

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – NOVEMBER 12, 2007**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on November 12, 2007, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, David Cypher, Claudette Moyski, Debi Smulsky, and Mark Meisel
Other: Tyrone Township Zoning Administrator George Van Hecke
Guests: Jonathan Chapel

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 28, 2007, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on October 24, 2007, at 9:00 A.M.

VARIANCE REQUEST

#1 Jonathan and Brooke Chapel, RE: Request for a 10-Foot Rear Yard Setback Variance from the Water's Edge in Order to Build a New Attached Deck to the Rear of the House Located at 7485 Ore Knob Ct., (TAX CODE # 4704-30-103-003)

Jonathan Chapel requested a 10-foot rear yard setback variance from the water's edge in order to build a new attached deck to the rear of his house. He stated that his builder did a scaled drawing from the proposed new deck to the water. He continued that when looking at the land survey drawing, he found that the distance from the existing deck to the water was off by 18 feet. He stated that he called the land survey company and was told that due to the odd shape of the lot the measurements were possibly taken at an angle that they could not explain. He continued he is here because the new proposed deck is 42 feet from the water instead of the required 50 feet needed according to the Zoning Ordinance. He stated that he might only need an 8 foot variance instead of a 10 foot variance but wanted to make sure he was covered in case there was another error in measurements. He continued that the Lake Shannon Architectural Committee has reviewed the proposed deck plans. He added that one of the recommendations of the LSAC was to get the neighbors within visibility of the new proposed deck to give written consent for the proposed deck plans. He stated that he went to all the homes within 300 feet of their property to get written consent. He continued that the existing deck has already been removed. He stated that the original plan was to have the proposed deck built off the side of the house, but the septic field is located there. He continued that the shape of the proposed deck is due to the location of the tank covers. He stated that the submitted drawing shows where the new field was installed. He continued that enclosing the proposed deck would impede the view of his neighbor.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated that the Board can always grant a smaller variance amount, but can not grant a larger variance amount than what is published in the paper. In response to

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Cypher's question, Mr. Chapel answered that the height from grade changes from 9 feet, to 6 feet, to 4 feet and down to 3 feet. Mr. Chapel continued that there is an existing retaining wall. He added that there is an existing concrete slab to the north and that the proposed deck would go slightly past it. In response to Meisel's question, Tyrone Township Zoning Administrator George Van Hecke answered that this property is zoned R-1 and that the side yards are part of the old plat which required a 10 foot side yard setback variance. Smulsky stated that the 10-foot side yard minimum would be in the deed restriction. Meisel stated that this is before the Board because of the restriction on the Zoning Ordinance that states you can not be more than 12 inches above grade if you are within 50 feet of the water. Meisel stated that based on what the applicant said during his presentation, it was identified that the drawing, which was provided at the purchase, was off by 18 feet from the existing deck to the water. At this time the Board discussed the possibility of this being a preexisting nonconforming situation. The Board determined that this was not a preexisting nonconforming situation. In regards to the 18 foot discrepancy, Carnes explained that the survey drawing was off compared to the actual measurement taken from the deck to the water. Meisel stated that the new deck would be only 42 feet from the water instead of 60 feet from the water. Van Hecke stated that the old deck did not extend out as far as the new proposed deck. Carnes stated that the house to the west is clearly closer to the water that the proposed deck would be and probably would not even see the proposed deck. He continued that the house to the east has a patio and some landscaping that would be out about the same distance as the proposed new deck.

PUBLIC COMMENT

None. The Board reviewed the letters of consent in favor of the deck from: Olga Blaney, 7481 Ore Knob Ct., Tim and Cathy Peck, 7482 Ore Knob Ct., Sandra and Jay Harwood, 7483 Ore Knob Ct., Eric Pedersen, 7490 Ore Knob Ct., Julie Hawkins, 7497 Ore Knob Drive, and Jerome Arasim, 7527 Ore Knob Drive.

MOTION

Meisel motioned to grant the 10-foot rear yard setback variance requested by Jonathan and Brooke Chapel for the following findings of fact: Unreasonable Burden: The applicant's original deck was believed to be in compliance with our zoning ordinance per a mortgage survey supplied during his purchase experience, however final verification of the new deck design using a tape measure discovered an 18 foot dimensional error on the mortgage survey. Strict compliance with our zoning ordinance in this case makes reasonable use of the property unnecessarily burdensome due to this error, this error not being the responsibility or fault of the current owner/applicant. Substantial Justice: Granting this variance will allow reasonable use and enjoyment of the home, it will be compatible with adjacent and surrounding development, the proposed deck has been approved by the Lake Shannon Association architectural committee, and the applicant has obtained support from his neighbors. Minimum Variance Required: The granting of this variance request is related to the septic field proximity, which results in the applicants request being the reasonable minimum that should be granted. Extraordinary Circumstances: The applicant's lot size and configuration results in a septic field location which restricts the location of other structures on the property. The septic field cannot be relocated to another portion of the property under today's septic field placement

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requirements. This variance for a proposed deck location also results from a survey error, the survey having been performed by a professional surveyor, therefore the proposed non-conformance is not a result of the past or current property owners, but rather a dimensional error on a drawing which was discovered as a result of the deck renovation. Health and Safety: There are no adverse affects to the health and safety of either the applicant or his neighbors. [Ref. Tyrone Township Zoning Ordinance No. 36 - Section 20.01 (Schedule of Regulations)]. (Moyski seconded.) Roll call vote: Moyski, yes; Smulsky, yes; Meisel, yes; Carnes, yes; Cypher, yes. The motion carried.


MISCELLANEOUS BUSINESS

Chairman Greg Carnes questioned if we still get information from the Michigan Township Association regarding zoning educational classes. Several members have asked if educational classes are available.


The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, December 3, 2007 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:35 p.m.



Gregory Carnes, 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