

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – JULY 11, 2005**

CALL TO ORDER

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on July 11, 2005, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Carroll Strange, Greg Carnes, David Cypher, Claudette Moyski, and Richard Hartigan

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: Gary and Mary Horning, Evelyn Boulton, Dave and Debbie Hense, Larry And Lynn Steckroth, Tom Tabaka, David David Verbeke, Jim Maloney, Michael Czop, Rick Chouinard, Marshall Chin, and Andy Boss

MINUTES OF JUNE 6, 2005, ZONING BOARD OF APPEALS MEETING

Carnes moved that the minutes of the June 6, 2005, Zoning Board of Appeals Meeting be approved as presented. (Moyski 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 July 3, 2005, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on July 8, 2005, at 9:00 A.M.

VARIANCE REQUEST

#1 Mike and Catherine Brown, RE: Request for a 57-Foot Width Variance from the Minimum Width Requirement of 200 Feet in Order to Split the Property into the 4 Proposed Parcels, Located at 8497 Allen Road, (TAX CODE # 4704-31-400-016)

Andy Boss, representing Mike and Catherine Brown, requested a 57-foot width variance from the minimum width requirement of 200 feet in order to split the property into the 4 proposed parcels. He stated that proposed Parcel 4 has a width of only 143 feet due to the existing structures on the parent parcel.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Hartigan stated that this was presented to the Tyrone Township Planning Commission and that the Planning Commission had no problem with the statutory right to split the property, but could not grant the fourth split because it did not meet the width requirement of the Zoning Ordinance. In response to Carnes' question, Hartigan answered that at the May 24, 2005 Planning Commission Draft Work Session, Hanoute recommended denial of the request based on the fact that proposed Parcel 4 did not meet the minimum width requirement of 200 feet for the RE Zoning District. He continued that the recommendation was based on the inability to meet the Zoning Ordinance requirements. Hartigan stated that the applicant would need a variance from the Zoning Board of Appeals in order to grant the proposed split. In response to Mrs. Hense's question, Hartigan answered that RE Zoning requires 60,000-square feet, not a 2-acre minimum. In response to Mrs. Hense's question, Hartigan responded that the open space requirements for the

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proposed parcel splits have been meet. Tyrone Township Zoning Administrator George Van Hecke stated that the submitted document from the Livingston County Health Department, dated December 17, 1986, states that the parcel shall not be divided into smaller parts for purposes of developing uses that would require installation of onsite septic systems. Hartigan responded that the letter is dated 1986, before current engineering standards. Hartigan continued that there are state statutes and the Planning Commission has to grant land divisions even though a lot might not be buildable.

PUBLIC COMMENT

Debbie Hense, 6223 Linden Road, presented a memorandum against the granting of the Brown variance signed by: Remy and Tracy Chalifour, 6042 Linden Road; Nancy Posey, 6077 Linden Road; Mike and June Adle, 6089 Linden Road; James and Nancy Maloney, 6099 Linden Road; Jerry Bommarito, 6113 Linden Road; Rollin and Mildred Roe, 6123 Linden Road; Rick and Kathleen Chouinard, 6100 Linden Road; Mile and Julie Tittl, 8341 Linden Road; and Dave and Debbie Hense. The above property owners want the variance denied based on the following: 1) non conformance of the parcel width, 2) no open space allotment on the proposed parcel, 3) lack of a demonstrated hardship (profitability is not a hardship), and 4) run-off issues to adjoining parcels. Rick Chouinard, 6100 Linden Road, stated his opposition for the granting of this variance request, due to the water run-off from the proposed parcels. Jerry Bommarito, 6113 Linden Road, stated concerns with water run-off to surrounding parcels. The Board reviewed the letter, received July 11, 2005, from Melissa Green, 6061 Linden Road and Nancy Posey, 6077 Linden Road, stating no objection to the variance request.

MOTION

Hartigan moved to deny the request by Mike and Catherine Brown for a 57-foot width variance from the minimum width requirement of 200 feet in order to split the property into the 4 proposed parcels, located at 8497 Allen Road, (TAX CODE # 4704-31-400-016), based on the fact that all the criteria of Zoning Ordinance Section 28.03C (Criteria for Granting Variances for Dimensional (Non-Use) Requirements) has not been met. 1) Unreasonable Burden has not been satisfied, strict compliance with the Zoning Ordinance requirement does not prevent this property from being used for its intended purpose, which is residential use. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 28.03C (Criteria for Granting Variances for Dimensional (Non-Use) Requirements)]. (Moyski seconded.) Roll call vote: Hartigan, yes; Moyski, yes; Strange, yes; Carnes, yes; Cypher, yes. The motion carried.

VARIANCE REQUEST

- #2 Tom and Kathy Tabaka, RE: Request for a 5-Foot West Side Yard Setback Variance in Order to Construct a New House, Located on Vacant Property Off Lakeshore Drive west of Carmer Road, (TAX CODE # 4704-09-402-026)

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Tom Tabaka requested a 5-foot west side yard setback variance in order to construct a new house on a non-conforming lot. He stated that the property is 39½-foot wide at lakefront and 50-foot wide at the road. He continued that he is in the process of purchasing the property from Jim and Stacey Trumble. He stated that the proposed house would be 26 by 44 feet in size with an attached deck and a 3-foot walk.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Strange's question, Mr. Tabaka responded that the red flags represent the approximate proposed structure location. In response to Strange's question, Mr. Tabaka responded that he does not have an engineering survey of the property. In response to Strange's question, Mr. Tabaka responded that the 50-foot road frontage and the 39½-foot lakefront measurements were taken from the Masterplan at the Township. Strange stated that the property lines must be clearly be identified. In response to Hartigan's question, Mr. Tabaka answered that it is 41 feet wide at the 145-foot setback from the lakefront. Hartigan stated that if the 10-foot setback is maintained on the east side and the proposed house is 26-foot wide, that would leave 5 feet on the west side. Hartigan added that if the sidewalk stayed flush with the ground it would not count as part of the structure, but if the deck is extended out to meet the sidewalk it becomes part of the structure. Strange stated that, if the walkway was flush to the ground, additional side to side space area could be obtained. In response to Hartigan's question, Mr. Tabaka answered that the 8 foot measurement from the existing garage to the west property line was obtained from a stake in the ground at the northeast corner. Strange stated that moving the house 3 feet and shortening it by 2 feet would bring it into conformance on both sides. Mr. Tabaka stated that the smallest size prefab house is 26-foot wide. Hartigan stated that a prefab could be customized. In response to Mr. Tabaka's question, Strange answered that maintaining 10-foot setbacks on both sides would bring it into conformance. Strange stated lake lots have been identified as non-conforming compared to normal RE Zoning. He continued that 10-foot setbacks are the determined minimum. Carnes stated that by attaching to the existing non-conforming garage, the Board might be able to work through the criteria of unreasonable burden and substantial justice and possibly grant a 2-foot side yard setback variance. Carnes stated that under Zoning Ordinance Section 28.03C (Criteria for Granting Variances for Dimensional (Non-Use) Requirements) all the criteria must be met in order to grant a variance. Strange stated that the lot is a narrow lot but it is not unbuildable. Strange stated a foundation of a structure could be placed wherever it meets the 10-foot side yard setback requirement, on both sides. Tyrone Township Zoning Administrator George Van Hecke stated that there is a minimum structure size of 24 feet and with the minimum 10-foot side yard setback requirements, a variance of 3 feet would be needed. Strange stated that accurate dimensions are needed by the Board, an accurate dimension is needed on the walkside of the house to the property line. In response to Strange's question, Mr. Tabaka answered that it is 13 feet from the property line to the walkway. Hartigan stated that the dimensions do not add up and are not accurate. He continued that a survey of the property is needed. Hartigan stated that if the property is 41 feet wide and there are 10 foot side yard setbacks, this would leave 21 feet for a house. Van Hecke stated that the applicant would need a 3-foot width variance from the minimum structure width of 24 feet to build a 21-foot wide house or a 3-foot side

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yard setback variance to build a 24-foot wide house. Strange made the recommendation to table the request in order to obtain more accurate dimensional information and obtain an accurate survey of the property.

PUBLIC COMMENT

Michael Czop, 10501 Lakeshore Drive, stated his opposition to the variance request because the corner of the proposed house would be 12 feet from the corner of his house, which is 8 feet from the property line. The Board reviewed the letter from Michael and Michele Ostrowski, 10523 Lakeshore Drive, dated July 11, 2005, stating no objections to the granting of the variance request. The Board also reviewed correspondence from James Freeland of the Livingston County Drain Commission, dated July 8, 2005, stating that since this is new construction there will not be any conflict with the operation and maintenance of the pressurized sewer system.

MOTION

Hartigan moved to table the request by Tom and Kathy Tabaka, for a 5-foot west side yard setback variance in order to construct a new house, located on vacant property off Lakeshore Drive west of Carmer Road, (TAX CODE # 4704-09-402-026), in order for the applicant to obtain more accurate dimensional information and obtain an accurate survey of the property. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Schedule of Regulations)]. (Carnes seconded.) The motion carried by voice vote.

VARIANCE REQUEST

- #3 Gary and Mary Horning, RE: Request for a Variance from the Size Requirement of the Lot in Order to Have Livestock, a Variance to Build an Additional Detached Accessory Structure, and a 35-Foot Variance to Allow the Livestock Accessory Building to be Located 65 Feet from the Existing Home, Located at 4015 Bennett Lake Road, (TAX CODE # 4704-04-200-007)

Gary Horning requested a variance from the size requirement of the lot in order to have livestock, a variance to build an additional detached accessory structure, and a 35-foot variance to allow the livestock accessory building to be located 65 feet from the existing home. He stated that the property is RE Zoned and that the property is 1.83 acres. He added that his two neighbors have no objections to the variance request. Mr. Horning submitted pictures showing the stakes for the proposed accessory building.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Tyrone Township Zoning Administrator George Van Hecke stated that a property realignment was done last summer. Strange stated a hardship must be shown in order to grant a variance. Strange suggested attaching an addition to the existing garage. Mr. Horning responded that adding to the existing garage would block off the sidewalk to the front on the one side and on the other side is the fuel tank. In response to Hartigan's question, Mr. Horning answered that the 10 by 14-foot space would be for storage and the 6 by 8-foot space would be for chickens. Hartigan stated that the storage problem could be

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resolved by adding onto the garage and it would not require a variance. Mr. Horning responded that the chickens would be too close to the house. Mrs. Horning responded that by adding onto the existing garage it would take up their backyard and that the proposed location is closer to the woods. In response to Strange's question, George Van Hecke answered that a variance would not be needed to add onto the existing garage. Evelyn Boulton stated that adding onto the garage would be a loss of backyard space. Strange stated that a second accessory structure on the property, creates the problem. Cypher stated that the property is RE Zoned and that the property does not meet the requirements for the RE Zoning. Van Hecke stated that according to Zoning Ordinance Section 21.02B (Accessory Structures Provisions – Number and Yard Locations), RE-zoned lots under 2 acres in size are allowed one attached accessory structure and one detached accessory structure. Hartigan state that the applicant has not been able to meet all the criteria of Zoning Ordinance Section 28.03C (Criteria for Granting Variances for Dimensional (Non-Use) Requirements) which is necessary in order to grant a variance. He continued that Unreasonable Burden has not been satisfied, strict compliance with the Zoning Ordinance requirement does not prevent this property from being used for what its intended purpose is, which is residential use. 2) Substantial Justice has not been met because there isn't any condition burdening the property from what it needs to be used as. 5) There certainly aren't any safety hazard, or nuisances. Carnes stated that all five of the criteria must be met in order to grant a variance and 2 acres are needed for a second accessory building.

PUBLIC COMMENT

None. The Board reviewed the letter from Roger and Ferne Renwick, 3581 W. Shiawassee, dated July 6, 2005, stating no objections to the granting of the variance request.

MOTION

Hartigan moved to table the request by Gary and Mary Horning for a variance from the size requirement of the lot in order to have livestock, a variance to build an additional detached accessory structure, and a 35-foot variance to allow the livestock accessory building to be located 65 feet from the existing home, located at 4015 Bennett Lake Road, (TAX CODE # 4704-04-200-007), in order to give the applicant time to address and meet the criteria of Zoning Ordinance Section 28.03C (Criteria for Granting Variances for Dimensional (Non-Use) Requirements) which is necessary in order to grant a variance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 21.02B (Accessory Structure Provisions – Number and Yard Locations) and 21.28B and 21.28 E (Stables and Animals)]. (Carnes seconded.) The motion carried by voice vote.

VARIANCE REQUEST

- #4 Larry Steckroth, RE: Request for a 25-Foot Rear Yard Setback Variance and a 25-Foot Front Yard Open Space Setback Variance in Order to Convert an Existing Barn into a Primary Residence, Located on Hartland Road (between Center Road and Gordon Road), (TAX CODE # 4704-22-300-015)

Larry Steckroth requested a 25-foot rear yard setback variance and a 25-foot front

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yard open space setback variance in order to convert an existing barn into a primary residence, located on Hartland Road (between Center Road and Gordon Road).

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Hartigan stated that regardless of what way the house faces the property had a front yard on Hartland Road and a front yard running along the private drive. He continued that a rear yard and a side yard are needed. Hartigan stated that he would consider the rear yard to be the south side which is 75 feet from the property line, so a variance is not needed for a 25-foot rear yard setback. In response to Strange's question, Mr. Steckroth answered that an address has not been established for this parcel of property yet. Hartigan stated that this parcel is burdened already by having two front yards. Hartigan stated that according to the original drawing the barn is located within the building envelope. Tyrone Township Zoning Administrator George Van Hecke stated that the building envelope was established for an accessory structure not a primary structure. Hartigan stated the only question is would the applicant be infringing on the front yard setback where the open space occurs on the east side of the property, where he puts the garage on. Mr. Steckroth responded that he would not be infringing on it and that he would be within 35 feet from it and would need a 15-foot variance. Hartigan suggested relocating the open space and not need a variance. He continued that the relocation of the open space could be done by the Planning Commission. Hartigan stated that this would move the building line back slightly, but the applicant is not building over there.

PUBLIC COMMENT

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

MOTION

Hartigan moved to table the request by Larry Steckroth for a 25-foot front yard open space setback variance in order to convert an existing barn into a primary residence, located on Hartland Road (between Center Road and Gordon Road), (TAX CODE # 4704-22-300-015), and recommend that Mr. Steckroth apply to the Planning Commission for relocation of the open space. The Zoning Board has verified that the rear yard is as shown on the drawing by Advantage Civil Engineering, dated January 26, 2003, used for the lot split satisfies the Zoning Ordinance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Schedule of Regulations) and 21.51 (Open Space Design Requirements)]. (Cypher seconded.) The motion carried by voice vote.

VARIANCE REQUEST

#5 Tyrone Woods MHC LLC, RE: Request for a Time Extension for the Off-Premise Sign, Located at 9485 Center Road (Woody's), (TAX CODE # 4704-17-400-006)

Marshall Chin, representing Tyrone Woods MHC LLC requested a time extension for the off-premise sign, located at 9485 Center Road (Woody's). He stated that the sign is needed for directional and not advertising purposes.

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COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Carnes' question, Mr. Chin answered that the sign has been helpful. In response to Strange's question, Lorie Thielen, ZBA Secretary read aloud the original decision, from June 2, 2003, to the Board. Carnes stated that he recalled the applicant originally requesting seven signs and that the Board granted two of the signs and denied five of the signs. In response to Strange's question, Mr. Chin answered that he is only asking for a time extension for the sign at Woody's and that the other sign was never used at 8519 Hogan Road.

PUBLIC COMMENT

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

MOTION

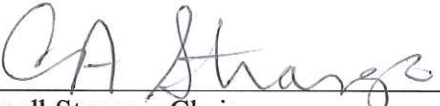
Carnes moved to grant the request by Tyrone Woods MHC LLC for a time extension for the existing 2 by 3-foot off-premise directional sign, located at 9485 Center Road (Woody's), (TAX CODE # 4704-17-400-006), for another two years. If an extension is needed it must be reviewed by the Zoning Board of Appeals by, June 2, 2007. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 27.03A-1 (Other Signs – Permit Required) and 27.07-5 (Off-premise Signs)]. (Cypher seconded.) Roll call vote: Moyski, yes; Hartigan, yes; Cypher, yes; Strange, yes; Carnes, yes. The motion carried.

MISCELLANEOUS BUSINESS

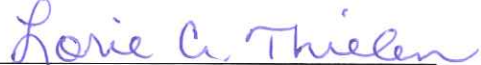
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 1, 2005 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 9:42 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