

**Lincoln County Board of Adjustment
Minutes of Thursday, April 24, 2008 at 8:30 a.m.
Land Resource Center Meeting Room**

1. Open meeting and Call to Order – Meeting was called to order at 8:30 a.m. in the Zoning Office. Members present: Lamer, Jach-Richards, Steffenhagen, Hornischer & Brixius. Also present were: Dan Miller; Zoning Administrator and Dan Bowers; Zoning Specialist. Board Member Schmidt was absent.
2. Tour the sites for the Public Hearing that would be held at 10:30 a.m. – The Board, Miller & Bowers left to tour the sites.

Members present for the public hearing: Lamer, Jach-Richards, Steffenhagen, Hornischer & Brixius (Alternate). Visitors: Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant, Ray Kraemer; Court reporter and 8 others.

3. Approve minutes from November 15, 2007 & February 28, 2008 meetings - Motion by Steffenhagen, seconded by Jach-Richards to approve the minutes from November 15, 2007 & February 28, 2008. Motion carried 5-0.
4. Public Hearing – The public hearing was opened for the request listed below.

Variance

1. Randy Kief, et.al on behalf of Bit-O-The North Condominium for a variance from Sections 21.07(1), 21.13(2)(a)2, 21.13(2)(b)4 and 21.13(2)(d)1 of Lincoln County Ordinances to allow for additions to 5 units within the condominium. Some of the units are not expandable under present rules, two additions would begin closer to Lake Mohawksin than allowed and one unit owner wishes to exceed the allowable impervious surface limit under the rules. (See application materials for more specific details). The property is located in the NW¼ of Section 31, T35N, R06E in the Town of Bradley; having a main tax parcel number of 04.313506.024.017.00.00 and addresses of: W7200, W7186, W7184, W7176 and W7172 Yukon Trail.

Randy Kief was present and sworn in to support the request. He is the president of the Bit-OThe-North condo association. He gave some background on the condominium and their request. It was an old resort that was broken off into condominiums. He said that after owning the property for awhile they discussed the need for more storage and some additions to the existing cottages to make it more comfortable for the owners. They took the impervious surface restrictions into account and even with their expansions would fall 2,000 sq. ft. short of that maximum (just in case there was a need for more building in the future). All of the property owners within the association have agreed with what the other owners are requesting to make it equitable. They have discussed and agreed on aesthetic issues to make structures look better. He read from the staff report and argued Miller's point about purchasing their non-conforming structures "as is" and feels it is the new ordinance that has created their hardship. He doesn't feel that their requests would damage the shoreland if granted. He spoke about their newer septic systems, community well & other components of the condominium. He thinks that the project as a whole is a good and fair one and would not be adverse to the public interest.

Chairman Lamer read into the record a letter of opposition from Robert and Lois Thurner stating that the owners of the condo should stay within the code for their building.

Lamer agreed to have the applicants speak first then have Dan Miller speak on all requests as a whole. Randy Kief explained briefly the request for Behms & Tynis' (Unit #2) as they could not be present. Tim Dearth (Unit #5) was present and sworn in. He explained their request. He stated that when they originally drew up the plan they had officials out there to view their buffer and there was no problem with it. He said that their addition would not even be noticeable from the water. Randy Kief (Unit #6) acknowledged being sworn in and discussed the proposed expansion of his cottage. Thomas Kief (Unit #7) was present and sworn in and explained his request. Kit Williams (Unit #8) was present and sworn in and explained his request. Their cottage only has one ingress/egress, so it is a safety issue and not up to code. Brixius asked if he knew when he bought it that this was an issue. Williams stated that he did not. He stated that the units were sold at an

auction and that was never asked about nor discussed and added, the way the auction was, you may not have even known which unit you were bidding on.

Dan Miller was present and sworn in. He reviewed the staff report. There are 10 requests total; 5 of which require a variance and 5 of which require only a Land Use permit. He reminded everyone that if the variance would be granted that they do have a timeframe in which they have to exercise the variance by obtaining the Land Use permits unless they would request an extension. He stated that the units were auctioned sometime in 2001 and he had spoken with the developer/seller what issues there were with expanding the units. Hornischer questioned if the auction bill mentioned any of these issues as a matter of record. He agrees that there may be some positive impact but also believes that there are negative impacts from these expansions. There are legal alternatives for the garages but there is no legal alternative for expansion of the non-conforming dwellings. Hornischer commented that Mr. Kief stated that these units were purchased before the code change and asked Miller if the old ordinance would have created the same hardship. Miller stated that the expansions would not have been allowed under the old code so the Shoreland Code itself did not create the hardship. Miller explained that the applicants are being prudent in reserving some of the allowable impervious surface area. Miller answered questions from the Board about the 1987 Variance, density issues, §59.692 provisions to rebuild, other locations for storage units and "buffer zone" issues. Miller said that most of the buffer is compliant but even just considering the permitted construction would obligate the association to ensure that the buffer is fully compliant.

Cindy Dearth (Unit #5) was present and sworn in. She wanted to clarify that their proposed attached garage would start at 60 feet from the water and if required to move back, a 15 ft space would exist between their cottage and the garage.

Tom Blake, WDNR-Watershed Management, was present and sworn in. He concurs with the Zoning staff recommendation to deny the variance. He stated that the protection of the water (Lake Mohawksin) is what is important and sees no burden or unnecessary hardship in this case. He cited case law that supports this opinion.

Kit Williams acknowledged being sworn in. He stated that on the same lake, within the city limits, people are allowed to build within 25 feet of the water and if we are so concerned with protecting the quality of the water he doesn't understand why just because they are out of the city limits they are restricted to 40 feet. Randy Kief also stated that he was hoping that the decision could be made to be equitable within the condo association. Brixius commented that she was mulling over in her mind the line between what is good for the state vs. good for the land owners but acknowledges that there are rules that have to be followed. Lamer commented that the condo is very well taken care of and these owners seem to be concerned with the shoreline and preserving the natural beauty.

The Board reviewed and completed the Findings of Fact, Conclusions of Law, and Order and Determination.

Motion by Hornischer, seconded by Jach-Richards to DENY the variance request and those permits that the staff has fundamentally determined do not require the variance be subject to the mitigation that is necessary to approve those permits. He commented that he doesn't feel that the new ordinance created the hardship and he is afraid that, even though these owners clearly take care of and take pride in their property, a favorable decision would set a precedent that would open the door in other areas that may not be as well maintained.

Motion carried 5-0.

5. Discuss Board re-organization – Dan Miller explained that with the recent passing of Pat Priebe the Board would need to discuss moving one of the alternates into that vacated position and seek another alternate. He wondered if the Board wished to discuss this now or after it has been advertised and we have applicants. Lamer suggested that they should wait until a future meeting when we have some applicants. Jach-Richards asked Miller what the procedure and criteria was for appointing another Board member alternate. Miller explained that it would need to be someone from a zoned township and could not be from one that was already represented. Jach-Richards commented that we need to start that process and advertise as soon as possible.
6. Adjourn – Motion by Jach-Richards, seconded by Steffenhagen to adjourn at 11:25 a.m. Motion carried all ayes.