

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – JUNE 6, 2005**

CALL TO ORDER

Temporary Chairman Greg Carnes called the Zoning Board of Appeals Meeting to order on June 6, 2005, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, Mildred Roe, Claudette Moyski, Richard Hartigan and Mark Meisel

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: Ray Foley and Richard Osburn

MINUTES OF MAY 9, 2005, ZONING BOARD OF APPEALS MEETING

Hartigan moved that the minutes of the May 9, 2005, Zoning Board of Appeals Meeting be approved as presented. (Roe 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 May 29, 2005, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 3, 2005, at 9:00 A.M.

VARIANCE REQUEST

- #1 Coyote II, LLC., Owned by Golf Course Properties, LLC., RE: Request for a Variance to Move Designated Open Space Areas from the Golf Course and Relocate Them to the Adjacent Residential Properties and a Variance to Allow the Open Space for the Residential Community to Use 37% of the Wetlands Rather than the 25% Allowed, Located at 9521 Preserve Drive, (TAX CODE # 4704-08-101-073)

Ray Foley, attorney representing Coyote II, LLC., requested a variance to move designated open space areas from the golf course and relocate them to the adjacent residential properties and a variance to allow the open space for the residential community to use 37% of the wetlands rather than the 25% allowed. He stated that the original development was to be a golf course community, with a number of residential lots surrounding the golf course. He continued that the development was not successful and that the residential lots went back to TCF bank. He stated that the Township has been working diligently with TCF bank to sort out some of the remaining problems caused by the failure of the development. He continued that part of the resolution was that TCF bank sold the golf course to Richard Osburn. He stated that Mr. Osburn operates another golf course in the area and he obtained this property to operate it as a golf course. He continued that when trying to separate the golf course property from the residential development they found that some small areas of open space were placed on the golf course, to meet the Zoning Ordinance. He stated that there are some open space areas along fairways and even in the middle of some fairways. He continued that while negotiating the purchase of the golf course, TCF bank was asked to relocate the open

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space areas from the golf course to the residential properties. He stated that the open space areas, on the golf course, violates Mr. Osborn's insurance requirements and it is not feasible to have open space areas on fairways. He stated that Boss Engineering was hired and they came up with a feasible plan, but in order to meet the open space zoning requirements a variance is needed to use part of the wetlands to relocate the open space. He continued that there are well over 100 acres of wetlands not used for open space because the current Zoning Ordinance allows for only 25% of the wetlands to be used, [Zoning Ordinance No. 36 – Section 21.51 (Open Space Design Requirements)]. He added that it is his understanding that the Tyrone Township Planning Commission is revising the open space requirements and it has proposed that the wetland requirements change from 25% to 35%. He stated that the variance they are requesting is for 37% use of the wetland areas, which would allow them to relocate every bit of open space from the golf course to the residential properties.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Roe's question, Mr. Hartigan answered that the change to the open space requirement would hopefully be soon. He continued that the Zoning Ordinance currently allows 25% as the maximum amount of wetland area to be used in open space calculations. Hartigan stated that the Tyrone Township Planning Commission (TTPC) has refined the open space ordinance from 25% wetland use to 35% wetland use. He continued that the proposal has been submitted to the Tyrone Township Board and the Livingston County Planning Commission (LCPC). Hartigan stated that the TTPC is awaiting comments back from the LCPC and response to any comments and then go through the process of getting it formally adopted by the Board. Hartigan continued that it was the TTPC's intent to clarify some of the open space requirements and to be a little more generous with the use of wetlands, since the Township has so many wetland areas. Hartigan stated that the TTPC had to turn down the applicants request because the Zoning Ordinance would not allow 37% use of the wetland areas, so the applicant was recommended to go before the Zoning Board of Appeals. Hartigan stated that if this project was done in phases, as it now is because it was forced to be sold off, you could consider the golf course to be the parent parcel which would require open space and the residential area to be the divided off parcel which would require open space based on the amount of acreage. Hartigan continued that if a variance is not granted, under the open space requirements there are maintenance agreements which could be written to prevent the open space on the golf course from being used. Meisel commented that the intent is preserved by granting a variance in this particular case and that it would make no sense to have potential liability issues of somebody trying to use the open space areas of the golf course. Roe stated her concern that if the open space requirements change to 35% use of the wetlands and the ZBA allows Coyote 37% use of the wetlands, this could set a precedent on the additional 2% use of the wetland area. Hartigan stated that a motion could be worded in such a manner that all the issues of unreasonable burden are addressed and could be justified, which would not set precedent. Meisel stated that the intensity of the protected wetlands is a big factor in this case and that there is a lot of intensity in this

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area which precludes development and requires any development to have an unusually high amount of open space or wetland type topography. In response to Carnes' question, Mr. Foley answered that an additional 4.25 acres of variance is needed to move all the open space from the golf course to the residential area. Hartigan stated that in the original layout of the project, the section 9 piece was always calculated into the open space and that there was no open space north of the road or around the residential area, it was all down on the golf course. Carnes stated that this is a quality development for the Township, one that the Board would like to see successful, although it has had its problems. He continued that there are Ordinances that must be adhered to. Mr. Foley responded that they are trying to straighten up the problems. Carnes stated that the Board should keep in mind the criteria for granting variances and look at each item individually.

PUBLIC COMMENT

None. No written correspondence was received prior to tonight's meeting.

MOTION

Hartigan moved to grant the request by Coyote II, LLC., owned by Golf Course Properties, LLC., for a variance in the amount of open space required and to remove designated open space areas from the golf course located at 9521 Preserve Drive, (TAX CODE # 4704-08-101-073), and relocate them to the adjacent residential development and Section 9 Parcel as shown on Boss Engineering sheet 3 – print dated January 27, 2005. The relocated open space is accomplished using 37% of the wetland area in lieu of the 25% allowed by the Zoning Ordinance. The original project defaulted and the lending institution needed to create separate saleable parcels to make them economically viable. Therefore:

- 1) An unreasonable burden on the golf course property to support open space for the residential property was created.
- 2) Granting this variance will result in providing substantial justice and allow the golf course to operate in an efficient and safe manner.
- 3) Granting the minimum variance required and in effect will only result in a 2% variance when the new open space Ordinance is adopted.
- 4) The extraordinary circumstance is the bankruptcy of the original project.
- 5) No safety or health issues or incompatible uses will result from the granting of this variance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.02AA (Footnotes to Schedule of Regulations) and 21.51 (Open Space Design Requirements)].

(Meisel seconded.) Roll call vote: Moyski, yes; Roe, yes; Meisel, yes; Hartigan, yes; Carnes, yes. The motion carried.

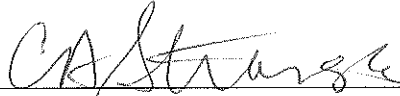
MISCELLANEOUS BUSINESS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, July 11, 2005 at 7:30 p.m.

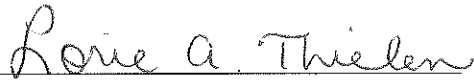
ADJOURNMENT

The meeting ended at 8:23 p.m.

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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