

MINUTES
FOXFIRE BOARD OF ADJUSTMENTS
MEETING 4:00 PM
April 3, 2007

(1) Board of Adjustment Chairman Dan Boelter called the meeting to order at 4:00 P.M. in the Foxfire Village Hall.

(2) **MEMBERS PRESENT:** Chairman Dan Boelter, Karl Bernet, Rhea Boelter, Lucille Cardelle, Page Coker, Dewey Jackson, Barbara Phillips, Tony Schettler, and Norman Sickles

(3) **OTHERS PRESENT:** Lisa Kivett, Deputy Village Clerk, Robert and Mary Casey, John and Rustie Dzinowicz, Jack and Barbara Eschmann, Bill Morrow, and Naomi Merchant

Chairman Boelter reported that this meeting is to act upon a request for a variance from Jack and Barbara Eschmann who wish to add on a swimming pool to the side yard of their lot number 127 Pine Tree Terrace. Chairman Boelter reported that all Board members were provided with a copy of the variance request and the Zoning Administrator's disapproval of the request due to the fact that zoning regulations state that swimming pools must be in the rear yard.

Jack Eschmann gave background on why he and his wife decided to purchase a lot and build their home in Foxfire Village. Mr. Eschmann reported that he is disabled and partially paralyzed and this swimming pool is needed for therapeutic reasons. Mr. Eschmann reported the pool dimensions are 14 x 28 feet with a depth of 4-5' and can be considered a "lap pool" and it will be completely enclosed with a 6' fence. Mr. Eschmann reported that one reason he needs the pool located on the side yard is that the Moore County Septic approval widely restrict where pools are located.

Chairman Boelter reported that granting a variance is very structured and the State has very stringent requirements for granting them. He added that this would change the laws for the Village for one particular case. One thing that must be proven is that the property owner can secure no reasonable return from or make no reasonable use of his property unless this variance is granted.

Discussion continued between the Eschmanns and members of the Board about the location, access to the pool from the home, relocating the pool to a basement, and the fencing.

Karl Bernet asked if the architect who designed the home was aware of the restrictions on swimming pools. Mr. Eschmann replied he believes he was not but cannot say for sure.

Tony Schettler asked if the pool was approved by the Planning and Zoning Administrator. Bill Morrow, Dream Developers replied it was not, only to begin construction on the house itself.

Chairman Boelter asked if any of the Eschmann's neighbors would like to speak. John Dzinowicz reported that he is against the pool location as the ordinance states it cannot be on the side of the property. He added that he believes the septic tank location does not pose a

problem and questioned the height of the fence. Chairman Boelter replied that the fence is another question for the Zoning Administrator.

Mary Casey reported that she and her husband Bob Casey do not want the pool facing the side of their home. They are concerned that due to the slope of the lots, any leakage of water will directly affect their home.

Naomi Merchant commented that rules should be upheld and the pool should be located in the rear yard. She also expressed concern about looking at the fence from her home.

Mr. Dzinowicz commented that the lot has only been cleared and construction has yet begun. He feels there is no reason why the Eschmanns cannot conform to the lot and put the pool in the rear yard.

Lucille Cardelle asked if there is room on the lot to move the septic system. Mr. Morrow replied that the County has agreed that they could move and reconfigure the leach lines. It was not the septic tank itself, it was the way the leach lines were drawn for the permit and the permit was originally ran for a four bedroom home which called for more leach lines than a three bedroom house.

There being no further comments, Chairman Boelter closed the public comment portion of the meeting. Chairman Boelter asked for any additional comments from the Board members before calling for a vote.

Barbara Phillips reported that she does not see where any hardships have been proven. Rhea Boelter commented that the lot is large and level and believes a pool can be located in the rear. Chairman Boelter asked that it be on the record that two members of the Board are closely related and assured all that no discussion of the variance request took place aside from this meeting.

There being no further comments, Chairman Boelter asked for a vote on the variance adding that a "yes" vote is voting for the variance and a "no" vote is for disapproving the request. The vote was called as follows:

Karl Bernet – no
Dan Boelter – no
Rhea Boelter – no
Lucille Cardelle – no
Page Coker – no
Dewey Jackson – no
Barbara Phillips – no
Tony Schettler – no
Norman Sickles – no

By unanimous vote, the variance request was denied. Chairman Boelter adjourned the meeting at 4:55 PM.