

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – NOVEMBER 7, 2005**

CALL TO ORDER

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on November 7, 2005, at 7:42 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: Jack Nichols, Emil Klemett, John and Peggy Townsend

MINUTES OF OCTOBER 3, 2005, ZONING BOARD OF APPEALS MEETING

Hartigan moved that the minutes of the October 3, 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 November 2, 2005, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on November 4, 2005, at 9:00 A.M.

VARIANCE REQUEST

#1 Jack Nichols, RE: Request for a Front Yard Location Variance in Order to Locate an Accessory Structure in Front of the Existing House, Located at 12263 Center Road, (TAX CODE # 4704-14-300-034). Also, a Variance to Waive the 5-Day Waiting Period.

Jack Nichols requested a front yard location variance in order to locate an accessory structure in front of the existing house. He stated that one of reasons for a front yard location is due to the location of the septic field. He continued that the Livingston County Building Department told him the septic field is actually located farther back on the property than what was indicated and that a secondary location was on the side of the house. He stated that there is a water problem with water running from the north to the south, next to the house.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Hartigan's question, Mr. Nichols answered that it is 47 feet from the corner of the front porch of the house to the east property line. He continued that there is an 8-foot extension on the porch. In response to Hartigan's question, Mr. Nichols answered that there is a roof on the porch. Hartigan stated that Mr. Nichols is not the builder or original owner of the house. He continued that the original owner did a fine job of minimizing the actual building area on this site by locating the house way in the back of the buildable area. He stated that by definition, a front yard starts at the front of the house and that the further back a house is located the bigger the front yard becomes. Hartigan continued the front yard could be the east property line because it comes off an easement or shared driveway to a cul-de-sac or hammer-head and the house would not have to face

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Center Road. He stated that unfortunately the porch is three feet short of the 50 foot requirement. Hartigan continued he also observed serious storm water problems coming from the north and this is the reason for the pond and that the storm water coming down the west side of the house could end up in the walkout. Hartigan stated he noticed the original open space had been relocated since the lot was split. He continued the west side of the property is wooded and the proposed location for the structure would be somewhat sheltered by the trees in that area, that it is out of the open space, it would not inhibit the problem with drainage, and it would not be in open view. In response to Strange's question, Mr. Nichols answered that his measurement from the porch to the property line is within a foot and that there is a monument marker on the diagonal from north to south. Mr. Nichols stated that the Township had the well location on the west side of the property, but it is actually located between the house and the east side property line. Tyrone Township Zoning Administrator George Van Hecke stated that one of the original requirements was for the house to be 150 feet from the open space in the front yard. He continued it could be interpreted that the front yard could have been the east property line because it comes off an easement or shared driveway to a cul-de-sac or hammer-head, but the porch would be 3 feet into the 50 foot required front yard setback. In response to Carnes' question, Mr. Nichols answered that the proposed structure would not be for commercial use. He continued that he does not manufacture his product on his property, but he has rolled his product out there, when New Orleans was hit by the hurricane. He continued that normally the product is purchased in California and shipped directly to the job.

PUBLIC COMMENT

None. The Board reviewed the letter from Erik Schoenberg, 12273 Center Road, stating his concerns that the proposed building would be used commercially for the applicants business.

MOTION

Hartigan moved to grant the request by Jack Nichols for a front yard location variance in order to locate an accessory structure in front of the existing house, located at 12263 Center Road, (TAX CODE # 4704-14-300-034), based on the following: 1) The property was purchased by the present owner as is and he did not create the severely limiting use of this parcel by the placement of the home in the rear of the parcel (50 feet on the east side could have been the front yard or the home could have been placed further south and the open space left as originally approved on the west and north side). The drainage from the north and on this site is a problem as it drains to the lower walkout of the home. It is being resolved now, but the corrective measures (swales and pond) would place additional restrictions on the use of the land. 2) Granting a variance would allow justice as the owner can use all his land and correct the poor design conditions created by others. The home will be in harmony with the surroundings. 3) The minimum variance is being granted as the structure would be at the farthest side of the front yard. 4) Unusual circumstances are outlined in 1 and 2. 5) No safety or nuisances would be created. Also, grant a variance to waive the 5-day waiting period. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations), 21.02B (Accessory

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Structure Provisions – Number and Yard Locations) and 28.05C (Decisions of the ZBA)]. (Moyski seconded.) Roll call vote: Cypher, yes; Carnes, no; Moyski, yes; Strange, yes; Hartigan, yes. The motion carried.

VARIANCE REQUEST

- #2 Larry Builte Construction, Inc., representing Ryan Farnen, RE: Request for a Front Yard Location Variance in Order to Locate a 10 by 20-Foot Storage Shed on an Existing Slab in Front of the Existing House, Located at 11006 Runyan Lake Road, (TAX CODE # 4704-10-100-029). Also, a Variance to Waive the 5-Day Waiting Period.

Larry Builte Construction, Inc. and Ryan Farnen did not attend tonight's meeting.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Strange stated the request is for a front yard location variance in order to locate a 10 by 20-foot storage shed on an existing slab in front of the existing house. Hartigan stated that the request is for a 10 by 20-foot structure, which is 200 square feet in size, and the existing slab is only 18.3 feet by 8.3 feet, which is 151.89 square feet. Carnes read from the application that the proposed structure would not be expanded beyond the dimensions of the existing concrete slab. Strange stated it looked like the slab was bigger than the existing shed. Hartigan stated that the submitted drawing shows a dotted line for the existing shed, which is smaller than the slab. Carnes stated that it looks like the applicant is trying to improve the situation by pulling it off the lot line. Hartigan stated that the applicant is asking for three variances: a side yard setback variance, a height variance, and a front yard location variance. Carnes stated that a side yard setback variance was not requested. Strange stated discrepancies in the information submitted in the application.

PUBLIC COMMENT

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

MOTION

Hartigan moved to table the request by Ryan Farnen, for a front yard location variance in order to locate a 10 by 20-foot storage shed on an existing slab in front of the existing house, located at 11006 Runyan Lake Road, (TAX CODE # 4704-10-100-029), in order for the applicant to provide additional information. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 21.02B (Accessory Structure Provisions – Number and Yard Locations)]. (Carnes seconded.) The motion carried by voice vote.

VARIANCE REQUEST

- #3 JoAnne and Emil Klemett, RE: Request for a Front Yard Location Variance in Order to Locate an Accessory Structure in Front of the Existing House, Located at 10064 Center Road, (TAX CODE # 4704-21-100-013)

Emil Klemett requested a front yard location variance in order to locate an

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accessory structure in front of the existing house. He stated that he purchased this parcel in July, 2004. He continued that this property is approximately 3 acres. He stated that the propane tank is on the west side. At this time the applicant showed the Board pictures of the property and the existing house. He stated that the proposed pole barn would be off to the northwest corner of the property where there are a lot of woods. He continued that the existing house is approximately 200 feet from the road. He stated that the proposed structure would be out of sight from the road. He continued that the focus of his home and his neighbor's home is to the south and the living areas, dining rooms, are looking to the south. He stated putting an accessory structure to the south of the property would take the aesthetics away from both properties. He continued that it would be natural to locate the structure in the corner of the property and out of sight from the road. He stated that the building would be used for storage.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Strange's question regarding the property to the rear, Mr. Klemett answered there is a natural runoff coming from Runyan Lake going in that direction. He continued that there is a 2-foot ditch to the southeast side of the property, going to his neighbor's property. Strange stated a hardship must be shown related to the property in order to grant a variance. Mr. Klemett responded that he needs the proposed building for storage. Strange stated that he understands the request and trying to maintain the natural rear yard so a building is not back there to interrupt the view, but the intent of the Zoning Ordinance is to keep buildings in the back and not the front for everyone else to look at. Mr. Klemett showed a picture of the proposed location and stated that from the road you would not be able to see the proposed structure. Strange responded the proposed 32 by 40-foot accessory structure would most likely be seen over the existing shrubbery. Hartigan stated that he is unable to legitimately satisfy the criteria of the Zoning Ordinance in order to grant a variance. He continued that the state is very specific and that it is not just Tyrone Township. He stated the first criteria, unreasonable burden, is the hardest to justify. Hartigan read the criteria for granting a variance: 1) Unreasonable Burden: strict compliance with Zoning Ordinance requirements will be unreasonable or unnecessarily burdensome, preventing the use of land for any and all permitted purposes. The demonstration of mere inconvenience is insufficient to justify a variance. Hartigan stated that the proposed structure could be located along the west property line and not affect the applicants view or the neighbors view. Mr. Klemett stated the well is in that direction as well as the propane tank and line. Hartigan stated the proposed structure could be located along the west property line behind the back plane of the house and beyond the utilities. Hartigan stated that he cannot satisfy criteria #1) unreasonable burden and #4) extraordinary circumstances. In response to Cypher's question, Hartigan answered that the parcel of property to the west, that the church owns, is zoned FR. Hartigan stated that the church is allowed in a residential area under special use. Cypher stated that he remembers open space designation from when the parcels were split, but does not remember the location of the open space. Tyrone Township Zoning Administrator George Van Hecke looked in the records and found that open space is designated along the entire west side of parcel B, 42 feet in width. Hartigan stated that the pole barn would have to be at least 62 feet from the west side property line because of the 42 foot open space requirement plus

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the 20 foot setback requirement. In response to Moyski's question, Cypher answered that the open space interferes with the proposed structure location. In response to Mr. Townsend's question, Hartigan answered that the intent of open space was to preserve the rural character of the community by keeping space natural. Cypher stated that the applicant could go to the Tyrone Township Planning Commission to have the open space relocated. Strange stated that relocating the open space would not guarantee that the Board would grant the variance request. Cypher stated that the only action that the Board could take would be to deny or table the variance request.

PUBLIC COMMENT

John Townsend, 10082 Center Road, stated it makes more sense aesthetically to put the proposed structure in the northwest corner of the property. He continued it would be less pleasing to block the view to the south and place the proposed structure behind the house. No written correspondence was received prior to tonight's meeting.

MOTION


Cypher moved to table the request by JoAnne and Emil Klemett for a front yard location variance in order to locate an accessory structure in front of the existing house, located at 10064 Center Road, (TAX CODE # 4704-21-100-013), in order for the applicant to reevaluate the request based on the findings and possible relocation of the designated open space. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 21.02B (Accessory Structure Provisions – Number and Yard Locations)]. (Carnes seconded.) The motion carried by voice vote (3-2).

MISCELLANEOUS BUSINESS

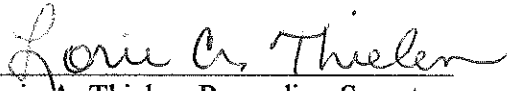
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, December 5, 2005 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:49 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