

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – NOVEMBER 13, 2006**

CALL TO ORDER

Chairman Carroll Strange called the Zoning Board of Appeals Meeting to order on November 13, 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: Robert and Susan McDonald, Dan and Donna Carlson and Debi Smulsky

MINUTES OF SEPTEMBER 11, 2006 ZONING BOARD OF APPEALS MEETING

Moyski moved that the minutes of the September 11, 2006, Zoning Board of Appeals Meeting be approved as presented. (Meisel 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 October 29, 2006, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on October 25, 2006, at 9:00 A.M.

VARIANCE REQUEST

#1 Robert F. and Susan D. McDonald, RE: Request for a Front Yard Location Variance in Order to Build a New Proposed Accessory Structure in Front of the Existing House, Located at 8245 Hartland Road, (TAX CODE # 4704-21-400-019).

Robert McDonald requested a variance for a front yard location variance in order to build a new proposed accessory structure in front of the existing house. He stated the low wetlands, the geothermal field to the rear and side of his house and high power lines to the north side of the property as reasons for the proposed location. He continued that the ground is low and marshy, due to the wetlands, and it would be hard to locate the proposed structure anywhere else.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Strange's question, Mr. McDonald answered that the property is 10.02 acres and the house is 950 feet from the road. He continued the proposed location would be behind the tree line that would not be wet and marshy all the time. He added that, because of the tree line, the proposed structure would not be seen from the road in the summer and would partially be seen from the road in the winter. In response to Strange's question, Mr. McDonald answered it is approximately 200 feet from the rear of the house to the rear property line and the geothermal field goes back approximately 150 feet. In response to Strange's question, Mr. McDonald responded that there are tubes under the ground that cover the whole back area behind the house and that you would not want to place anything over them, in case they would need to be accessed in the future. In response to Strange's question, Mr. McDonald answered that the proposed structure

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would be a 30 by 40-foot pole barn that would eventually have a concrete floor. In response to Carnes' question, Mr. McDonald responded that he has a closed loop geothermal system. In response to Cypher's question, Mr. McDonald answered that the house is a custom built modular house that is 6 years old. He continued that he put the basement in, he put the septic in, he put the geothermal system in and he built the garage. In response to Moyski's question, Mr. McDonald answered that the house location was decided on because of the hill for a walk-out basement, it was the high point of the property and a good location for the septic field and reserve field. He continued that the geothermal system works best in damp ground and behind the house it is marshy and wet. In response to Moyski's question, Mr. McDonald answered that he did not have a topographical drawing of the low lands between the house and the power lines. In response to Cypher's question, Mr. McDonald answered he did not have elevations of the property. In response to Strange's question, Mr. McDonald answered that the west property line goes just inside of the tree line and the north property line goes underneath the power lines. In response to Strange's question, Mr. McDonald answered that the mature trees are on the adjacent property. Strange stated the Board is trying to determine reasons in which to grant the variance request, as well as why a location can not be found for a 30 by 40-foot accessory structure on 10 acres of property. Mr. McDonald responded that the property is wet in the low areas and there are power lines to the north side of the property. He continued that you can not build under the power lines or close to them and there is a 66-foot wide easement. In response to Carnes' question, Mr. McDonald answered it is 30 to 35 feet from the south lot line to the house and it is 60 feet from the proposed structure to the south lot line. In response to Cypher's question, Mr. McDonald responded there is not enough room to build on the south side of the house. In response to Meisel's question, Mr. McDonald answered that the south lot line runs at a slight angle and it is wider at the back of the property and narrower at the front of the property. Mr. McDonald clarified that the proposed structure would be located on the north side of the driveway. In response to Meisel's question, Mr. McDonald answered it is approximately a 7 to 8 foot drop from the top of the driveway to the proposed structure. In response to Meisel's question, Mr. McDonald answered he does not know of another location for the proposed structure, if a variance were not granted. (At this time the Board reviewed the submitted drawing with Mr. McDonald for clarification, discussed the low land areas and discussed the easement.) In response to Carnes' question, Mr. McDonald answered it is approximately 80 feet from the north side of the house to the centerline of the power lines. Cypher stated the submitted drawing shows 132 feet from the house to the north property line and there is a 66 foot easement there. Meisel stated his view, as a Planning Commission member, is that there are a couple of intents in this particular area relative to restriction of the location of accessory structures, one of which was the size of the property and another the rear yard made it the least noticeable location potentially. He continued that with this particular case the proposed structure would be 760 feet from the road and there are tree lines providing as much screening as one could ask for. In response to Strange's question, Mr. McDonald answered that his property is 340 feet wide and that he does not have a way to split his property. Meisel stated when you look at front yard accessory structures in FR and RE you must be 250 feet from a primary structure and have

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a 150 foot setback from a road right-of-way. He continued that the proposed structure would be 160 feet from the house. Meisel read Zoning Ordinance No. 36 – Section 21.02G [Front Yard Accessory Structures: Accessory structures may be allowed in front yards in FR and RE Districts only on parcels of twenty (20) or more acres in area with at least four hundred sixty six (466) feet of road frontage. Accessory buildings shall be at least two hundred fifty (250) feet from the primary structure and one hundred fifty (150) feet set back from the road right-of-way]. Strange stated there are specific reasons why the Zoning Ordinance was established, one of which was not to line the roads with buildings in front of houses. He continued the McDonalds look from their front window into the backyard of the barn next door. In response to Strange's question, Mr. McDonald answered that the horseshoe stakes are the corners of the proposed structure. Strange stated the Board must uphold the integrity of the Zoning Ordinance. Carnes stated the unreasonable burden would be the mechanics to the house and topography of the property. Meisel added the low lands that flow water at various times of the year, the power lines and the 132-foot easement. He continued to the south the applicant basically does not have a setback – the south lot line is angled, going from 35 feet versus 60 feet closer to the road. Carnes stated that substantial justice can not be self-created. Meisel stated that clearly the easement to the north is not self-created, but it could be argued that if you chose a geothermal type system and looked at locations on the property, the back yard is probably where it would have to go given the other restrictions of the property, so that is self-created. Cypher stated he knows people with geothermal systems that are on 2-acre lots. Cypher continued that there are 10 acres to build an accessory structure and driving down Hartland Road there are no barns in the front yards, except by the lakes. Cypher stated he was on the Planning Commission when this Ordinance was established and it was the intent not to have accessory structures in front of the houses – to keep the natural beauty of the area. Cypher added that allowing an accessory structure in the front yard would set a precedent on Hartland Road. Carnes stated that all 5 criteria must be met in order to grant a variance. Cypher stated a certified survey is needed showing the exact location of the septic field and the reserve field, dimensions of the house to the property lines, the exact location of the well, the exact location of the geothermal field and the dimensions of the proposed accessory structure to the property lines. In response to Cypher's question, Mr. McDonald answered that the proposed structure would be a pole barn with a metal roof and metal siding. Cypher stated this is one more reason to locate the structure in the back. Cypher continued that if something happens to the tree line the pole barn would be out in the open. Carnes stated that a variance would not be needed if the proposed structure were located behind the face of the garage. Cypher stated that we are guessing at dimensions. Strange stated exact dimensions are a determining factor. Meisel stated the challenge is locating the proposed structure in the front yard, where it is not suppose to be, and setting a precedence or allowing something that is not suppose to be there, also by allowing one you open up the door for allowing another. Meisel continued the question then becomes why did someone get a variance and why then did someone else not get their variance. Meisel suggested tabling this appeal to allow the applicant time to get additional information. Strange suggested the applicant get an engineered certified survey, detailed location of the geothermal field, septic field and reserve field, lot lines, dimensions

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to structures, dimensions to the easement. Meisel suggested the applicant get his latest mortgage survey with the information requested by the Board. He also suggested that the applicant list the locations where the structure could not be located and reasons why it could not be located there. Meisel stated that the Board is not convinced this is the only location for the proposed structure, it might be the most convenient location but not the only location. Cypher suggested that the applicant make the proposed structure aesthetically pleasing and tie it in more with the look of the existing house, if the structure were to be located in the front yard. In response to Cypher's question, Mr. McDonald answered that the proposed structures eave height would be 12 feet. Cypher stated the proposed structure would be higher than the existing house. Mr. McDonald responded that the house is on the hill and would be higher than the proposed structure. Mr. McDonald stated that he would like to have his variance request tabled so he can explore his options.

PUBLIC COMMENT

Dan and Donna Carlson, 8248 Hartland Road, stated support for the granting of the McDonald variance request. No written correspondence was received prior to tonight's meeting.

MOTION

Meisel moved to table the request by Robert F. and Susan D. McDonald for a front yard location variance in order to build a new proposed accessory structure in front of the existing house, located at 8245 Hartland Road, for up to 90 days in order to give the applicant time to acquire and resubmit additional information as requested by the Board. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 21.02B (Accessory Structure Provisions – Number and Yard Locations)]. (Carnes seconded.) The motion carried by voice vote.

MISCELLANEOUS BUSINESS


The Board reviewed the "Conflict of Interest" section of the Zoning Board of Appeals By-laws. Mark Meisel submitted the new "Conflict of Interest" section that the Planning Commission will be adopting for their by-laws. The Board reviewed the submission, made minor changes to it and will vote on the revised version during the next Zoning Board of Appeals meeting.


The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, December 4, 2006 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 9:24 p.m.

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Greg Carnes, Vice 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