

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – JUNE 19, 2006**

**CALL TO ORDER**

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on June 19, 2006, at 7:30 p.m., at the Tyrone Township Hall.

**ROLL CALL**

Present: Commissioners Carroll Strange, Greg Carnes, David Cypher, Claudette Moyski, and Mark Meisel

Guests: Jim Stenz, Cristen Velliky, Steve & Pamela Hett, Sue Gill, Chris Macklin, and Greg Witten

**MINUTES OF AUGUST 1, 2006, ZONING BOARD OF APPEALS MEETING**

Moyski moved that the minutes of the April 3, 2006, 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 June 11, 2006, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 11, 2006, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 James Stenz and Cristen Velliky, RE: Request for a 29-foot 6-inch front yard setback variance, a 4-foot rear yard setback variance, a 1-foot 7.5-inch height variance and a variance to waive the 5-day waiting period, in order to rebuild a new house on the existing foundation and include the addition that was granted at the Feb. 6, 2006 ZBA meeting, located at 7241 Surfwood Drive, (TAX CODE # 4704-30-202-014).

James Stenz requested a 29-foot 6-inch front yard setback variance, a 4-foot rear yard setback variance, a 1-foot 7.5-inch height variance and a variance to waive the 5-day waiting period, in order to rebuild a new house on the existing foundation and include the addition that was granted at the Feb. 6, 2006 ZBA meeting. He continued that the existing non-conforming structure that was located at 7241 Surfwood Drive had been 100% demolished, except for the foundation. He stated they would like to get the variances in order to construct a new house on the existing foundation, with the addition of a small amount of new foundation. He continued that the Tyrone Township Zoning Board of Appeals granted them a 25-foot 10-inch front yard setback variance for an addition to the non-conforming structure at 7241 Surfwood Drive. He stated that as presented to the Board, some demolition of the existing structure would be required, but, the assumption made by all parties was that greater than 50% of the existing structure would remain in order to comply with Zoning Ordinance 36 – Section 26.03A (Non-Conforming Structures). He continued that through the course of the final planning process and alignment of construction trades, it became clear to them that in order to erect a safe, sturdy new structure, the existing house would need to be completely torn down (due in

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 2 – JUNE 19, 2006**

most part to analysis of the existing floor structure and the extent of water damage to the existing garage). He stated that because virtually 100% of the existing structure would need to be removed (exclusive of the foundation), Section 26.03A no longer applied to the granted variance. He continued that they were not aware of this deviation and proceeded with demolition of the existing structure on May 23, 2006. He added that on the same date the Township Zoning Administrator was made aware of the demolition of the structure, located at 7241 Surfwood Drive, and had scheduled an inspection of the site on May 23, 2006. He stated that during the inspection on May 23, 2006, George Van Hecke informed him that the non-conforming structure portion of the Zoning Ordinance Section 26.03 no longer applied because 100% of the existing structure had been removed. He added Van Hecke informed him that the new situation required another review by the Zoning Board of Appeals and the establishment of new setback variances to satisfy Zoning Ordinance Section 20.01, in order to construct the new home on the existing foundation. He stated they would like to follow the same plans that they submitted back in Feb. and not move the structure at all, just rebuild on the existing foundation and include the addition as part of the new house. He restated the variances he is requesting: a 29-foot 6-inch front yard setback variance to rebuild on the existing foundation, a 4-foot rear yard setback variance for the corner of an upper and lower deck, and a 1-foot 7.5-inch height variance which is measured from midpoint between peak of clerestory and eave of main roof to average grade at house. He continued there is Unreasonable Burden based upon: 1) The setback requirements - the lot has some extreme restrictions for expansion of the house: A) Because of the grade of the lot, a lower level garage is not achievable, which creates the burden of placing a garage on the main level. B) Because of the position of the septic field, which was approved as appropriate for the house addition by the Livingston County Health Department on April 26, 2006, any new structure can not extend any further to the east in the setback envelope without violating the septic field setback requirement. C) In considering these extreme conditions, a new house design and size would not meet the minimum square footage requirement for Lake Shannon bylaws, 1800 square feet, and be smaller than the house that was removed, 1718 square foot finished and unfinished. 2) The creation of a small footprint house would make it substandard in appearance to the other houses in the neighborhood and could impact re-sale values of this house and neighboring houses. 3) A significant amount of planning, scheduling and cost has been incurred to design a new, unique house that is appropriate for the site (as approved by the ZBA at the Feb. 6, 2006 meeting) and acceptable to the Lake Shannon Architectural Control Committee. There would be a significant amount of hardship induced on the property owner to create a new, conforming design given the extreme restrictions. He stated that the Substantial Justice is based upon: 1) They are actually making some extremely 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, including the removal of a mold risk from water damage and an unstable/inadequate floor joist system. 2) By creating a new, unique design, they are supplementing the aesthetic value of the neighborhood which has a neutral or positive impact on the values of the other homes in the neighborhood. Also, the clerestory is considered a critical element of the new design and while it creates a

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 3 – JUNE 19, 2006**

non-conforming height situation, its size and shape has minimal impact on sight lines as adjacent homes are as tall or taller. In addition, the clerestory is open to the main second floor below, therefore, it does not create any space that can not be accessed by existing emergency equipment. He continued the Extraordinary Circumstances would be taking the previous non-conforming situation and not making it any worse because they are asking to rebuild on the existing foundation footprint. He stated in regards to Health, Safety and Environmental Concerns: 1) It is anticipated that there are no safety hazards or nuisances created by the new structure as it would be built to modern code requirements and it would be placed on the lot in the same location as the previous structure. 2) By maintaining the present front yard setback, they are not encroaching on the lake which will have a low impact on the environment. 3) The Livingston County Health Department has already reviewed the planned construction, conducted a septic field review and a soil test, and has determined that the existing septic field is acceptable for the proposed structure and its placement on the lot. They also have approved the relocation of the holding tank as indicated on the plot plan. Mr. Stenz continued there was an error on the submitted drawing, indicating a request for a 10-foot side yard setback variance, thinking there was a 20-foot side yard setback requirement, but Lake Shannon is grandfathered in with 10-foot side yard setbacks. At this time, Mr. Stenz submitted a handout, a 2003 OrthoPhoto from the Livingston County GIS, showing 11 developed parcels on Surfwood Drive, and of the 11 parcels only 1 conforms to the 50-foot minimum front yard setback requirement and only 2 conform to the 50-foot minimum rear yard setback requirement.

**COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS**

In response to Strange's question, Mr. Stenz answered that on the OrthoPhoto the black line indicates the existing foundation, the green line indicates the proposed new structure, the beige line represents the 29.5-foot variance and the light blue line represents the lake setback variance. In response to Strange's Question, Mr. Stenz answered that the septic field is not shown exactly on the drawing. He continued the Livingston County Health Department gave approval based on the submitted plans and there is room for the active and reserve fields. Strange stated, in reference to the approval of the previous variance request, it was subject to the conditions that were presented to the Board at the time and that even though the Board approved it, it has no lingering merits to what this is other than the rest of the applicant's suggestions and definitions in the application. In response to Meisel's question, Mr. Stenz answered that the relocation of the holding tank would move within the 5-foot offset requirement, to the east. In response to Meisel's question, Mr. Stenz answered that he was not the original owner of the house and that they purchased the house in Sept. 2004. Carnes stated he had a conversation with the applicant and was told that when they got into the demolition they realized that the building material that was heavily water damaged and it couldn't be assessed at the time of the original variance request. He continued that the applicant was worried about doing the project properly and didn't think about the variances.

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 4 – JUNE 19, 2006**

**PUBLIC COMMENT**

Sue Gill, 7315 Surfwood Drive, stated her support for the granting of the variance requests by James Stenz and Cristen Velliky. No written correspondence was received prior to tonight's meeting.

**MOTION**

Meisel moved to grant the request by James Stenz and Cristen Velliky for a 29-foot 6-inch front yard setback variance, a 4-foot rear yard setback variance, a 1-foot 7.5-inch height variance and a variance to waive the 5-day waiting period, in order to rebuild a new house on the existing foundation, located at 7241 Surfwood Drive, (TAX CODE: 4704-30-202-014), as depicted on the drawings received by Tyrone Township and designated as 2005-013, as presented. The Unreasonable Burden is the topography of the lot, especially to the left side, east side, when facing the water, which makes relocating the structure difficult. Also, the prior existing non-conforming residence was granted a variance for a similar modification by the ZBA on February 6, 2006, which was unachievable as a result of determination that the originally proposed modifications would result in an unsafe flooring structure and were further complicated by existing water damage. The septic field is located such that moving the structure to the east would violate the septic field setback requirements. The home design is also governed by the Lake Shannon Architectural Control Committee. Demolition of the existing foundation and creation of a new foundation would be much more than a mere inconvenience. Substantial Justice is achieved as a result of reconstructing the previous home on the original foundation despite it being non-conforming, resulting in construction standards conformance inclusive of conformance of current building codes, and removal of a mold risk from the existing water damage. The inadequate floor joist system is also resolved. The ability to reuse the existing foundation preserves the pre-existing character of the neighborhood. The height variance is solely related to the clerestory and does not result in an access issue for fire fighting equipment, the intent of the height requirement in the Zoning Ordinance. With exception of the requested 4-foot rear yard setback variance, the requested variances do not increase the variances needed to construct the requested home on the pre-existing foundation, thus the minimum variances required are being allowed. The Extraordinary Circumstances are, despite violating Section 26.03B of the Tyrone Township Zoning Ordinance, the proposed structure will be located on the existing foundation from the prior non-conforming structure, for which its placement is not self created, thus achieving the intended result of not increasing the non-conforming situation in that regard. By allowing the requested 4-foot rear yard setback variance, the proposed structure maintains symmetry, does not unreasonably encroach the waterfront, and is able to be placed in the only reasonable location as a result of other non-conforming setbacks and the septic field location. Health and Safety issues are addressed in that the Livingston County Health Department has reviewed the proposed construction site, has conducted a septic field review and a soil test, and has determined the existing septic field is acceptable for the proposed structure and its placement on the lot. The relocation of the holding tank has also been approved. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 5 – JUNE 19, 2006**

20.01 (Schedule of Regulations), 20.02Z (Footnote to Schedule of Regulations) and 28.05C (Decisions of the ZBA)]. (Cypher seconded.) Roll call vote: Meisel, yes; Cypher, yes; Carnes, yes; Moyski, yes; Strange, yes. The motion carried.

**VARIANCE REQUEST**

#2 Stephen F. and Pamela D. Hett, RE: Request for a 20-foot front yard setback variance from the right-of-way of a proposed new shared driveway, located at 12643 Holtforth Road, (TAX CODE # 4704-35-400-008).

Stephen Hett stated he received a preliminary parcel split of his property by the Township Planning Commission on May 23, 2006, conditional upon receiving a 20-foot front yard setback variance from the right-of-way of the proposed new shared driveway by the Zoning Board of Appeals, in order to meet the 50-foot front yard setback requirement. He continued that the Unreasonable Burden is that the house is recognized as a historical house, which was built around 1832, but the house does not meet the current setback requirements. He stated Health, Safety and Environmental Concerns would be that the new shared driveway for Parent Parcel "A", Parcel "B" and Parcel "C" is a safer driveway which meets the Livingston County Road Commission site distance requirements for these parcels. He added that the old driveway does not meet the Livingston County Road Commission site distance requirements, but it was grandfathered in because the original structure was built around 1832. He concluded that the new driveway is safer for all impacted and that a portion of the old driveway would be removed.

**COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS**

Meisel gave a summary of the Planning Commission comments as follows: There was a discussion several times about the property and working through the realignments and one of the last issues that the Planning Commission had was regarding the entrance conditions. He continued that the Livingston County Road Commission had approved only one access point and the Parent Parcel will be required to use the new driveway although the house setback from the driveway will be non-conforming. He stated that this forced the situation into a single entrance point and a location. He continued that when you look at the location there are two options: 1) to create a rather tight bend when you come in and provide additional distance from the home, or 2) create two nice radiuses, for emergency vehicles, to provide good ingress/egress. He stated when weighing the pros and cons of having a little more setback on a currently non-conforming type structure versus a health and safety, ingress/egress issue - the Planning Commission was of the opinion that it might be best to go before the Zoning Board of Appeals and request a variance and utilize the improved ingress/egress for safety equipment as the reason to do that. He continued that the Planning Commission made a motion to recommend approval, creating the three parcels as shown in the site drawing revised May 2, 2006, conditional upon a variance from the ZBA for the residential driveway setback and receipt of complete legal descriptions and open space maintenance agreements. Meisel concluded that the legal descriptions have been received on the drawing dated May 31, 2006. In response to Meisel's question, Mr.

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 6 – JUNE 19, 2006**

Hett responded that the shared driveway maintenance agreement is already on file. In response to Cypher's question regarding the 99 feet from the centerline of the road to the property line, Mr. Hett answered that the Livingston County Road Commission set the 99 foot measurement because further west there is a hill and you lose the site distance towards the west. He continued that the Livingston County Road Commission wrote a recommendation letter stating this is the best location for the shared driveway. In response to Strange's question, Mr. Hett answered that the distance from the home to the right-of-way is 83 feet.

**PUBLIC COMMENT**

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

**MOTION**

Meisel moved to grant the request by Stephen F. and Pamela D. Hett, located at 12643 Holtforth Road, (TAX CODE # 4704-35-400-008), for a 20-foot front yard setback variance from the right-of-way of the proposed new shared driveway as depicted on the drawing from Real Estate Consulting Engineers Inc., dated May 31, 2006. The Unreasonable Burden on the current house is a recognized historic home constructed in approximately 1832. The existing historic home does not meet current setback requirements. Allowing this variance preserves the historic structure while reasonably allowing for legal development of the rest of the property. Substantial Justice is provided in that the existing historic home is preserved while allowing the property owners to legally split their property. The variance requested results from Planning Commission review and the resulting recognition that the new shared driveway as proposed provides the best ingress/egress and site distance solution despite being non-conforming. The variance requested is the minimum variance required to be in the spirit of the Zoning Ordinance regulations and to secure the public's safety and welfare. Extraordinary Circumstances exist in that the current home is a recognized historic home and the proposed new shared driveway preserves the home while providing safe ingress and egress for the public and emergency vehicles. No safety hazard or nuisance exists. The applicant's variance request is believed to best resolve a potential safety hazard by improving the ingress and egress to parcels B & C for fire protection and other emergency equipment access versus an alternate solution for driveway placement which fully conforms with the Zoning Ordinance. The intent of maximizing public health and safety is achieved with this variance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 26.03B (Nonconforming Structures)]. (Moyski seconded.) Roll call vote: Carnes, yes; Moyski, yes; Meisel, yes; Strange, yes; Cypher, yes. The motion carried.

**MISCELLANEOUS BUSINESS**

Meisel informed the Board that beginning July 1, 2006, the Michigan Zoning Enabling Act, P.A. 110 of 2006, requires that public notices must be mailed to all property owners within 300 feet of the site not less than 15 days before the hearing and the notice must be published in a paper of general circulation. This change will affect our deadline for

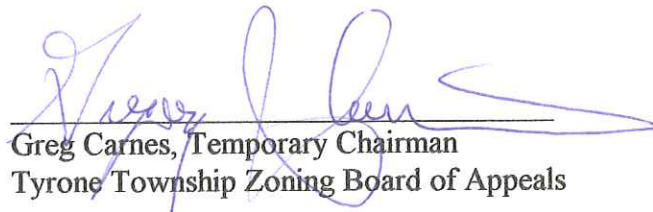
**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES - PAGE 7 – JUNE 19, 2006**

accepting applications by one week. We will need an additional week in order to comply with the 15 day minimum requirement for public notices to be mailed to property owners within 300 feet of the site.

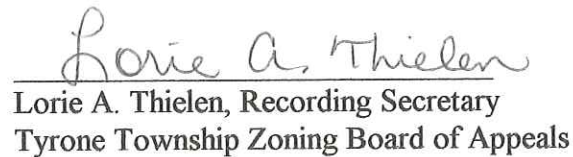
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 14, 2006 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 9:17 p.m.



Greg Carnes, Temporary 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