

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – APRIL 7, 2008**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on April 7, 2008, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, David Cypher, Claudette Moyski, Maureen Leaske, and Mark Meisel

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: Robert R. Simmons

MINUTES OF OCTOBER 29, 2007, ZONING BOARD OF APPEALS MEETING

Moyski moved that the minutes of the October 29, 2007, Zoning Board of Appeals Meeting be approved as presented. (Cypher seconded). The motion carried.

MINUTES OF NOVEMBER 12, 2007, ZONING BOARD OF APPEALS MEETING

Moyski moved that the minutes of the November 12, 2007, Zoning Board of Appeals Meeting be approved as presented. (Leaske 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 March 23, 2008, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on March 19, 2008, at 9:00 A.M.

VARIANCE REQUEST

- #1 Robert R. Simmons, RE: Request for a 42-Foot Setback Variance from the Water's Edge, in Order to Build a Proposed New 30 by 42-Foot Addition to the Front of the Existing House, Located at 12259 Denton View Drive, (TAX CODE # 4704-11-100-030).

Robert Simmons requested a 42-foot setback variance from the water's edge, in order to build a proposed new 30 by 42-foot addition to the front of the existing house, located at 12259 Denton View Drive. He stated that he would like to build a master bedroom off the front of the existing house. He continued that he received a 10-foot setback variance from water's edge in order to build a carport in front of the existing house on June 4, 2007. He stated the proposed addition would not affect the view of any neighbors because the property is very secluded. He continued that the design has not been formalized yet and that the proposed addition might actually be less than 8 feet to the water's edge. He stated that a 30-foot front yard setback variance for a proposed addition was granted on June 7, 2004, but he never proceeded with the plans.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Moyski's question, Mr. Simmons answered that there are no problems with the Department of Natural Resources and that the Livingston County Building Department would not allow the proposed addition if there was a problem. Tyrone Township Zoning Administrator George Van Hecke stated that the water table

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could be a problem. Mr. Simmons answered that the water level could easily be lowered or raised because the neighbor put a dam up. In response to Moyski's question, Mr. Simmons answered that there is no seawall there and that this is more of a pond, not a lake. In response to Meisel's question, Mr. Simmons responded that the neighbor put up a dam so he could get a sprinkler on the corner. In response to Meisel's question, Mr. Simmons answered that a DEQ permit would probably not be required. Meisel stated that the bigger issue is the potential for possible flooding during a spring rain, summer drenching or snow melting. In response to Meisel's comment, Mr. Simmons responded that the foundation would be built up 8 to 10 feet. Cypher stated this is a man made pond on his own property. Leaske stated it is really wet down there. In response to Moyski's question, Mr. Simmons answered that the addition could be relocated off the back of the house, but it would be cost prohibitive to get the machinery back there. Mr. Simmons continued that they do not have a master bedroom on the first floor of their existing home. Mr. Simmons stated he would prefer the proposed addition be off the back of the existing house because of the woods there, but it would not be possible. In response to Leaske's question, Mr. Simmons answered that the proposed addition could not be turned because of the existing pool and because of the windows. Simmons stated that the design of the existing house is not great and that he is trying to get some conformity to it. In response to Carnes' question, Mr. Simmons responded that it would not be possible to get machinery between the house and the garage because the septic, septic field and the mechanicals are located there. Carnes stated that they could not go around the other end because of the trees and the pond. Moyski stated that she has a problem with the proposed addition being 8 feet from the existing pond. Cypher stated he does not have a problem with the proposed addition being 8 feet from the existing pond because the Board is not there to satisfy if the property owner can structurally build the proposed addition and that pilings might have to be put in. He continued that this is a man made pond, Mr. Simmons owns 13+ acres and it is almost impossible to split up this property. Cypher continued that the pond could be dry at times, if there is a drought, and there are no streams going in or streams going out. He continued that Mr. Simmons must satisfy guidelines of the Livingston County Building Department. Cypher stated that Mr. Simmons could put the proposed addition on piles and not even have a foundation. He continued that if this pond had streams going in or streams going out of it, then it could potentially affect the neighbors, but it doesn't. In response to Leaske's question, Mr. Simmons answered that the dam put in by the neighbor is actually a tube that was put in, so if the water got to a certain level it would trickle out. Mr. Simmons stated there is a stream that runs behind his home, but it is not connected to the pond. Cypher stated that the pond is less than an acre in size. Meisel stated there are a couple of intents in the Zoning Ordinance relative to the 50 foot setback: 1) Preservation of site lines, which is not an issue, and 2) Protection of the waterway, this is a private pond and is isolated from other bodies of water. He continued there is a third objective, to provide enough distance to minimize impacts due to flooding, but this is more of a building department issue than a Zoning issue. Meisel stated that this is a very large variance request but it does not impact a public waterway; it is a solely owned, privately contained, man made body of water. Carnes stated that of the 5 criteria that must be met for a variance to be granted, #5) No Safety Hazard or Nuisance, could be a problem. Carnes continued that if there was a fire on the west side of the house, it would be difficult for an emergency vehicle to get to that side of the house. Cypher stated that an emergency

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vehicle would not be able to access the west side of the house from the driveway now, with the current layout of the house. Mr. Simmons stated that they could pump water from the pond or the pool if needed. Carnes stated that 8 feet from the pond is not much, but if emergency vehicles can not get there now, due to the topography, the proposed addition would not make the situation worse. Mr. Simmons stated that he is trying to get continuity to the existing house because it is kind of like two houses in one.

PUBLIC COMMENT

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

MOTION

Meisel moved to grant the request of Robert R. Simmons, for a 42 foot setback variance from the water's edge, a manmade pond, in order to build a proposed new 30 by 42 foot addition to the front of the existing house, located at 12259 Denton View Drive, Tax Code #4704-11-100-030 based upon the following findings of fact: Unreasonable Burden: The variance request meets the original intent of the zoning ordinance which was to prevent blockage of views by adjacent residences (sight lines). The owner/applicant owns the entire pond thereby eliminating potential sight line concerns of adjacent properties. The intent of the ordinance is to protect public bodies of water or bodies of water which flow into or out of another. This pond is manmade and completely contained within the property and has no inflow or outflow to other bodies of water. Substantial Justice: Allows the owner/applicant to further improve their property and protect their personal property while having no negative impact to the adjacent land uses, and further does not alter the essential character of the neighborhood. The pond is manmade, and is therefore a created feature of the property which is intended to be enjoyed as the owner sees fit. Minimum variance required: The minimum variance required is being requested to complete the building modifications requested by the applicant. Extraordinary Circumstances: The pond was existing. The intent of the zoning ordinance with respect to setback requirements from the water feature was intended to minimize any impact to adjacent property owners with respect to sight lines. Because the entire pond resides on the owner/applicant's property this potential concern is mitigated. A variation of this request was previously granted during the June 7, 2004, and June 6, 2007, ZBA meetings and therefore similar treatment should be considered in the absence of contradictory facts. Health & Safety: The health and safety of the surrounding residents is unaffected. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 20.02Z (Footnote to Schedule of Regulations)]. (Cypher seconded.) Roll call vote: Leaske, yes; Moyski, yes; Meisel, yes; Carnes, yes; Cypher, yes. The motion carried.

MISCELLANEOUS BUSINESS

Election of Officers: Claudette Moyski moved to retain Greg Carnes as Chairman and David Cypher as Vice Chairman for the next year. Both Carnes and Cypher accepted the nomination. Maureen Leaske seconded. The motion carried.

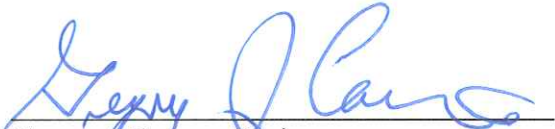
Mark Meisel discussed with the Board the process for zoning updates. He informed the Board that most of the sections have been formatted and modified to work within our current format. Most sections can be viewed on the Tyrone Township website.

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The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, May 12, 2008 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:52 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