

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – APRIL 4, 2005**

CALL TO ORDER

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on April 4, 2005, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Carroll Strange, Greg Carnes, Mildred Roe, Claudette Moyski, and Richard Hartigan

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: Dale Callaghan, Paul and Beverly Gotelaere, Sam Harbin Sr., Terri McGarry, Doug Callaghan, David Cypher, Lisa Guiles, Mark Meisel, and Robert Sansam

MINUTES OF NOVEMBER 8, 2004, ZONING BOARD OF APPEALS MEETING

Roe moved that the minutes of the November 8, 2004, Zoning Board of Appeals Meeting be approved as presented. (Carnes seconded). The motion carried.

READING OF THE PUBLIC NOTICE

The Zoning Board of Appeals Recording Secretary read aloud the public notice for tonight's meeting, which was published in the March 27, 2005, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on April 1, 2005, at 9:00 A.M.

VARIANCE REQUEST

- #1 Paul and Beverly Gotelaere, RE: Request for a 47-Foot Northeast Setback Variance to the Water's Edge and a 5½-Foot Southwest Side Yard Setback Variance for Construction of a New House and Attached Garage, Located at 10527 Lakeshore Drive, (TAX CODE # 4704-09-402-029). The Existing House and Shed will be Removed)

Paul Gotelaere requested a 47-foot northeast setback variance to the water's edge and a 5½-foot southwest side yard setback variance for construction of a new house and attached garage. Terri McGarry, of Callaghan Homes, stated that a variance is needed because the stream which meanders throughout the property creates a very unusual situation and hardship for the property owner. She stated that the narrowness of the lot is also a problem. She continued that Mr. Gotelaere went to the DEQ (Department of Environmental Quality) for input on the issue and to make sure they are following all of the regulations. She stated that it is impossible to build on the property or make any improvements without a variance request, because this is a small seasonal cottage. She continued that with the stream location being offset to one side of the property it requires an additional side yard setback variance. She stated that the proposed house is modest for the area and it would be an improvement for the general property values.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Strange stated that he met with Mr. and Mrs. Gotelaere last summer and discussed some of the plans prior to the application for a variance. Hartigan stated that his objective

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would be to try to understand the existing plan versus the proposed plan and hopefully reduce existing nonconformities. He continued that the side yard setback dimensions on the drawing to the DEQ do not match the dimensions on the drawing prepared by Allied Land Surveying. Hartigan stated that on the drawing to the DEQ it shows a southwest side yard dimension of 10 feet, yet on the drawing by Allied the southwest side yard dimension is 4½ feet. Doug Callaghan, general contractor for Callaghan Homes, responded that the survey done by Allied was sent to the DEQ. He continued that a proposal was made to the DEQ to straighten out the leg of the stream on the south side of the property, but it was denied by the DEQ. Hartigan stated that he was not addressing the stream. Hartigan continued that the Allied survey drawing shows the dimension of the proposed new structure to the southwest property line as 4½ feet, but the drawing to the DEQ shows a southwest side yard dimension of 10 feet. Mr. Callaghan answered that the drawing by Allied Land Surveying is correct and the dimension of the proposed new structure to the southwest property line is 4½ feet. In response to Hartigan's question, Mr. Callaghan answered that the dimension of the existing house to the southwest property line is 1 foot. Hartigan stated that the new proposed structure would improve the existing nonconformity on the southwest side. In response to Hartigan's question, Mr. Callaghan responded that he did not know if the gas meter and the overhang of the house are 1 foot from the southwest property line or if they are actually on the property line. In response to Hartigan's question, Mr. Callaghan answered that the 47-foot northeast setback variance to the water's edge is based on the current location of the stream. In response to Hartigan's question, Mr. Callaghan answered that the DEQ denied the proposed relocation of the stream. He continued that a silt fence will be put in to protect the stream. In response to Hartigan's question, Mr. Callaghan answered that the dimension from the southeast corner of the existing cottage to the stream is approximately 6 feet. In response to Hartigan's question, Mr. Callaghan responded that the northeast corner of the new proposed house would be 6 feet from the creek but the proposed garage would be 3 feet from the creek at the closest point. In response to Roe's question, Mr. Callaghan answered that the proposed house would not have a basement. Terri McGarry stated that there are other properties in the area with similar circumstances that would have needed variances. Hartigan responded that the Board looks at decreasing the existing nonconformities when possible. Hartigan stated that this is a nonconforming lot in accordance with the current Zoning Ordinance. He continued that the applicant is allowed to build on the lot based on the fact that it is a lot of record, however, it is still in nonconformance because 1) the proposed house would not have a 10 foot side yard setback, 2) the lot width is not at least 90% of the current Zoning Ordinance requirement, and 3) a variance would be needed from the proposed new house to the stream. Hartigan stated that it would be hard presses to grant variances that would increase the existing nonconformities, but would be more inclined to grant variances that would decrease the existing nonconformities. Terri McGarry stated that the side yard setback would be more in conformance, but the proposed garage would be closer to the stream. In response to Hartigan's question, Mr. Callaghan answered that the proposed house would be a 1½-story house. Tyrone Township Zoning Administrator George Van Hecke stated that the existing 8½ by 10-foot shed would be removed and reduce the nonconformity. In response to Strange's question, Mr. Callaghan answered that the length of the new proposed structure would be 46 feet,

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not including the garage. In response to Strange's question, Van Hecke answered that the minimum square foot requirement for the first floor would be 850 feet. Terri McGarry stated her concern that scaling back the proposed house would make it too small to meet the minimum size requirement. Strange stated that a building envelope needs to be established to meet the Zoning Ordinance requirements and reduce the variance requests as much as possible in all areas. In response to Strange's question, Mr. Gotelaere answered that they currently park their vehicles on the grass behind the house and next to the shed.

PUBLIC COMMENT

None. The Board reviewed the letter of support from Michael and Michelle Ostrowski, 10523 Lakeshore Drive, submitted at tonight's meeting and dated Jan. 12, 2005. The Board reviewed the letter, received April 4, 2005, from Randy Hinton, 10527 Lakeshore Drive, stating his opposition to the variance request. The Board also reviewed correspondence from Gregory Tataara of the Livingston County Drain Commission, dated April 1, 2005, stating that the proposed home location would not interfere with the sewer system operation. However, the existing septic tank needs to be removed and the owners must complete a new easement for sewer access.

MOTION

Hartigan moved to grant the request by Paul and Beverly Gotelaere for a 5-foot southwest side yard setback variance and a 44-foot northeast setback variance from the stream at any point (not increasing the existing non-conformity), for construction of a new house and attached garage, located at 10527 Lakeshore Drive. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 20.02Z (Footnote to Schedule of Regulations)]. I would also move to grant a variance of 3.5-feet for the lot width (required to be 90% of the required lot width of 60-feet. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 26.01A (Non-conforming Lots of Record)]]. Based on the following criteria: 1) Unreasonable Burden exists as the site is a platted lot not in conformance with the current Zoning Ordinance requirements and it's further burdened by a stream that traverses the length of the lot. 2) Substantial Justice will be granted allowing the property to be used in the best manner possible, be in harmony with the other improved homes in the area, increase the aesthetics of the area and reduce a non-conforming building. 3) The minimum variances required to logically use the site are being granted. 4) The sites extraordinary circumstances include a stream traversing the full length of the site and dimensions platted for cottage living prior to the existing Zoning Ordinances. 5) No safety or health issues will be created, actually the existing conditions will be improved. 6) Demolition of the existing storage shed is required. (Moyski seconded.) Roll call vote: Moyski, yes; Roe, yes; Carnes, yes; Hartigan, yes; Strange, yes. The motion carried.

VARIANCE REQUEST

- #2 Spring Aggregate, LLC, RE: Request for a 4 by 8-Foot Off-Premise Directional Sign Located on Vacant Property on Hogan Road and Old US-23, (TAX CODE: 4704-16-100-009)

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Sam Harbin, Spring Aggregate, LLC requested a 4 by 8-foot off-premise directional sign located on vacant property on Hogan Road and Old US-23.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated that a hardship must be shown. Hartigan stated that according to Zoning Ordinance 36 (Section 27.03-1) off-premise signs are permitted only in M-1 or M-2 Zoning Districts, provided that such signs are located not less than one thousand three hundred and twenty (1,230) feet from all federal and state highway rights-of-way and shall not be located within one thousand (1,000) feet of residentially zoned land. Hartigan stated that the proposed sign would only be 141 feet from Old US-23 and would not be viewable by northbound traffic, back behind the trees and brush. In response to Hartigan's question, Mr. Harbin answered that the proposed sign is a duplicate of the sign on Argentine Road. In response to Strange's question, Hartigan and Carnes both answered that the sign on Argentine Road is located in Deerfield Township. In response to Carnes' question, Mr. Harbin answered that the only purpose of the sign is to direct new customer hauling trucks to the correct route. He continued that Hogan Road is designated as a haul route and there have been complaints of trucks going the wrong way or traveling on the wrong roads. He added that the sign is not meant for new sales but for quick easy reference to keep the hauling trucks on the correct route. Carnes stated that the sign would not be intended to be viewed by truckers on US-23, but is intended to be viewed by truckers on Old US-23 and to make sure they turn down Hogan Road (not Center Road, White Lake Road, or Nymphie Road). Strange stated this is a sensible explanation for the sign request. He continued that he has a difficult time with signage and that the Zoning Ordinance was written to keep the Township clean and natural, without the clutter of signs. Strange suggested the applicant consider a temporary directional sign, instead of a permanent directional sign. Mr. Harbin stated that he is trying to eliminate complaints from residents concerning hauling trucks being off of the designated hauling route. In response to Carnes' question, Mr. Harbin answered that the permit for hauling aggregate out of the existing property is for 2 years, and they are proposing another 80 acres to the west of this property. Hartigan stated that he could support a smaller sign for directional purposes, but has concerns for the proliferation of signs along US-23. In response to Strange's question, Hartigan answered that a variance is needed for 1) an off-premise sign, 2) the proximity to US-23, and 3) for placement in residential zoning. In response to Strange's question, Mr. Harbin answered that the 141 foot location from US-23 was chosen because it is the highest point on the property and would be more visible for the hauling truckers. In response to Van Hecke's question, Mr. Harbin answered that a smaller sign would be possible, but he already has an extra 4 by 8-foot sign available. Strange stated that a seasonal, off-premise sign would be more acceptable (April to November). In response to Moyski's question, Carnes answered that a time limit could be included in a motion.

PUBLIC COMMENT

Robert Sansam, owner of the vacant property on Hogan Road where the sign will be located, stated his support of the variance request by Spring Aggregate. No written correspondence was received prior to tonight's meeting.

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MOTION

Carnes moved to grant the request by Spring Aggregate, LLC for a 4 by 8-foot off-premise directional sign located on vacant property on Hogan Road and Old US-23, (TAX CODE: 4704-16-100-009). This sign will be a seasonal sign, for two summer seasons, from April 1st to October 1st. Should the applicant need the sign for a longer period of time, the request could be revisited by the Board after two years. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 27.1 (Summary of Sign Dimensional Standards) and 27.03-1 (Off-premise Signs)]. (Roe seconded.) Roll call vote: Hartigan, no; Roe, yes; Carnes, yes; Strange, yes; Moyski, yes. The motion carried.

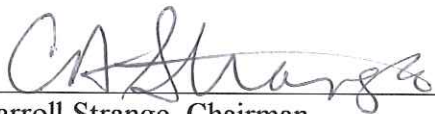
MISCELLANEOUS BUSINESS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, May 9, 2005 at 7:30 p.m.

ADJOURNMENT

In regards to the Edwards appeal from November 8, 2004, the Board reviewed the letter from the Fire Authority, received November 24, 2004, stating that Mr. Edwards would not be required to add a “T” turn-around. The variance granted to not require a “T” turn-around was contingent upon receiving this letter from the Fire Authority. In regards to the Puckett appeal from November 8, 2004, the Board reviewed the documentation showing the recorded easement across the Consumers Energy property, recorded on March 23, 2005. Mr. Puckett’s appeal was granted contingent upon proof of a recorded easement across the Consumers Energy property.

The meeting ended at 9:14 p.m.



Carroll Strange, Chairman
Tyrone Township Zoning Board of Appeals



Lorie A. Thielen, Recording Secretary
Tyrone Township Zoning Board of Appeals

c File

Tyrone Township Clerk
Tyrone Township Zoning Administrator
Tyrone Township Zoning Board of Appeals Commissioners