

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – FEBRUARY 6, 2006**

CALL TO ORDER

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on February 6, 2006, 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: Jim Stenz, Chris Mackin, Jim and Sylvia Corcoran, and Cathy Riesterer

MINUTES OF DECEMBER 5, 2005, ZONING BOARD OF APPEALS MEETING

Carnes moved that the minutes of the December 5, 2005, Zoning Board of Appeals Meeting be approved as presented. (Hartigan 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 January 29, 2006, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on February 3, 2006, at 9:00 A.M.

VARIANCE REQUEST

- #1 James and Sylvia Corcoran, RE: Request for a Variance to Allow the Applicant to Split His Lot and also Allow the Private Road to Serve 26-Lots, Located at 13100 Old Oaks, (TAX CODE # 4704-36-100-025).

Cathy Riesterer, speaking on behalf of James and Sylvia Corcoran, requested a variance to allow the applicant to split his lot and also allow the private road to serve 26-lots. She stated that Zoning Ordinance 36 – Section 24.03F (Private Road Design Standards) states that a maximum of twenty-four (24) lots or dwelling units may be served by a single means of access. She continued that the applicant would like to split their property, creating one additional lot, however, the existing road currently serves twenty-five (25) lots and the split would create twenty-six (26) lots on the road. She stated that the road, which is in good condition, has been in existence for many years and predates the current Zoning Ordinance. She continued the original lots were large and that multiple parcels have been allowed to split over the years. She stated that the most recent split went over the maximum requirement and did not obtain a variance to do so. She continued that the applicant has no means of obtaining the split without obtaining a variance to the Zoning Ordinance. She stated denying the variance would unreasonably burden this property by placing a restriction that has not been imposed on other similarly situated lots. She continued that this is one of the last large parcels and that the applicant should be allowed to do what others have already done. She stated that with the current Zoning Ordinance road agreements are needed, but when this road was put in there were no regulations. She continued that the road is in good condition and it complies with ASHTO Standards. She stated that this parcel is near the end of the roadway, off Denton Hill Road, so there would

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not be increased wear and tear on the road or increased traffic volume, it would have a minimal impact to the road. She continued that in regards to health and safety there would be little additional burden. She stated that Mr. Corcoran received a letter, dated January 3, 2006, from the Hartland Deerfield Tyrone Fire Authority stating that Old Oaks Drive is an adequate service drive to provide emergency and non-emergency access to the parcel in question; it has adequate width and can withstand axle weights of emergency apparatus. It further states that in the fire marshals opinion, no health or safety issues would exist in respect to the parcel and the roadway. She continued that this situation was not self-created, the issue did not arise because of anything the applicant has done, it has occurred because of Zoning Ordinance changes and parcel splits by other property owners. She stated that they are not aware of any variances being granted for the roadway and are not sure of the reason why there are twenty-five (25) parcels currently on this road. She continued that granting this variance would do substantial justice by allowing the applicant the same property rights afforded to other lot owners. She stated that the applicant should not be denied the right to split their property simply because they sought their splits later in time or because of a lot limit that has not been enforced.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Carnes' question, Tyrone Township Zoning Administrator George Van Hecke answered that he is not quite sure how twenty-five lots were allowed on this road. He continued that some of the lots were reconfigured or realigned and it was possibly an oversight. Carnes questioned how it was determined that twenty-four (24) lots was the maximum number of lots allowed on a private road with a maximum one thousand two hundred (1,200) foot length, when the Zoning Ordinance was being drafted. Hartigan responded that the prime purposes considered were safety, health and welfare to the public. He continued that the planners found, based on other standards, that single entrance roads with cul-de-sacs create a possible hazard as events could occur on the road which would block the allowance of emergency vehicles to serve other residences within that road. He stated that when the planners worked on revising the private road and shared driveway standards they recommended the maximum length and the maximum number of lots. Hartigan stated that this road is nonconforming because it exceeds the one thousand two hundred (1,200) foot length. He continued that one of the concerns of the Planning Commission is that when you put in one of these cul-de-sac private roads and a certain number of lots are allowed to split, you need to have a limit on the length of the road and a limit on the number of lots. Hartigan stated that the planners recommended the maximum length for a private road and the maximum number of lots allowable to prevent splits from getting out of hand and creating problems with the road. Moyski stated it would be possible to have 50 lots on this road, if everyone were allowed to split their property. Carnes stated granting this variance would set precedence. In response to Carnes' question, Sylvia Corcoran answered that the property was purchased 13 years ago and there have been several splits by other property owners since then. She continued that they were unaware of the limit to the number of lots allowed on the road or they would have split the property years ago. Strange stated he understands that this is a difficult situation, but the Board is dealing with the Zoning Ordinance which was established to try to prevent

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what is occurring on this road. Riesterer stated that the Board has the ability to look at each variance request separately and that a parcel further down the road would have more safety issues. Strange stated the Board would set precedence for future possible splits if a variance is granted. Hartigan stated he understands the concerns and reasoning, however, the Planning Commissions objectives have been the primary issues of safety, health and welfare of the community. He continued with an example for shared driveway standards - they are allowed up to four parcels per driveway and when you exceed the standard with more parcels, the design standards are not capable of handling the additional traffic. Hartigan stated the same applies for a private road – it is designed for a certain amount of traffic and beyond the traffic load it is questionable whether it becomes a safety and health issue.

PUBLIC COMMENT

None. The Board reviewed the letter from Joyce Wilson, 13160 Old Oak Drive, stating her objection to the variance request by James and Sylvia Corcoran.

MOTION

Carnes moved to deny the request by James and Sylvia Corcoran for a variance to allow the applicant to split his lot and also allow the private road to serve 26-lots, located at 13100 Old Oaks, (TAX CODE # 4704-36-100-025), based on the inability to find a legitimate reason to go against the Zoning Ordinance, for the number of lots allowed on a private road. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 24.03F (Private Road Design Standards – Maximum Length, Cul-De-Sac Turnarounds)]. (Hartigan seconded.) Roll call vote: Hartigan, yes; Carnes, yes; Cypher, yes; Strange, yes; Moyski, yes. The motion carried.

VARIANCE REQUEST

- #2 Jim Stenz and Christen Velliky, RE: Request for a 25-Foot- 10.5-Inch Front Yard Setback Variance in Order to Build an Addition to the Front of the Existing House, Located at 7241 Surfwood Drive, (TAX CODE # 4704-30-202-014).

Chris Mackin, architect speaking on behalf of Jim Stenz and Christen Velliky, requested a 25-foot- 10.5-inch front yard setback variance in order to build an addition to the front of the existing house. He stated that the shaded area of the site plan is the existing house and the footprint. He continued that the north side is a 2-car garage, which is 20½ feet from the road right-of-way and is not conforming to the 50-foot front setback. He stated the applicant is in need of storage space and that the current garage is small, barely fits two cars. He continued that they didn't want to just add a third bay on the garage and decided to break the two up. He stated that the east elevation or side elevation shows the two car garage to the right and to the left a one bay garage for storage. He stated that the neighbor to the west, two doors down, has a similar setback as this property. He continued that the neighbor three houses down and four houses are also similar in front setbacks. He stated that they did not want to come out as far as the existing

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garage, and not increase the non-conformity that is already there.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Hartigan stated that this was very nicely done as well as the information submitted. He continued that the application is not complete for extraordinary circumstances and health, safety and environmental concerns. Hartigan stated that the scaled down drawing is 1/16 not 1/18 scale. In response to Hartigan's question, Mr. Mackin answered that the R-3 references the building type, not the zoning. Hartigan stated that the house is in non-conformance with the front yard and also the west side yard is nonconforming because it requires 20 feet in R-1 Zoning. Tyrone Township Zoning Administrator George Van Hecke responded that the 10 foot side yard is platted, grandfathered in, for this subdivision under the nonconforming section of the Zoning Ordinance. Hartigan stated that a variance would also be needed for a building with the height of 35 feet, since the maximum height allowed is 30 feet. Hartigan continued that the area of the lot, although it is platted, is not in conformance with the schedule because it is not 30,000 square feet. Mr. Mackin responded that there is a misprint on the drawing and the building from the average grade to the mid roof is 29-feet 3-inches in height. Hartigan stated that the skylight at the top is not considered mid roof of the standard gable. Mr. Mackin stated that a cupola is not counted in the height. Hartigan responded that this is more than a cupola. Hartigan stated that the lot width **does not** meet the standard Ordinance. Hartigan suggested keeping the height down so the applicant does not add another nonconformity and working within the other restraining dimensions and setbacks and not expanding or going beyond the existing nonconformity of the front yard setback. In response to Carnes' question, Mr. Mackin answered that the house to the west has a front yard setback close to where they need to be. In response to Carnes' question, Mr. Mackin answered that the house to the east is similar to this property. Carnes stated that the majority of the houses in this area are closer to the road than what the applicant is asking for. In response to Strange's question, Mr. Mackin answered that there are no health, safety or environmental concerns as a result of this variance request. Carnes stated that this is one of the older houses built on the lake and with the addition and changes it will improve electrical and bring it up to code. Carnes added that this would be an improvement of what is there. Mr. Mackin stated that in regard to extraordinary circumstances, the location of the existing house is due to the buildable envelope being quite small and irregular, so the ability to meet the minimum design standards for R-1 Zoning would be quite tough. In response to Strange's question, Mr. Mackin answered that the existing house is 900 square feet with an unfinished walkout.

PUBLIC COMMENT

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

MOTION

Carnes moved to grant the request by Jim Stenz and Christen Velliky for a 25-foot- 10.5-inch front yard setback variance in order to build an addition to the front of the existing house, located at 7241 Surfwood Drive, (TAX CODE # 4704-30-202-014), based on the fact that they have an unreasonable burden with the house being rather small for the

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area and the lot has some extreme restrictions for expansion of the house. The substantial justice is that they are actually making some extreme good improvements to the house that is over forty years old and does need some upgrading, which brings it up to code on the health and safety issues. They are keeping away from the lake which will have a low impact on the environment. Extraordinary circumstances would be taking the non-conforming situation and not making it worse, because they are asking for less than what the nonconforming, existing structure is already at. Also, there is no reason to not grant this variance. The applicant must keep the height within the height restriction of the Zoning Ordinance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 26.03A (Nonconforming Structures)]. (Hartigan seconded.) Roll call vote: Moyski, yes; Cypher, yes; Carnes, yes; Hartigan, yes; Strange, yes. The motion carried.


MISCELLANEOUS BUSINESS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, March 6, 2006 at 7:30 p.m.

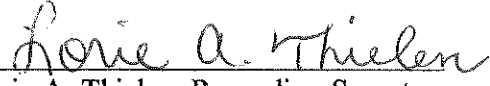
ADJOURNMENT

The Board approved the proposed Zoning Board of Appeals meeting dates from April 2006 to March 2007.

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