

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – AUGUST 11, 2008**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on August 11, 2008, 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: Dan Callan, Ron and Susie Gordon, Don Bunka

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 July 27, 2008, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on July 23, 2008, at 9:00 A.M.

VARIANCE REQUEST

- #1 Tyrone Hills Preserve LLC, RE: Request to Allow the 64 Square Foot Real Estate Sign, Which was Previously Installed, to Remain in its Current Location. Also, a Request to Change the Sign Design to a V-Sided Sign with an 8-Foot Span, Located at the Southwest Corner of Lee Jones Road and Old-23, (TAX CODE # 4704-08-101-074)

Dan Callan, real estate broker who represents the developer of the property, requested a variance by Tyrone Hills Preserve LLC to allow the 64 square foot real estate sign, which was previously installed, to remain in its current location and also requested to change the sign design to a V-sided sign with an 8-foot span. He stated the previously installed sign is located at the southwest corner of Lee Jones Road and Old-23. He continued the sign location was approved according to the original sign permit. He stated that communication between the sign company and Tyrone Township was misinterpreted and the sign was installed according to the interpretation of the permit. He continued that there was no discovery of a violation until recently. He stated that since the original installation of the sign, the developers were approved for and installed a substantial water feature and extensive landscaping. He continued that due to the pond, permanent monument sign and terrain there simply is no other location to install the sign and make it reasonably visible from US-23 and Old US-23. He stated the situation is not the fault of any of the parties involved and there is no alternative that will allow the developer to properly expose their community via signage to the public. He continued the success of the development is beneficial to the entire community. He concluded that having an 8-foot span v-sided sign would make the sign much more readable and be less of a distraction to vehicular operators. Mr. Callan submitted a photo of the frame of the sign in its current location.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated that in the application they are asking for a variance for a business sign, but given the use of the sign it could also be an off-premises sign, a construction sign, or a real estate development sales sign. Meisel stated the Board should determine and

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identify what type of sign this is before proceeding any further. At this time, the Board had a lengthy discussion as to what type of sign this is. The conclusion by the Board was that this sign pertains to Zoning Ordinance No. 23 – Section 27.03.A.4 (Real estate development sales sign). In response to Meisel's question, Mr. Callan answered that the property the sign is located on is owned by the development. In response to Meisel's question, Mr. Callan answered that the real estate sign is for use by the same company. Mr. Callan explained that the golf course and the development have different owners. In response to Meisel's question, Mr. Callan answered that the 35-acre parcel along the south side of Lee Jones Road is owned by the developers. Carnes stated that the sign is already at 64 square feet. He continued that a v-shaped sign area would have to be counted on both sides of the sign, which would make its area 64 square feet more than allowed by our Ordinance. Tyrone Township Zoning Administrator George Van Hecke stated the applicant is asking for a variance to allow the v-sided sign to have a span of 8 feet and keep the size the same. Meisel stated that by requesting an 8-foot span the applicant is also asking for a 64 square foot variance for the area of the sign. Mr. Gordon stated that they want to take the exact same sign with the exact same two surfaces and get a variance to have a v-sided sign with an 8-foot span. He continued that they would not have any difference in exposure by having an 8-foot span but it would make the sign more stable and proportionate. Meisel responded that according to the Zoning Ordinance a span of more than 2-feet would make this a wing wall sign and according to the Zoning Ordinance the area on both sides of the sign must then be counted. Meisel stated that the Board wants to make sure this request is done right so the applicant does not have to come back in. Mr. Gordon stated that the sign company previously came in and got a permit for this sign and then proceeded to put the sign up. He continued the developers were then approved for and installed a substantial water feature and extensive landscaping, only to be told later by the Township that the sign needed to be moved. In response to Carnes' question, Meisel responded that there is a frame for a sign, they want to keep the frame in the current location and at the same height, and they want to put an 8-foot span at the back of the 2-sided, v-shaped sign for better visibility of oncoming traffic. In response to Carnes' question, Meisel answered that one of the requests would be for an additional 64 square feet, if they do a wing-wall sign. Van Hecke stated that by granting a 6 foot variance on the sign span, the Board would include the additional 64 square feet on the sign. In response to Carnes' question, Van Hecke answered that the dimension off the road is too close because the sign is 34 feet from the center of the road and is off by approximately 10 feet. Van Hecke continued that the applicant has requested that the sign be allowed to stay in the current location. In response to Carnes' question, Van Hecke answered that the proper setback for the sign would be 43 feet from the center of Lee Jones Road and the current sign location is 34 feet from the center of Lee Jones Road. Carnes stated a 10 foot variance is needed off Lee Jones Road to be safe. Van Hecke stated there is a discrepancy of where the road right-of-way is at Old US-23, so a 20 foot variance for the current location of the sign would be needed from Old US-23. In response to Meisel's question, Van Hecke answered the only issue with the sign location and the proximity to US-23 is the setback, the height is not an issue. Meisel stated the height of the sign is an issue. At this time, the Board discussed whether Table 27.1 (Summary of Sign Dimensional Standards and Regulations), Footnote 3 (The maximum height applies only to free-standing

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signs. The maximum height for free-standing business signs oriented to and visible from U.S. Highway 23 may be increased to twenty (20) feet), applied to real estate signs or if it applies only to billboard signs. In response to Smulsky's question, Mr. Gordon answered that they want the sign visible from US-23. Carnes stated his interpretation is that footnote 3 pertained to all the signs in Table 27.1, so a variance is not needed. Van Hecke agreed with Carnes that footnote 3 pertained to all the signs in Table 27.1. Meisel stated if the sign is not at least 6 feet high it becomes a sight distance or clear vision issue. Meisel added that footnote 3 is not referenced anywhere in Table 27.1. Van Hecke responded this is why footnote 3 pertains to all the signs in Table 27.1 as long as they are visible from US-23. Carnes stated that three variances are needed in order to keep the sign in the current installed location: a variance for 64 square feet, a variance of 20 feet off Old US-23, and a variance of 10 feet off Lee Jones Road. Van Hecke stated that Zoning Ordinance No. 36 – Section 27.02.A.3 (Permitted Business Signs – (Area, height and setback of free-standing signs) would apply for this variance request. Meisel stated that Section 27.02.A.3 does not apply to this variance, but Section 27.03.A.4 (Real estate development sales sign) and Section 27.03.A.5 (Residential community or development identification signs) do apply to this variance request. In response to Cypher's question, Van Hecke answered that this property is zoned B-2. At this time, the Board again discussed the classification of the sign (business sign, off-premise sign, a construction sign, or a real estate development sales sign). Van Hecke stated that Zoning Ordinance No. 36 – Section 27.02.A.3 (Permitted Business Signs – (Area, height and setback of free-standing signs) applies to this variance request because of the visibility from US-23. The Board again concluded that this sign pertains to Zoning Ordinance No. 23 – Section 27.03.A.4 (Real estate development sales sign). In response to Carnes question, Mr. Gordon answered that the Livingston County Road Commission was out to the site and never stated any issues regarding the current sign and the close proximity to the stop sign. In response to Cypher's question, Meisel responded that there is clear vision at the stop sign and that the submitted picture is deceiving. Van Hecke stated that a variance, if granted, should be granted for a period of three years, like the other signs in the Township. In response to Carnes' question, Mr. Gordon responded that this is intended to be a temporary sign and that there are 59 parcels available for sale.

PUBLIC COMMENT

Don Bunka, 13003 Amesbury Ct, stated that the interpretation of a business sign verses a real estate sign would be the matter of whether this would be a permanent sign or a temporary sign. No written correspondence was received prior to tonight's meeting.

MOTION

Meisel moved to grant the variance request of Tyrone Hills Preserve LLC to allow a 64 square foot real estate sign, which was previously installed, to remain in its current location, and to permit the sign to be modified to a V-sided sign with an 8 foot span, as presented on the drawing dated 7/7/08 rev 4, located at the southwest corner of Lee Jones Road and Old US-23, tax code 4704-08-101-074, for a period of 3 years, consistent with a use as described in Section 27.03.A.4, based upon the following findings of fact:
Unreasonable Burden: The property being advertised by the sign exists far back within the development and is not able to be viewed from the Lee Jones Road and Old US-23

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location. The immediate area is encumbered by a natural pond, water feature, and wetland area to the south, and a valley and permanent monument sign to the north, limiting sign location options. The sign location is not at least 1,320 feet from the US-23 right of way, however such a location would defeat the purpose and benefits of the sign as its view would be severely restricted. The land the sign is upon fronts Old US-23 not US-23, but US-23 is approximately 50 feet from Old US-23, both running parallel to each other in this area. There are no other signs in the immediate area. If the sign is limited to a height of 6 feet the clear vision zone required to see oncoming traffic on Old US-23 is restricted and creates a safety issue, thus we apply the footnote from table 27.1 footnote (3). Substantial Justice: The sign helps direct traffic to the intended location, which is not readily visible due to the development's setback. A sign helps minimize turn-arounds and the undesired and unnecessary traffic in the immediate area resulting from interested parties searching unsuccessfully for the intended destination, which is to the benefit of the public at large. The development being advertised will relate harmoniously with adjacent land uses and will not alter the essential character of the neighborhood. The sign is buffered from adjacent residential areas. Minimum variance required: The reasonable minimum required is being granted given the encumbrances the applicant is facing. This variance is being granted in such a fashion that the spirit of our regulations will be observed and public safety and welfare secured. Extraordinary Circumstances: The land that the sign is upon fronts Old US-23 not US-23, but US-23 is approximately 50 feet from Old-23, both running parallel to the other in this area. Other potential locations for the sign are encumbered by a natural pond, wetlands, site distance or clear vision issues, or viewing restrictions. It is believed this is the best location for this sign in keeping with the spirit of our regulations. Health & Safety: Granting this variance reduces errant traffic resulting from missing the intended destination, which often results in dangerous turn-arounds by vehicles including backing out of private driveways or driving through the commercial establishments in the immediate area. The elevated sign height also minimizes any impact on clear vision to traffic on Old US-23. There are no adverse impacts to health and safety. [Ref. Tyrone Township Zoning Ordinance No. 36 - Section 27.03.A.4 (Other Signs - Permit Required – Real estate development sales sign in any district)]. (Moyski seconded.) Roll call vote: Smulsky, yes; Meisel, yes; Moyski, yes; Carnes, yes, Cypher, yes. The motion carried.

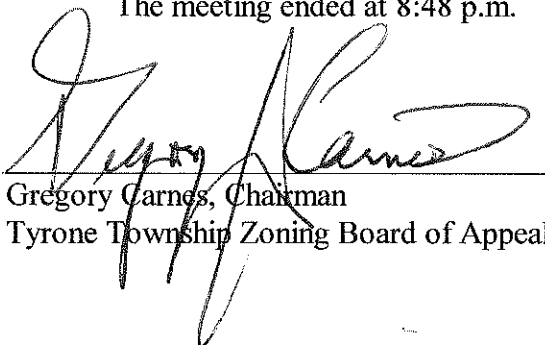
MISCELLANEOUS BUSINESS

Meisel gave the Board a brief update on the progress of finalizing the master copy of the Zoning Ordinance.

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, September 8, 2008 at 7:30 p.m.

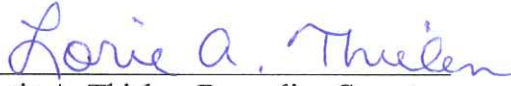
ADJOURNMENT

The meeting ended at 8:48 p.m.



Gregory Carnes, 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