CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
November 20, 2013

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, November 20, 2013 at 9:00 A.M. with Chairman Sheth presiding. Members present were Mr. Senato, Mr. Hufnal, Colonel Ericson, and Mr. Keller.

Staff members present were Mrs. Townshend, Mrs. Purnell, Mrs. Harvey, and City Solicitor Rodriquez.

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda as submitted, seconded by Colonel Ericson and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF August 21, 2013

Mr.Keller moved to approve the meeting minutes of August 21, 2013 as submitted, seconded by Mr. Hufnal and unanimously carried 5-0.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend, Director of Planning and Community Development stated that the meeting would be conducted in accordance with the approved agenda. She reviewed the procedure for the meeting. She noted that approved variances expire after one (1) year if the approved project has not commenced; that all public notice for the application on this agenda was completed in accordance with code requirements; and the meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-13-12:

11 Vondaway Drive: Orlan T. Kelly, Jr. has requested a variance from the requirements of Article 4 §4.1 of the *Zoning Ordinance* pertaining to the required front yard.

Subject property is zoned R-15 (One Family Residence Zone. The Tax Parcel is ED05-068.15-02-10.00. The owner of record is Orlan T. Kelly, Jr.

Mrs. Ann Marie Townshend, Director, submitted the following items for the record: staff report, survey drawing and the written statements provided by the applicant. The legal notice was published in the Delaware State News on November 10, 2013, and the public was notified in accordance with regulations.

Mrs. Ann Marie Townshend stated that she assisted the applicant with the completion of the application.

Mr. Hufnal questioned the tax parcel number for the above property that was listed on the staff report if it was ED05-068.15-02-10.00 or ED05-068.12-02-10.00. Mr. Keller stated that the

correct number is ED05-068.15-02-10.00. Mrs. Townshend stated that it was correct in the agenda and incorrect in the Staff report.

Chairman Sheth questioned if there was any member who had a conflict of interest and there was none.

Representative: Mr. Orlan T. Kelley Jr. Owner of the property.

Mr. Orlan T. Kelley Jr. was sworn in by Mr. Rodriquez.

Mr. Kelley testified that he has owned the property for twenty (20) years. At one point there was a mobile home on the lot. The mobile home needed a lot of repair and therefore was demolished with plans to build a single family home. The lot is too small for the setback requirements. All of the lots in the entire subdivision and on that street are the same size. Currently there have been a lot of houses built in the area that use to be all mobile homes. He would like to be approved for a variance to build a house.

Mrs. Townshend stated that in addition to the setbacks the applicant will need a variance from the lot coverage to allow up to 35%. With the lot being undersized for the required lot size it would be hard to make the improvements and maintain 25% lot coverage. This information is noted in the staff report.

Responding to Mr. Hufnal's question that you would need to allow up to 35% of the lot coverage in order to build the house, Mrs. Townshend replied yes.

Mr. Hufnal stated that he was aware that there has been several properties constructed up and down the street and they are all about the same size. Even though this does not fit the setback requirements it is still in conforming to other properties in the neighborhood that were built similar to what the applicant is asking to build.

Mr. Kelley stated that he would like to build a bungalow that would be 48 x 28 feet wide that would also include three (3) bedrooms and two (2) baths.

Mr. Hufnal stated that it would not technically affect the neighborhood because they are all built very similar.

Responding to Mr. Keller's question regarding the two frontages, one being White Oak Road the other being Vondaway Drive, which road would the house face, Mr. Kelley stated the current address is Vondaway Drive, but he thinks it would be better if it faced White Oak Road because he could continue to use the horseshoe driveway. If it is facing Vondaway Drive, even though he has not done the house layout it would take up the driveway. He stated that the house could be faced either way, he is not locked into which way the house faces and it is not a big concern.

Responding to Mr. Keller's question regarding the way the house would be situated and/or gain the address of one street or the other does it play on the requested variance, Mrs. Townshend stated that it does not make a difference either way the applicant would need the reduction of the

front yard to twenty (20) feet because both frontages are front yards. She along with the applicant looked at several different layouts and there was no way to do it and meet the setbacks.

Responding to Mr. Keller's question if the site was presently clear, Mr. Kelley stated yes.

Responding to Mr. Senato's question that it would not make a difference if there was 21 feet on one side and 31 feet facing White Oak Road, either way the front entrance would be less on Vondaway Drive would not make a difference of which location the house is faced because you would still be in compliance either way and it would be the applicant choice which street he wants the house to face, Mrs. Townshend stated that this was correct.

Chairman Sheth declared the public hearing open.

There being no one wishing to speak, Chairman Sheth declared the public hearing closed.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Mr. Hufnal moved to approve application V-13-12 requested variance to allow for the reduction of the front yard to 20 feet and an increase of lot coverage to 35% based upon the testimony given and in keeping with the neighborhood and surrounding properties and that the be allowed to build up to 35% of the lot size. The motion was seconded by Mr. Senato and unanimously carried 5-0.

Applicant #V-13-13:
Horsepond Road and Starlifter Avenue: Kent County Levy Court and the State of Delaware have requested a variance from the requirements of Article 5 §7.5 of the *Zoning Ordinance* pertaining to the height of a fence in the front yard, and the requirements of Article 5 §16 of the *Zoning Ordinance* pertaining to tree preservation and planting requirements.

Subject property is zoned IPM (Industrial Park Manufacturing Zone) and AEOZ (Airport Environs Overlay Zone) – Noise Zones B, C and D. The Tax Parcels are ED-05-087.00-01-07.00, ED-05-087.00-01-07.02, ED-05-087.00-01-07.03, ED-05-087.00-01-07.04, ED-05-087.00-01-08.00, ED-05-087.00-01-09.00. The owner of record is Kent County Levy Court and the State of Delaware.

Mrs. Ann Marie Townshend, Director, submitted the following items for the record: staff report, location map, site diagram, and the written statements provided by the applicant. The legal notice was published in the Delaware State News on November 10, 2013, and that the public was notified in accordance with regulations.

Vice Chairman Colonel Ericson questioned if there was any member who had a conflict of interest.

Chairman Sheth was recused because he is a member of the Kent County Aeropark Advisory Board.

Representative: Mr. Jeff Stone, of Delaware Economic Development Office, Lead Project Manager of the Cargo Ramp Project.

Mr. Jeff Stone was sworn in by Mr. Rodriquez.

Mr. Stone representing the State of Delaware testified that the first variance being requested is for a fence. The fence is required for security at the Dover Air Force Base. The Civil Air Terminal (owned by DelDOT) is currently surrounded by a 9-foot fence. When the cargo ramp is expanded the security requirements of the Air Force will require the area be surrounded by a 9-foot fence. The second variance is for the tree mitigation and he would like to withdraw because of a misunderstanding. He will go before the Planning Commission for the tree mitigation. He was not aware that it was an option available to them. It is not that they do not want to plant trees they just can't be placed on the property because trees and aircraft do not mix very well. He is happy to do the tree mitigation someplace else in the city.

Mr. Hufnal stated that the 9-foot fence that has been requested is in line with what is already there.

Chairman Sheth declared the public hearing open.

There being no one wishing to speak, Chairman Sheth declared the public hearing closed.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Mr. Senato moved to approve application V-13-13 based on the testimony given for a requested variance of a 9-foot fence in the surrounding area that also have a 9-foot fence. The motion was seconded by Mr. Hufnal and the motion unanimously carried 4-0. Chairman Sheth abstained.

Mr. Keller questioned for clarity that as part of the motion and with the testimony and request to withdraw a variance request #2 that it is not part of the motion for approval. Mrs. Townshend and Chairman Sheth stated that this is correct.

Colonel Erison moved to adjourn the meeting, seconded by Mr. Hufanl and unanimously carried 5-0.

Meeting adjourned at 9:21 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary