

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – SEPTEMBER 10, 2007**

**CALL TO ORDER**

Vice Chairman Greg Carnes called the Zoning Board of Appeals Meeting to order on September 10, 2007, at 7:30 p.m., at the Tyrone Township Hall.

**ROLL CALL**

Present: Commissioners Greg Carnes, David Cypher, Claudette Moyski, Debi Smulsky, and Maureen Leaske

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: George Rizik, Jim Sporer, Don Bunka, Dan Bates, James and R. Soldan, Mark and Wendy Whalen, Mark Meisel, and Township Supervisor Andrew Schmidt

**MINUTES OF AUGUST 6, 2007, ZONING BOARD OF APPEALS MEETING**

Moyski moved that the minutes of the August 6, 2007, Zoning Board of Appeals Meeting be approved as presented. (Smulsky 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 26, 2007, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on August 23, 2007, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 Ray Hicks, RE: Request for an Interpretation of what Constitutes a Rear Yard for the Development of Unit 7 and Unit 8, and an Interpretation of the 1 to 4 (1:4) Width-to-Depth Ratio for the Development of Unit 6, Located on Vacant Property at 10287 Carmer Road, (TAX CODE # 4704-10-100-031)

Jim Sporer, representing Ray Hicks, requested an interpretation of what constitutes a rear yard for the development of Unit 7 and Unit 8, and an interpretation of the 1 to 4 (1:4) width-to-depth ratio for the development of Unit 6. He stated that Units 7 and 8 do not have lake frontage and Section 7.04B of the Zoning Ordinance requires the lake side of the lot to be the rear yard. He continued it was the recommendation of the Tyrone Township Board to come before the Tyrone Township Zoning Board of Appeals for an interpretation of the rear yard definition. He stated his contention is that since the units do not have lake frontage the rear yard is interpreted by the opposite of the access, or the front yard, which on Units 7 and 8 is a shared private drive coming off of Carmer Road. He added that the rear yard would be the opposite, which would back up onto Runyan Lake Point. He continued that they imposed a 50-foot setback on Runyan Lake Point and the front yard would be the 35-foot setback off of the shared private drive. He stated the second interpretation of the Zoning Ordinance has to do with Unit 6. He stated Unit 6 is one of 8 proposed units in the site condominium development with lake frontage and the largest unit in the development with 2.61 acres. He continued that a MDEQ confirmed wetland delineation revealed a regulated wetland area over the middle and southern portions of Unit 6, which would require a 50-foot setback from the edge of any

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wetland according to Section 20.02Z of the Zoning Ordinance. He stated that in order to provide a reasonable building area and meet all other setback requirements, the unit was extended beyond the wetlands and will exceed the 1 to 4 ratio requirement. He added that Unit 6 has a width at Runyan Lake Point (the north side) of about 180 feet, making the width-to-depth ratio 1 to 6. He continued that Unit 6 will be served by a shared private drive from Carmer Road which will provide access to the east side of the unit. He stated that relief from Zoning Ordinance 36 - Section 20.02N (1:4 width-to-depth ratio) is also requested. He added that Unit 6 is consistent with a number of lots on Runyan Lake Point. He stated the correct interpretation of the Zoning Ordinance is that the Ordinance reads width-to-depth ratio of 1 to 4 and the lot line definition is the access lot line (which is the east property line), therefore the depth of the lot is 180 feet and the width is 700+ feet. He continued the interpretation does not apply because of the way the width-to-depth ratio reads. He added that they feel this is an acceptable lot given the location of it, the floodplain, the wetlands and the access point. He stated the final site plan was approved by the Tyrone Township Planning Commission on May 22, 2007. He continued that it then went to the Tyrone Township Board for their approval, but was sent to the Zoning Board of Appeals for an interpretation of these two items.

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

In response to Carnes question, Mr. Sporer responded that they are not asking the Zoning Board of Appeals for a variance but for an interpretation of the Zoning Ordinance. Carnes restated to the Board that the applicant is asking the Board to interpret what is in the Zoning Ordinance. Tyrone Township Supervisor Andrew Schmidt stated to the Board that the applicant in fact needs a variance. Schmidt continued that there is nothing wrong with what the applicant is asking to do, but the applicant needs a variance for the width-to-depth ratio for the development of Unit 6 and a variance for the lake side of the lot to be the rear yard for Units 7 and 8. Schmidt stated that if the variances are granted by the Zoning Board of Appeals, the applicant would then go back to the Township Board for final approval. Carnes stated he does not understand why the applicant is not asking for a variance and is asking for only an interpretation. Mr. Sporer responded if it is the Township Board's position that the interpretation needs a variance then they would like to get a variance. Carnes stated that a variance could not be granted because it was not asked for and was not published in the paper as a variance request but an interpretation only. In response to Cypher's question, Tyrone Township Zoning Administrator George Van Hecke answered that he did not know the date stamped on the drawing which was approved by the Planning Commission. Cypher stated that from the notes he read, there may be a newer dated drawing that the Board approved in August and that the drawing submitted to the ZBA is dated February 13, 2007. Cypher continued that notes and other items were added to the drawing and he wants to confirm that this drawing has all of the notes and comments that were changed from that drawing. Carnes stated that this drawing shows final site plan on it. In response to Moyski's question, Mr. Sporer answered that length and width of the lot, as well as the building location were driven by the presence of the designated wetlands and the floodplain at the lakeside of the lot, forcing the building site north of that point. He continued that the plans changed from 14 units down to 8 units, none of which have access to Runyan Lake Point. He added that the 8 units are

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deeper, have plenty of building area, and are out of the floodplain. In response to Moyski's question, Mr. Sporer answered that Runyan Lake Point has been taken out of the equation for any access to the units. He continued that access for Units 5, 6, 7 would be off the private drive and Unit 8 would be off Carmer Road, according to the final approved site plan and the Livingston County Road Commission. In response to Moyski's question, Mr. Sporer answered that Unit 4 would have access by the private drive and that a shared private drive could not serve more than four units. In response to Moyski's question, Mr. Sporer responded that the LCRC and the Township Ordinance has dictated that the access would be Carmer Road for Unit 8. Moyski stated that for Unit 8, the rear yard is actually the side yard. Mr. Sporer answered that they imposed a 50 foot side yard where they only need to provide 16 feet. In response to Moyski's question, George Van Hecke answered that Unit 8 is a corner lot that has two front yards, and with access off Carmer Road a 35-foot setback is needed, as well as 35 feet off the shared private driveway, but the house could be orientated in any way they want. In response to Moyski's question, Mr. Sporer answered that the wetland area was included in the 1 to 4 ratio. Sporer continued that Unit 6 would be accessing the private drive. Van Hecke stated that according to the Zoning Ordinance for LK-1 the water is the rear yard, but normally where you access the property is considered the front. He continued that because the Ordinance says the rear is the water side, it forces an interpretation for this configuration of the lot. In response to Moyski's question, Mr. Sporer answered the ratio would be about 1 to 1 if the wetlands were eliminated from the property. In response to Cypher's question, Van Hecke answered there is plenty of open space and the requirement for the open space has been meet. Cypher stated a concern for Unit 7, because Unit 8 will be accessed off of Carmer Road and there is nothing the Board can do to mandate that Unit 8 faces the shared private drive coming into the other lots, so Unit 8 might want the front yard to be facing Carmer Road, which makes the building envelope of Unit 7 looking at the back of a house within 10 feet of the property line. Van Hecke stated that there is nothing in the Zoning Ordinance that says you must orient your house on a lot any particular way, only that you designate a front yard, a rear yard and side yards. Van Hecke continued that people generally consider lakefront the front yard, but it is called the rear yard in the Zoning Ordinance. Cypher stated that Unit 8 has no lake access or privileges, so basically this is a lot off of Carmer Road. Mr. Sporer stated the LK-1 district allows lots as narrow as 60 feet by 110 feet or ¼ acre. Mr. Sporer added that both Unit 7 and 8 are about 1½ acres each, which exceeds the minimum lot size in the LK-1 district, and allows large buildable areas to work with. Cypher stated that should the Board approve this, you can not tell people where to situate a house in the buildable area. Cypher continued that if the Board requires larger open space between them, then at least one house would not back up on top of another house. He stated that we are using the advantages of the LK-1 district in the overall layout of the land, but yet we are also not supposed to look at the LK-1 requirements because the units are not really in the LK-1 district. Cypher questioned if we can have the Zoning Ordinance of two different districts on one lot and he thinks that is what the Board is being asked to do. Sporer stated they are asking for the LK-1 standards, which applies to all the lots. Carnes, Cypher, Moyski and Smulsky unanimously responded that it does not apply to Units 7 and 8 because they do not have lake access. Van Hecke responded this is the predicament they have because of the very unique situation. Smulsky stated Units 1, 2, 5

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and 6 have lake access and Units 3, 4, 7 and 8 have no lake access and no privileges to the lake. Smulsky questioned if there are any LK-1 lots that do not have lake access or lake privileges. James Soldan, 10489 Runyan Lake Point responded that all the lots on Runyan Lake have access one way or the other, either by easement or direct lake access, except for proposed Units 3, 4, 7 and 8. Van Hecke stated the property was developed this way because the association did not want all the units on the lake. Mr. Soldan responded the four units do not meet the size requirement so the association does not want them to have lake access. Van Hecke responded there is nothing in the LK-1 Zoning that states it has to have lakefront. He continued there are existing lots on Runyan Lake that do not have the rear yard as the lake front. Mr. Soldan responded they were there before the new LK-1 Zoning went into effect. Van Hecke stated that the Hick's development was started before the LK-1 Zoning was actually adopted. At this time a lengthy discussion between Van Hecke and Mr. Soldan took place, followed by George Rizik going through the Zoning Ordinances for clarification. Mr. Rizik then stated his interpretation of the front lot line for the following units: on Unit 8 the front lot line is Carmer Road – making the rear lot line the west side – and only designates 10 feet for the rear setback which would be wrong, on Units 4, 6 and 7 the front lot line is on the shared private drive. Leaske stated that if the front lot line for Unit 4 is the shared private drive then the rear yard would only have a 10 foot setback. Mr. Rizik responded that the building envelope could be changed for Unit 4 to make a 50 foot rear yard setback. Mr. Rizik continued that the rear yard for Unit 6 has the conflict because two different sections of the Ordinance state different locations for the rear lot line. Carnes stated that clearly Unit 6 would be in the LK-1 district. Carnes stated that other than the 1:4 width-to-depth ratio, the Board has interpreted what constitutes a rear yard versus a front yard, other than Unit 6. Mr. Rizik stated that a variance could be granted with conditions. Carnes stated the Board needs to clarify the rear yard for Unit 6. Cypher stated a 50 foot setback has been designated on three of the four sides for Unit 6. Carnes stated that by defining the front and rear yards a variance would not be needed. Van Hecke stated there is no place in the Zoning Ordinance that states you have to define the front and rear yards. He continued that on a corner lot you can choose what you want to use for your access and you could face your house off the other direction and have a side entrance garage. At this time, a lengthy discussion took place regarding the access roads, the driveway locations and the placement of houses on the lots. Mr. Rizik stated they could add 35 more feet on the west side in order to have a 50 foot setback. Carnes stated that the 1:4 width-to-depth ratio needs to be clarified. Mr. Rizik stated by defining the front and rear yard location, it would then determine the side yards. In response to Leaske's question, Mr. Rizik answered that on Unit 6 you would enter from the private drive and the proposed house would face the lake. In response to Leaske's question, Mr. Soldan answered that the front yard should be defined from the access of the road, with the rear yard facing the lake. Mr. Soldan continued that the house should face east and west, not north and south.

**PUBLIC COMMENT**

The Board reviewed the documentation submitted by Mark and Chris Meisel, 11010 Runyan Lake Point, dated September 5, 2007, stating support for the granting of a variance to the 1 to 4 (1:4) width-to-depth ratio for the development of proposed Unit 6.

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James Soldan, 10489 Runyan Lake Point, stated his objection to the Hicks request. He continued that variances need to be granted and the applicant has only asked for an interpretation of the Zoning Ordinance. He stated the Zoning Board of Appeals should not be able to grant variances based on Mr. Hicks application, but the Board could give an interpretation only. He continued the 1 to 4 (1:4) width-to-depth ratio is a state statute.

**MOTION**

Moyski gave the following the interpretations for the development of Unit 6, Unit 7 and Unit 8, which are located on vacant property at 10287 Carmer Road, (TAX CODE # 4704-10-100-031): Unit 6 is determined to have the front yard off the private drive, which is the east side of the property, and a rear yard on the west side of the property; Unit 7 is determined to have the front yard off the private drive which is the south side of the property, and a rear yard on the north side of the property; and Unit 8 is determined to have the front yard off Carmer Road which is the east side of the property, and a rear yard on the west side of the property. Given the above interpretations of the Zoning Ordinance, there is not a 1 to 4 (1:4) width-to-depth ratio for Unit 6. This interpretation is based on the submitted drawing which is dated February 13, 2007. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 7.04B (General Requirements for LK-1 Uses – Yards and Setbacks) and 20.02N (Footnotes to Schedule of Regulations)]. (Leaske seconded.) Roll call vote: Leaske, yes; Smulsky, yes; Carnes, yes; Cypher, yes; Moyski, yes. The motion carried.

**VARIANCE REQUEST**

- #2 Danny E. and Georgina A. Bates, RE: Request for an 8-Foot Front Yard Setback Variance and a 15-Foot East Side Yard Setback Variance for an Addition to the Existing Attached Garage, Located at 12242 Denton View Drive, (TAX CODE # 4704-11-101-044)

Danny Bates requested an 8-foot front yard setback variance and a 15-foot east side yard setback variance for an addition to the existing attached garage. He stated that his existing garage is only 20 by 20-feet and awkward to get around in it. He continued that a permanent easement has been granted by his neighbor.

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

In response to Moyski's question, Mr. Bates responded that the easement is a conservation easement and that no buildings would be located in the easement. He continued that a drainage ditch runs down through the easement. Cypher clarified that the easement is still the neighbor's property and Mr. Bates has usage of it. Moyski stated a problem with the 8-foot front yard setback variance because of how much property is there. Mr. Bates responded that there is still 50 feet to the road. Mr. Bates explained that the existing garage is 20 by 20-feet and that the steps come up 4 feet, so he really only has 16 feet to work with. He continued that the rear yard is so wet that a building could not be located in the back because it would flood. Moyski stated that if the driveway were reoriented there would not be a problem getting into the garage. She continued that there are 220 feet on the side that is not built upon. Moyski stated this is self-created because of

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the location of the house on the lot. Cypher suggested that the applicant reduce the request for an 8 foot front yard setback. Cypher stated that the average garage size is 24 by 24 feet and that 30 feet is pushing the envelope to the extreme. Carnes stated that the applicant could add 2 feet and not need a front yard setback variance. Cypher stated that a 2-foot variance would be reasonable because a 24 foot garage would fit most vehicles depth wise. Cypher continued that the applicant could extend the back of the garage out further and not need a variance. Mr. Bates responded that he could not do this because the air conditioning unit is there and the furnace comes out there. Cypher stated that these could be moved. Cypher added that there are requirements under the Zoning Ordinance that the Board must show unreasonable burden in order to grant a variance. Carnes stated that the minimum variance would be needed to satisfy one of the 5 criteria needed to grant a variance. Carnes stated the burden would be the garage being only 20 feet and that the standard size for a garage is 24 feet. Cypher stated that the applicant could deepen the depth of the garage by creating an alcove where the mechanical equipment is and not disturb it. Mr. Bates stated that you would be able to tell the garage was added to. Cypher stated that you would only know the garage was added to from the back not from the front. Cypher stated he would be willing to consider a 24 or 26 foot garage maximum. He continued a 4-foot variance would allow the applicant to have a 26 by 35-foot garage. Mr. Bates stated that the stairs take up 4 feet. In response to Cypher's question, Mr. Bates answered that because of the stairs he only has a 16 foot depth to the garage.

**PUBLIC COMMENT**

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

**MOTION**

Smulsky moved to grant the request by Danny E. and Georgina A. Bates, 12242 Denton View Drive, (TAX CODE # 4704-11-101-044), for a 4-foot front yard setback variance and a 15-foot east side yard setback variance for an addition to the existing attached garage, which will extend to the property line and abut up to the 25-foot unbuildable conservation easement, creating a unique circumstance. This conforms to the intent of the Zoning Ordinance, will not obstruct the view for any neighbors, the front yard situation was not self-created, and it does not change the essential character of the neighborhood. The hardship is due to the location of the existing house and the front property line. This would allow for a 26 by 35-foot garage, which is a reasonable width for a garage. [Ref. Tyrone Township Zoning Ordinance No. 36 - Section 20.01 (Schedule of Regulations)]. (Moyski seconded.) Roll call vote: Moyski, yes; Cypher, yes; Smulsky, yes; Carnes, yes; Leaske, yes. The motion carried.

**VARIANCE REQUEST**

- #3 Mark and Wendy Whalen, 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 10338 Aspen Valley Drive, (TAX CODE # 4704-11-200-033)

Mark Whalen requested a front yard location variance in order to build a new

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proposed accessory structure in front of the existing house. He stated the proposed garage would be 30 by 40-feet and would not be visible to the neighbors. He continued that the larger garage is needed to restore old cars and as a place to store cars. He stated that there are severe elevation changes, water problems and drainage issues on the property. He stated the back side of the property has a tile field, reserve field and 40 to 60-foot Aspens located there. He continued that it would be very costly to remove the trees.

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

In response to Carnes' question, Mr. Whalen answered it would be 35 feet between the edge of the house and the proposed new accessory structure. Carnes suggested the applicant slide the proposed structure back and locate it in the side yard as opposed to the front yard location. Mr. Whalen responded that moving the proposed structure back would require bringing in a lot of fill dirt and many trees would have to be cut down. Mr. Whalen added that the proposed location is the only flat area in which to locate the proposed structure and a pad is already located there. In response to Moyski's question, Mr. Whalen answered that there are no structures on the existing pad and that it is used for parking. In response to Cypher's question, Van Hecke answered that there is a limit of one accessory structure on less than 2 acres in RE zoning, but this property has a total 11.9 acres with the two acres combined. Mr. Whalen stated that you can not see the house from the road and most of the property is not buildable. In response to Cypher's question, Mr. Whalen answered that the house faces the west to Aspen Valley Drive and there is a 66 foot access to the road. In response to Smulsky's question, Mr. Whalen answered that the house is located on the southeast corner of the property. He continued it is approximately 10 feet from the property line to the driveway. In response to Moyski's question, Van Hecke answered the issue is the location of the proposed structure would be closer to the road than the existing house. In response to Cypher's question, Mr. Whalen answered that the proposed accessory structure would be 450 feet to the actual road. He continued it would be too hard to show the slope of the property with pictures.

**PUBLIC COMMENT**

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

**MOTION**

Cypher moved to grant the request by Mark and Wendy Whalen for a front yard location variance in order to build a new proposed accessory structure in front of the existing house, located at 10338 Aspen Valley Drive, (TAX CODE # 4704-11-200-033), due to the topography of the property, the location of the septic tank and drain tile field. The distance is over 400 feet to the road, and this location of the proposed structure should not be seen by any adjacent property owners. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 2102B (Accessory Structure Provisions – Number and Yard Locations)]. (Moyski seconded.) Roll call vote: Cypher, yes; Smulsky, yes; Moyski, yes; Carnes, yes; Leasky, yes. The motion carried.

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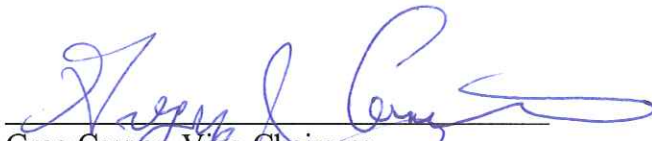
**MISCELLANEOUS BUSINESS**

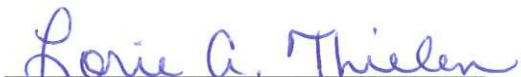
Election of Officers: The Board acknowledged the letter from Zoning Board of Appeals Chairperson Carroll Strange stating his resignation from the Zoning Board of Appeals. According to the Tyrone Township Zoning Board of Appeals Bylaws, should the office of the chairperson become vacant, the vice chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of the vice chairperson for the unexpired term. Vice Chairperson Gregory Carnes accepted the office of the Zoning Board of Appeals Chairperson. Nominations for vice chairperson took place. Claudette Moyski nominated David Cypher for the office of Vice Chairperson and he accepted the nomination. Debi Smulski nominated Mark Meisel for the office of Vice Chairperson and he declined the nomination. No other nominations were offered. Voting took place: The Board unanimously voted David Cypher as the Vice Chairperson by voice vote.

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, October 1, 2007 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 9:59 p.m.

  
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Greg Carnes, Vice-Chairman  
Tyrone Township Zoning Board of Appeals

  
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Lorie A. Thielen, Recording Secretary  
Tyrone Township Zoning Board of Appeals

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Tyrone Township Clerk  
Tyrone Township Zoning Administrator  
Tyrone Township Zoning Board of Appeals Commissioners