District and use L2, Outside Storage, is permitted by conditional use. The Conditional Use Application relates to Tax Parcel 26-001-100-005 and is located at 120 Liberty Lane in New Britain Township, Pennsylvania (*“Property”*).

Pursuant to the Pennsylvania Municipalities Planning Code, Act 247, as amended, (*“MPC”*), the Board conducted an in-person hearing on April 17, 2023 (*“Hearing”*) at the New Britain Township Municipal Building located at 207 Park Avenue, Chalfont, PA for the purpose of receiving testimony on the Application. Notice of the same was sent to Applicant and was advertised pursuant to law. Board Chair, William Jones, Board Vice Chair, Stephanie Shortall, Esquire, and Board Members, Cynthia Jones, MaryBeth McCabe, Esquire, and Gregory T. Hood were in attendance at the Hearing and took part in the Board’s deliberations. In addition, Sean Gresh, Esquire, the Board Solicitor, was in attendance, as was the Board’s stenographer. Applicant was represented by Kellie A. McGowan, Esquire. No one from the public requested party status.

Based on the testimony and evidence represented at the Hearing, the Board, after discussion and due deliberation, makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Applicant is Herding Butterflies, L.P. with a mailing address of 120 Liberty Lane, Chalfont, PA 18914.
2. Applicant filed a Conditional Use Application with the Board seeking conditional use approval for the continuation of the K3 Warehousing use and the addition of a gravel lot for the L2 Outside Storage use. The Application was entered of record at the public hearing.

3. The Board held an in-person hearing on the 17th day of April, 2023 for the purpose of receiving Exhibits and testimony on the Application.

4. Notice of the Hearing was advertised in the Intelligencer on April 6, 2023 and again on April 13, 2023, which said proof of publication was identified as an Exhibit at the public hearing.

5. No persons requested party status at the hearing.

6. The Applicant presented the testimony of Jim Gassman, a representative of the Applicant. Jim Gassman testified that the proposed Outside Storage area of the property would be 100 ft. x 88 ft. for a total of 8800 square feet and would be surrounded by a 6 foot security fence as shown on the Zoning Plan prepared by Holmes Cunningham, LLC dated December 7, 2022 and last revised January 27, 2023.

7. Jim Gassman also testified that other site improvements are proposed to provide access to the Outside Storage, as well as additional off street parking.

8. The New Britain Township Planning Commission held a public meeting on March 28, 2023 and recommended approval of the Application.

DISCUSSION

Conditional use can only be granted or refused in accordance with the terms of the Ordinance itself. Whether an Applicant has met its burden of proof is within the discretion of the governing body. Failure to comply with any one specific requirement constitutes the basis for denying the conditional use Application. Furthermore, the activity sought as a conditional use must not be injurious to the public's health, safety, and general welfare.

In this matter, the Board of Supervisors has concluded, that the Applicant has met the standards for the grant of conditional use approval.

CONCLUSIONS OF LAW

a. As required by the MPC and the Township Zoning Ordinance, the Hearing was properly advertised.

b. All the witnesses who testified at the Hearing were appropriately sworn in and all of the evidence presented at the Hearing was appropriately accepted into Record.

c. Herding Butterflies, L.P. filed a Conditional Use Application seeking the approval for the continuation of the K3 Warehousing use and the addition of a gravel lot for the L2 Outside Storage use.

d. The Application is not contrary to the New Britain Township Comprehensive Plan, as long as proper landscaping and lighting are considered during land development.

e. The proposed use will not be detrimental to the best interests of the Township, the convenience of the community, or the general welfare of the public.

f. The Outside Storage on this property will be appropriate for the intended character of the properties in the general vicinity.

g. No increase in traffic congestion has or should be expected from this project.

h. The Township Subdivision and Land Development Ordinance shall be adhered to thereafter if the conditional use approval is granted.

i. The proposal is in conformance with all other zoning provisions of the New Britain Township Zoning Ordinance.

j. Based on the evidence presented at the Hearing, the Board concludes that Herding Butterflies, L.P. has generally shown compliance with Section 27-1403.c of Zoning Ordinance, except for where the Board specifically identified in this Adjudication that additional information concerning compliance must be provided during the land development review and approval process, and so long as certain conditions and limitations are placed upon the approval of this Application.

ORDER TO FOLLOW

ORDER

AND NOW, this 19th day of June, 2023, upon consideration of the foregoing Findings of Fact, Discussion, and Conclusions of Law, and at a publicly advertised meeting, the Board of Supervisors of New Britain Township conditionally grants Herding Butterflies, L.P. the conditional use requested in the Application to permit the continued use of the Property for the K3 Warehousing use and the addition of a gravel lot for the L2 Outside Storage use at 120 Liberty Lane in New Britain Township, otherwise known as Bucks County Tax Map Parcel No. 26-001-100-005; such grant being conditioned upon the following conditions:

1. The current Subdivision and Land Development Application, which was approved by the New Britain Township Board of Supervisors on February 4, 2021 for the subject property, shows a proposed building addition in the same location as the proposed outside storage area. The Applicant shall revise the Amended Final Plan to depict the outdoor storage area, proposed parking and driveway modifications, and all other associated site improvements. The Applicant shall obtain Amended Final Plan approval from the Board of Supervisors prior to issue of any Township permits.

2. The outside storage shall occupy no more than 8,800 SF and shall be located as shown on the Zoning Plan prepared by Holmes Cunningham, LLC, dated December 7, 2022 and last revised January 27, 2023.

3. Trailers shall only be stored within the outdoor storage area and not stored long-term (more than 24 hours) elsewhere on the site. The maximum number of trailers within the outdoor storage area shall be 20.

4. A 20-foot setback shall be maintained from paved areas and outdoor storage area to the existing building.

5. The outside storage area shall be enclosed with a fence and landscape screening, with the fence type and planting requirements to be determined during the land development process.

6. Gravel for the outside storage area shall not extend beyond the enclosed fence. A cross-section detail indicating the proposed gravel depth, width and type shall be included on the Amended Final Plan.

7. Any required parking spaces and access drives shall be paved in accordance with the Township's standard details and shown on the Amended Final Plan.

8. If lighting is proposed for the outside storage area, it shall be installed in accordance with the Township's Zoning and Subdivision and Land Development Ordinances.

9. The Applicant shall obtain all required Township permits, such as a Road Opening Permit, for any work within the Township right-of-way, and outside agency permits, such as BCCD, prior to construction.

10. The Applicant shall comply with all applicable codes, ordinances, laws, and regulations of the Township; and shall secure Land Development approval from the Board of Supervisors.

11. No hazardous, flammable, or explosive material, which will require special handling, shall be stored or used in the building;

12. No noxious, hazardous, or offensive impact upon the surrounding areas shall be created by the proposed use by reason of dust, odor, smoke, gas, vibration, illumination, or noise, or which constitutes a public hazard by fire, explosion, or otherwise;

13. The premises shall be ADA compliant;

14. All review, legal, engineering, administrative, and other review fees shall be paid to the Township; and

15. Compliance with any and all conditions imposed by any prior zoning hearing board decisions, if any, as well as any prior conditional use approvals.

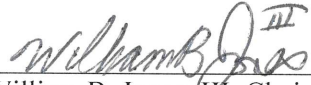
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**NEW BRITAIN TOWNSHIP
BOARD OF SUPERVISORS**

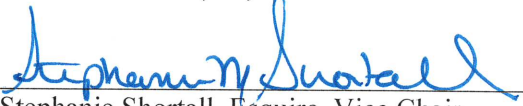
ATTEST:



Michael Walsh, Assistant Township Manager

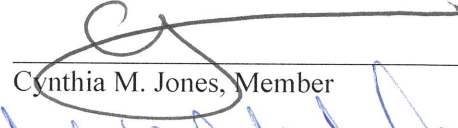


William B. Jones, III, Chair

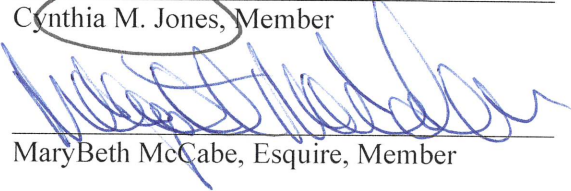


Stephanie Shortall, Esquire, Vice Chair

Gregory T. Hood, Member



Cynthia M. Jones, Member



Mary Beth McCabe, Esquire, Member