

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – SEPTEMBER 11, 2006**

CALL TO ORDER

Temporary Chairman Greg Carnes called the Zoning Board of Appeals Meeting to order on September 11, 2006, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, David Cypher, Claudette Moyski, Mark Meisel, and Debi Smulsky

Guests: Michael and Jennifer Czop, Walt Czop, and Stacey Trumble

MINUTES OF JUNE 19 , 2006, ZONING BOARD OF APPEALS MEETING

Meisel moved that the minutes of the June 19, 2006, 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 August 27, 2006, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on August 23, 2006, at 9:00 A.M.

VARIANCE REQUEST

- #1 Michael and Jennifer Czop, RE: Request for a Variance to Waive the 5-Day Waiting Period, a 1-Foot 9-Inch West Side Yard Setback Variance, a 10-Inch East Side Yard Setback Variance and a Variance to Rebuild a New House on the Existing Foundation, Located at 10501 Lakeshore Drive, (TAX CODE # 4704-09-402-025). Also, to Allow the Rotation of the Existing Shed on the Property per the Variance Granted at the April 3, 2006 Zoning Board of Appeals Meeting.

Michael Czop stated that on April 3, 2006, he and his wife came before the Zoning Board of Appeals to request a variance to build an addition to the existing structure. He continued that they were granted an east side yard setback variance and a west side yard for the addition of a proposed porch to the rear of the existing house and a proposed addition to the front of the existing house, conditional upon the preexisting non-conformance not increasing with the improvements made to the property. He stated that after investigating and going through the different plans, they would have to replace the foundation underneath the existing structure. He continued the costs involved with adding on an addition and replacing the existing foundation would be practically offset by building a new house on the existing property and removing the current structure. He stated that they are now asking to build a new house on the same footprint of the existing home and encroach no closer than they currently encroach. He continued they want to build a new house on the same footprint that was approved at the April 3, 2006 ZBA meeting, which is basically a 24-foot wide structure by 76-feet long.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated that this is not a remodel anymore but a new construction, with basically the same dimensions as the existing structure. Mr. Czop added that they learned

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from the April 3, 2006 ZBA meeting not to encroach further into the setbacks than what is already existing. He continued they are asking to have the opportunity to start all over from the same footprint plus the variances that were approved by the Board. In response to Meisel's question, Mr. Czop answered that they discovered the existing foundation is cracked, it's bowed, it was improperly built in the first place and there is no rered through the block, all of which led to the conclusion that the existing foundation needed to be removed. He continued that as you walk around the house you can see where the side of the wall of the house and the block come down at an adverse point, instead of being stacked straight and if you pulled the house off the blocks the blocks would fall down. In response to Meisel's question, Mr. Czop answered that this condition is not repairable. He stated that lifting the house would cost approximately \$10,000.00 and they would have to go underneath it to put in all new piers, while it would cost less to remove the existing structure. He added that building a new house would cost about the same as the original remodel, so they felt it would be safer and more valuable in the long run to have a new structure. In response to Meisel's question, Mr. Czop answered that they considered narrowing the foundation by 2-feet 7-inches to bring the new structure into compliance, but it would result in a house that was less than 22 feet wide which is functionally difficult to work with. He added that it is narrow enough at the proposed 24 foot width and that any narrower would result in a bowling alley looking house. In response to Meisel's question, Mr. Czop answered that he has formal engineered plans drawn up and that the engineering work is on hold pending the decision of this meeting. In response to Meisel's question regarding Mr. Czop's request to waive the 5-day waiting period, Mr. Czop answered that he no longer needs to waive the waiting period because he would need time to remove fixtures from the existing structure before tearing it down and the engineering work is still 2 to 3 weeks from being complete. In response to Carnes' question, Mr. Czop answered that the house was built around 1956 and that various additions to the east, to the lake and to the road, had been made to the original house. He continued that as you walk thru the house you can actually see sags where the additions were added to the original structure. He added that this became an issue for carpenters when they were considering remodeling because of the question of structural integrity. In response to Cypher's question, Mr. Czop answered that rotating the existing shed was a suggestion made by Carnes at the April 3, 2006 ZBA meeting. He continued that rotating the shed would make it a less non-conforming condition. Meisel stated it gives the Board a leveraging point because it shows the proposed situation is less nonconforming than what currently exists. Carnes stated it is an improvement of a nonconforming situation.

PUBLIC COMMENT

The Board reviewed the letter from James Freeland, Livingston County Drain Commission, dated September 1, 2006, stating that the site plans do not conflict with the septic tank and sanitary lines.

Stacey Trumble, Tax ID: 4704-09-402-026, vacant property owner to the east, stated opposition to the granting of the Czop variance requests. She added that her and her husband had a written objection to the last variance request on April 3, 2006. She stated it is her understanding that when more than 50% of a structure is demolished it is considered new construction when built and that is the reason for the variance request. She continued that in order for a variance to be granted a hardship must be proven and that

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financial reasons are not included as a burden. She stated there is a financial burden here but it is not a reason in which to grant a variance. She continued that her and her husband own a vacant narrow lot and they hope to build there some day and she believes if they came to the Board for a variance on a new construction, there would be no reason for the Board to give it to them. She stated that if the Board did, they would be more encroaching on the Czop side and they are encroaching on the Trumble side and that is the whole purpose of the Zoning Ordinance at the time to prevent that. She continued that unless a precedent is going to be set where someday when they would like to build it would be granted to them, they would object to the variance requests of the Czops. Meisel stated that he is not trying to diminish Mrs. Trumbles concern, because he appreciates it greatly, but questioned what she saw as a large encumbrance to the proposed structure being 10 inches closer to her parcel. Mrs. Trumble answered that it is not a large encumbrance but she does see it as an encumbrance and as a precedent and that if she came to the Board for 10 inches in the future - then we're working on a foot each way then and it is not a lot but it is enough. She continued that this is not going to help their property value because they have an empty lot right now and when they go to build, if they are going to comply, they will be in a bowling alley type house, with the same restrictions, as well. She stated it will be difficult to work with but this is the land they own. Mr. Czop stated that the Trumbles have an existing nonconforming structure on their property. Mrs. Trumble responded they are not asking to build or to change that existing nonconforming structure. Meisel stated that it appears with the way the lots are platted and the way that the existing dwelling units are placed on the parcels, they are all offset just a little bit to the west so most people encroach a little bit because everything is offset just slightly. In response to Meisel's question whether Mrs. Trumble has concerns with the rest of the immediate neighborhood, which is an established neighborhood of homes where people are trying to update them and turn some of them into more modern full time homes that are generally crowded in there, Mrs. Trumble answered that the neighborhood is very crowded and that you can not change what exists already, but you can work to comply from the present and the future and to preserve the Zoning Ordinance as is written. She stated that if this variance is granted then she would ask that the precedent set be used in granting her a variance, which defeats the purpose of the Zoning Ordinance. Meisel stated that he can see her point but not necessarily. He continued the challenge that this Township faces in this area is that these lots and parcels were platted prior to the adoption of the current Zoning Ordinance so there is an attempt and language in the Zoning Ordinance that is trying to address, support, appease and accommodate the existing structures and try to maintain some consistency with the neighboring residences and parcel dwelling units, which is a big challenge. He continued that people generally build from a single story cottage to a longer structure, then they go up and it is tight quarters and tough to do, as you indicated it would be tough on yourself. He stated he thinks it would be an encumbrance for Mr. and Mrs. Trumble to build a 22 foot wide house. Meisel continued that part of the challenge is trying to adhere to the intent of the Zoning Ordinance which is to accommodate where possible things existing prior to the adoption of the current Zoning Ordinance.

MOTION

Meisel moved to approve the request of Michael and Jennifer Czop for a 1 foot 9 inch west side yard setback variance to section 20.01, a 10 inch east side yard setback

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variance to section 20.01, and a variance to rebuild a new house on the existing foundation (section 26.03.C) located at 10501 Lakeshore Drive, Tax Code 4704-09-402-025. This approval is conditional upon the appellant's agreement to rotate the existing shed per the variance request granted during the April 3, 2006 ZBA meeting. The requested variances are consistent with the variances approved by this board during our April 3, 2006 meeting.

Unreasonable Burden exists in that the appellant is required to remove the existing foundation and construct a new one at considerable cost, which is more than a mere inconvenience, to address previously unknown existing foundation issues. Developing a new proposal for this site would further that burden by increasing cost and delaying the project and would still be limited by the platted lot dimensions as determined by the Plat of Runyan Lake Heights, dedicated in 1928, which include a 50 foot road frontage and a 39 ½ foot lake frontage. A minimum lot width of 60 feet is required for new lots within the LK-1 district. This lot narrows as it approaches Runyan Lake, limited the useable lot width in compliance with the zoning ordinance. The proposed use complies with the zoning ordinance section 7.00 Intent "The intent of this district is to permit the use of these areas in a manner consistent with the Master Plan and existing adjacent development," and the Master Plan "It is intended that existing homes surrounding the lake should be accommodated and permitted to be maintained by the Township's land use regulations." The surrounding residences are similar to that proposed by the appellant, are on similar sized lots, and consistent with the developmental intent of the area. Also, the prior existing non-conforming residence was granted these same variances, except for the removal of the existing structure, during the ZBA meeting of April 3, 2006.

Substantial justice is achieved as a result of reconstructing the previous home in the original footprint despite it being non-conforming, resulting in construction standards conformance inclusive of conformance of current building codes. The ability to retain the existing foundation location preserves the existing character of the neighborhood. The proposed home will have greater curb appeal and is consistent and harmonious with the other improved dwelling units in the immediate area.

The requested variances do not increase the variances needed to construct the proposed home on the existing foundation, thus the minimum variances required are being granted and the existing nonconforming conditions are not being increased. The rotation of the shed reduces its current nonconformance thereby improving the current situation.

The Extraordinary Circumstances are, despite violating section 26.03B of the Tyrone Township zoning ordinance, the nonconforming portion of the proposed structure will be located within the existing foundation footprint from the prior non-conforming structure, for which its placement was not self created, thus achieving the intent of not increasing the current non-conforming situation. The subject lot being further improved was platted in 1928. The lot width is no less than 10 feet nonconforming at its widest point when compared to the current zoning district developmental standards. The requested variances allow this lot to be developed consistent with its current use, in harmony with the surrounding improved dwellings, and to the betterment of the value of the property and the neighborhood. Narrowing of at least a portion of the north facing foundation would be required to bring this lot into full conformance and would result in either an unsymmetrical structure or the redrawing of all developed plans. This is unreasonable and may not be structurally possible. Creating a new foundation 2 foot 7 inches narrower would provide no measurable benefit to the surrounding lots and may adversely impact the foundation

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stability of adjacent lot 23. The existing foundation is being demolished to address structural deficiencies which prevents remodeling of the current structure.

No Health and Safety issues are present or created by approving the requested variances. The zoning ordinance intent of a 20 foot minimum separation between dwelling units is achieved with this configuration as a result of the dwelling placement on lot 23.

The request to waive the 5 day waiting period is denied since work will not begin immediately and is therefore unnecessary. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations), 26.03B (Nonconforming Structures), and 28.05C (Decisions of the ZBA)]. (Moyski seconded.) Roll call vote: Moyski, yes; Meisel, yes; Cypher, yes; Carnes, yes; Smulsky, yes. The motion carried.

MISCELLANEOUS BUSINESS

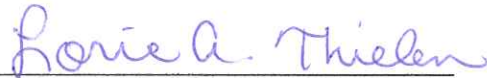
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, October 2, 2006 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:37 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