

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – JULY 6, 2009**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on July 6, 2009, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, David Cypher, Don Bunka, Claudette Moyski, and Mark Meisel

Guests: Robert Miller, Dan & Julie Dooling, and Kristina Mair

MINUTES OF MAY 11, 2009, ZONING BOARD OF APPEALS MEETING

Meisel moved that the minutes of the May 11, 2009, Zoning Board of Appeals Meeting be approved as presented. (Moyski 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 June 21, 2009, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 17, 2009, at 9:00 A.M.

VARIANCE REQUEST

#1 Kristina Mair, RE: Request for a 25-Foot Lakeside Setback Variance to Keep the Existing Deck, that was Built Without the Proper Permits, and Add a Canopy to the Deck Behind the Existing House, Located at 10122 Walnut Shores Drive, (TAX CODE # 4704-09-401-037)

Kristina Mair requested a 25-foot lakeside setback variance to keep the existing deck that was built without the proper permits, and to add a canopy to the existing deck. She presented pictures and letters of support from surrounding neighbors for the Board to review.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Greg Carnes stated that this request puts the Board in a very, very difficult situation. He continued that the Board must answer 5 criteria before a variance request can be granted. In response to Meisel's question, Ms. Mair answered that she still does not know if the builder/contractor obtained permits from Livingston County. She added that it was more of a handyman that was hired and she found him by word of mouth. In response to Bunka's question, Ms. Mair answered that the deck would not be enclosed but would have a hard roof canopy on 6 by 6 posts. Moyski stated the reason why nothing is allowed to be built by the water is to allow everybody a view of the water. She continued if a covered structure is allowed by the water, it then opens it up for everyone else on the water to do the same thing and you might end up with boat houses all around the lake. In response to Moyski's comment, Ms. Mair responded that there are several existing structures that have hard canopies as well as permanent deck structures that are not more than 50 feet from the water. Meisel quoted Zoning Ordinance No. 36 – Section 20.02Z (For all lots with yard spaces adjacent to a lake, pond, stream, drainage-way, wetland of any size or river, no structures, fences or decks extending more than twelve (12) inches above the grade shall be permitted within fifty (50) feet of the established edge of the

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water.). Meisel stated that in his opinion the existing deck meets this intent because it is flush with the ground to the point that the ground is sloping. Moyski stated that she does not have a problem with the deck. Meisel stated his concern that the water level has been varying over the last several weeks and that both applicants' decks were in the water for a day or two. He continued that right now both applicants' decks are 10 to 15 feet from the water. Meisel stated that the Board had previously considered a variance for a deck in close proximity to the water, which was rebuilt due to storm damage, but it existed prior to the effective date of the Zoning Ordinance and the Board provided some leniency for the rebuilding of the deck. He continued that situation was somewhat complicated because trees were taken down by the storm which actually improved the view versus reducing the view and it was in the channel area with no view of the lake. Meisel stated that both of the cases before the Board tonight reside in the cove and do not have a direct view of Runyan Lake. He continued that with the topography of the land the neighbors do not really have a view either, although there are one or two cases where someone might be obstructed by the proposed canopies. Meisel stated that he does not have a problem with the flower box there because it is no more distracting or bothersome as far as site line obstruction than anything else that could be put down by the water temporarily. In response to Ms. Mair's question, Meisel's response was that it comes down to the question of what really obstructs site lines and some of this is location specific. Meisel stated the Board has the concern of establishing precedent. Meisel continued that the Zoning Ordinance does have some language that deals with temporary structures, which can also be obstructive and therefore which we do not necessarily permit. Meisel stated there are similar issues with permanent structures and temporary structures. He continued if someone puts up a tent for the weekend, that's one thing, but if someone puts it up for the whole summer that's another thing. Meisel stated both applicants did a good job of getting neighbor support and consent. He continued the challenge is there is the Zoning Ordinance that the Board must follow and the Board must be careful of risking setting precedence. Carnes stated the Board must be able to answer unreasonable burden, substantial justice, minimum variance requested, extraordinary circumstances, and no health and safety issues. He continued that all the criteria need a reasonable explanation to the Township Board, to the Township Planning Commission and to the State of Michigan because they will all come back to this Board and say why did you grant this variance and why did we make these laws if you guys are just going to let people do whatever they want. Carnes stated he has a problem with finding an unreasonable burden, which means strict compliance with Zoning Ordinance requirements will be unreasonable or unnecessarily burdensome, preventing the use of land for any and all permitted purposes. He continued it also states that the demonstration of mere inconvenience is insufficient to justify a variance. In response to Carnes' question, Cypher answered that the water level is flush with the deck on the south side, towards the house. Carnes stated that technically the deck is within the height requirement. Cypher stated that it looks like the deck is 21 inches on the water side and that there are three 7-inch risers. Carnes stated the deck itself meets the Zoning Ordinance requirement. Cypher questioned if there are actual permanent markers on the water's edge, since there is a fluctuation in the water level and if so is that what the Board is going by for this variance or the comment earlier that these should be 40 foot variances instead of 25 foot variances. Cypher continued if the Board approves a 25 foot variance and somebody down the line says they are too close to the water they get to move their deck back 15 more feet because they are actually only the 25 feet from the water. Meisel

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stated that the weir on the lake, which controls the water level, is controlling the water to what is effectively the upper water level control point due to recent heavy rains. He continued that the water is what some people would call high but it is within the high average range. Meisel stated that the water level on Runyan Lake typically varies less than two feet and usually has a 4 to 6 inch variance between now and drought and it can have as much as another 18 inch increase during torrential rains like we had last fall and this spring. Carnes stated if you look at the plat it probably has a flood plain line. Meisel responded that it is alleged, according to the flood plain information, that the lake is somewhere around 891 (893 actual) feet above sea level and that the flood plain level is about 12 feet higher than that (actual 100 year flood plain elevation is 899.6 feet per MDEQ flood hazard division). Meisel stated there have been two events, one of which was classified as a 100 year event last year and another which came very close to being classified as a 100 year event this year and the water level effectively has recently been about 12 inches above where it currently is now. Meisel stated it is his opinion that the approximate 10 foot distance that the structure is currently from the water is probably a reasonable high water mark and anything else you could consider as above the normal range of the controlled level of the lake. In response to Meisel's question, the Board was in agreement that they do not have a problem with the deck proper as it currently exists. Cypher stated he does not have a problem with the location of either one of the decks. Moyski agreed. Cypher stated he could see where someone could actually come off of one of these decks with their actual dock and take that right into the water. He continued that the question would be is it a deck or is it an extended dock? Meisel stated he thinks the applicant needs a 40-foot variance because they cannot be within 50 feet of the water and there is also the issue of the canopy to consider. Meisel continued that the deck itself, as the Board concluded earlier, is a non issue so it does not matter how many feet away from the water it is, what really matters is where the four corners are located for the proposed canopy. Meisel stated you could go back another foot or so with the two steps to get to the post and at that point the deck is 10 to 12 feet away from the water, so the deck would need a 40-foot variance. Ms. Mair responded that on one of her drawings the canopy was going to be set back further, so the canopy was not going to cover the entire structure. Carnes stated that the applicant requested a 25-foot variance and the Board cannot grant a larger variance without republishing the request in the paper. Ms. Mair responded that she would prefer to get a ruling on both the deck and the canopy at this meeting. Cypher stated that the Board cannot grant a larger variance than what she requested because it was advertised as a 25-foot variance request. He continued that the Board would not be able to grant even a 26-foot variance because it was advertised as a 25-foot variance request. Meisel stated that all the neighbors receiving notification have signed letters of consent for the existing structure, so he does not know if the Board would have leeway or if it would have to be republished. Cypher stated the Board has the ability to allow the deck to remain and not allow the canopy. He continued that short the canopy, the applicant would not need to be here. Meisel agreed. Cypher stated that there is only about 12 to 15 feet between both applicants' structures and imagine going around the lake and every house having a deck with a canopy. He continued he cannot imagine Runyan Lake having 200 of these structures around the lake. Cypher stated that people are going to see this and they are going to want one too. He continued that if the structure were back 50 feet from the water it would not even need a variance. Bunka stated that is assuming they get a land use permit and a building permit. Meisel stated they don't

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necessarily need them depending on how they build it. Cypher stated that the Zoning Ordinance does not specify whether it's in a canal or in a 20 house lagoon area, but in his opinion we have to view this as a lake. Meisel stated that the challenge is the extraordinary circumstance: this is in a cove, there is no clear unobstructed view of the water and the neighbors don't have unobstructed views either, and the land slopes towards the lake. He was trying to go through anything he could to come up with the extraordinary circumstance, but could not come up with anything that he could justify. Carnes stated that once you grant one it would set a precedent on Runyan Lake. In response to Mr. Hudson's question, Meisel answered that there is nothing in the Zoning Ordinance that permits building something within 50 feet of the water and more than 12 inches above grade because your neighbors approve it. He continued the only mechanism to get relief from that regulation is to come before this Board. Ms. Mair showed the Board pictures of other decks with canopies in the area. Meisel stated the problem is that if someone has built something before an Ordinance has gone into effect the state says it is grandfathered in and is allowed to exist. He continued it is considered non-conforming, but it is allowed to exist. Meisel stated if it is knocked down by wind or weather, it would not be allowed to be rebuilt without a variance because it was a non-conforming structure. Meisel continued that these may be well intended, nice structures that anyone would want to have, but the Zoning Ordinance does not permit them. In response to Bunka's question, Ms. Mair answered that it would be an unreasonable burden for her to move the structure further away from the lake. Bunka suggested the applicant leave the deck but move the canopy farther back. Ms. Mair responded that this would defeat the purpose; she would like to have the patio furniture on the deck, not on the grass, and have it covered. Ms. Mair added there is a serious slope and grade to the land and if she were to enlarge the deck away from the lake she would have to either go up and back or bring in a backhoe and move a lot of dirt. Bunka restated that the Board does not have an issue with the deck, but the clear view issue is a concern to the Board. Cypher stated the Board could deny the canopy. He continued the applicant would not need to be here for the deck, short the planters because the height of the planters could be a question. Meisel stated the deck is within 12 inches of the grade and that the planter is small enough. Meisel stated the applicant did hire a so called contractor and there was some intent here to hire somebody that was perceived to obtain the necessary permits to build the structure. He continued that it is the duty of the Board to uphold the Zoning Ordinance. In response to Ms. Mair's question, Bunka answered that a request for a pergola with a flat roof would still be in violation of the Ordinance. (At this time there was discussion regarding a variance granted to Charles and Kimberly LaClear, 11060 White Lake Road, which came in before the Board on October 6, 2008. They were able to rebuild their deck, which was damaged due to a storm, but it existed prior to the effective date of the Zoning Ordinance and the Board provided some leniency for the rebuilding of the deck due to removed trees in the immediate area.). In response to Larry Matheson's question, Meisel answered that there is criteria for a special land use permit. Ms. Mair stated that something is going to go there at a minimum of 8 feet because the umbrellas are 8 feet, but she would like more of a permanent structure. In response to Cypher's question, the Board as a whole agreed that the deck itself complies with the Zoning Ordinance and is not an issue. Meisel stated that he cannot get past the issue of extraordinary circumstance regarding the canopy. He continued that the only thing we have anywhere that gives this any wiggle room at all is if it is a boat storage structure. Meisel stated that if the Board were to grant this canopy/

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roof type structure then the Board will not have any arguments not to grant the next one and if the Board does not grant this one, then the Board will struggle with arguments to grant the next one. Moyski agreed. Moyski stated that if we turn this down, eventually they will all be eliminated from the lake. Meisel stated that it is a matter of the grandfather clause and also somebody reporting someone when constructing or reconstructing. He continued that it is almost arbitrary as to who gets caught. In response to Larry Matheson's question, Meisel answered that it is strictly a site line preservation issue. Meisel continued that everybody has their own unique circumstances but the struggle is with extraordinary circumstances which states the circumstance shall not be self-created by the owner or a former owner of the land and also the circumstance shall be related to the land and not the property owner, developer, or any other person. He also restated the definition of unreasonable burden, which is strict compliance with Zoning Ordinance requirements will be unreasonable or unnecessarily burdensome, preventing the use of land for any and all permitted purposes. He continued it also states that the demonstration of mere inconvenience is insufficient to justify a variance. Larry Matheson stated it could be related to the grade of the property and that this is in a cove and not the main body of the lake, there is limited view of the lake, and the neighbors are for it. Meisel stated that you could almost justify the extraordinary circumstance and say that it could be related to the topography, this being a cove, and limited view as a result of the peninsula across and literally everybody looks past this area from their home. In response to Larry Matheson's question, Carnes answered that the Zoning Ordinance was adopted in 1997 and has been revised in 2002, 2004 and 2008. In response to Larry Matheson's question, Moyski answered that this affects everyone on the lake. Cypher stated that if we deny this request, they can still put a 12 by 12-foot temporary canvas cover on it. (At this time, Meisel looked thru the Zoning Ordinance looking to find relief under outdoor storage, and he referenced Zoning Ordinance Sections 26.03, 21.18 and 21.19.) Bunka stated that the request should be broken down into two separate parts: one regarding the existing deck structure itself and the other being the addition of a canopy to the existing deck.

PUBLIC COMMENT

Timothy Hudson, 10162 Walnut Shores Drive, stated support for the structure and stated the direct neighbors love the structure and they all use it.

The Board reviewed written correspondence from Robert and Sandra Miller, 10152 Walnut Shores Drive, Timothy W. Hudson, 10162 Walnut Shores Drive, William D. Richards, 10645 Sleepy Shores Path, Janette C. Borke, 10559 Sleepy Shores Path, Ronald J. Archambault, 10533 Sleepy Shores Path, Gregory A. Ladd, 10136 Walnut Shores, Cynthia Doyle, 10577 Sleepy Shores Path, Robert J. Luttman, 10141 Walnut Shores Drive, Margaret E. Polakowski, 10098 Walnut Shores Drive, Jared Hicks, 10082 Walnut Shores Drive, and Dan & Julie Dooling, 10128 Walnut Shores Drive, indicating they support the variance request by Kristina Mair. The Board also reviewed the submitted photos of the deck.

MOTION

Bunka moved that the existing deck structure itself is not an issue and the Board agrees, as a body, that the deck itself complies with all the requirements of the Zoning Ordinance, therefore, a variance is not needed for the deck to remain in existence behind the

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existing house, located at 10122 Walnut Shores Drive, (TAX CODE # 4704-09-401-037). [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations), 20.02Z (Footnote to Schedule of Regulations) and 21.02 (Accessory Structure Provisions)]. (Moyski seconded.) Roll call vote: Cypher, yes; Meisel, yes; Bunka, yes; Carnes, yes; Moyski, Yes. The motion carried.

MOTION

Moyski moved that the request by Kristina Mair to add a canopy to the existing deck behind the existing house, located at 10122 Walnut Shores Drive, (TAX CODE # 4704-09-401-037), be denied because the request does not meet the burden of Extraordinary Circumstances under the Michigan Public Act 184 established in 1943, as amended. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations), 20.02Z (Footnote to Schedule of Regulations) and 21.02 (Accessory Structure Provisions)]. (Bunka seconded.) Roll call vote: Meisel, no; Moyski, yes; Bunka, yes; Cypher, yes; Carnes, yes. The motion carried.

Commissioner Meisel recued himself from the next variance request because he has a relationship of sorts with the Doolings by virtue of activities with Runyan Lake Inc. which he perceives could be viewed as a conflict of interest, so he will not participate in the decision, but will participate in the discussion at the request of the chairman.

Appeal #2 is very similar to Appeal #1, so much of the above comments and questions apply to both appeals.

VARIANCE REQUEST

- #2 Dan and Julie Dooling, RE: Request for a 14-Foot Lakeside Setback Variance in Order to Keep the Existing Deck with a Pavilion (that was Added Approximately a Year Ago), Behind the Existing House, Located at 10128 Walnut Shores Drive, (TAX CODE # 4704-09-401-006)

Julie Dooling requested a 14-foot lakeside setback variance in order to keep the existing deck with a pavilion (that was added approximately a year ago). She presented pictures and letters of support from surrounding neighbors for the Board to review. She stated that she submitted a picture of their prior deck. She continued that the prior canopy and deck was built by her husband and a friend. Dan Dooling stated the prior deck started splintering so they used the existing pylons and put in new pylons for additional support and rebuilt the deck and put up the structure. Mrs. Dooling stated that they did not know they needed permits to rebuild a deck. She added that they have electrical down there and electrical permits were pulled for it by Craft Electric, which is approved and on file at the Livingston County Building Department. She continued that nothing was said about the structure when the electrical inspector came out there.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Cypher stated that the electrical would not come through the Township anyways because it would go directly to Livingston County. In response to Bunka's question, Mrs. Dooling answered that the deck was rebuilt a year ago. In response to Bunka's question, Mrs. Dooling answered that the prior deck was there for approximately 15 years, prior to

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them moving in. In response to Moyski's question, Mrs. Dooling answered that the covering was there for about 4 years. She continued that there was an old roof over the previous deck, which was a temporary bolted wood cover and not permanent. Mr. Dooling stated the flooring was removed for safety reasons because it was becoming unstable. In response to Moyski's question, Mrs. Dooling answered that this existing deck replaced an older deck that was splintering. In response to Moyski's question, Mrs. Dooling answered that the canopy replaced an old wood covering and that the new canopy is not the same size as the old wood covering. In response to Moyski's question, Mr. Dooling answered that the old deck was renovated with a new floor and a new canopy using the existing pylons. In response to Carnes, question, Mrs. Dooling answered that the old wood covering was there for about 4 years and the new canopy has been there for about a year. Cypher stated the old wood covering was added after the Zoning Ordinance was established. Carnes stated that the applicants took a nonconforming structure and made it more nonconforming. Mrs. Dooling stated that they bought it at Sam's and assembled it. Meisel stated if they did not take it down in the winter and they did not put it up in the spring, then it is largely a fixed structure that was anchored. In response to Cypher's question, the Board as a whole agreed that the deck itself complies with the Zoning Ordinance and is not an issue. Carnes stated that the issue is the existing nonconforming canopy. He continued that the nonconformity was increased by making it larger. Meisel stated that the canopy exists today versus the previous appeal that wanted to add a canopy. In response to Bunka's question, Mr. Dooling answered that the old wood covering was about 12 feet by 12 feet and the new canopy is 10½ feet by 23 feet. Mrs. Dooling stated that the trellis and the covered roof are 23 feet together. Meisel stated the applicant greatly decreased the health and safety issue because it is safer structurally than the previous deck and canopy. Moyski responded that it is more nonconforming by double. Meisel stated there are five standards and if it is safer is it a tradeoff for something that is less in one area. Cypher and Moyski stated that they cannot go along with that statement. Moyski stated that safety is important, but does it offset the fact that it is nonconforming, no. Meisel stated that if something had to be 10 feet bigger to be significantly safer, he would take the 10 feet bigger with more safety rather than the less 10 feet and less safety. Cypher stated it replaced a nonconforming structure that should not have been there. Cypher stated the structure should have been torn down and not replaced. Bunka stated the applicant is asking for a 14-foot lakeside setback variance. Cypher stated that there is no way the deck is 36 feet from the water. Meisel stated the numbers could be transposed and the deck is actually 14 feet from the water and the applicant would need a 36-foot variance. Meisel stated that by the time the two appeals came in they experienced the high water event and it became challenging trying to establish where the water line was at the time the measurements were taken. Meisel stated that the only extraordinary circumstance there might be to work with is the fact that the applicant demonstrated good faith by pulling the electrical permit and nobody mentioned an additional permit was required by Tyrone Township. In response to Cypher's question, Meisel answered that the Zoning Ordinance says the structure must be 50 feet from the water's edge, not the property line. Moyski stated that the issue comes down to extraordinary circumstances which state the hardship shall not be self-created, if the use of the site is impaired due to action of the current or previous property owner, a variance shall not be granted to remedy the impairment. She continued that a personal hardship suffered by a property owner is not sufficient to justify approval. In response to Cypher's

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question, Mrs. Dooling answered that her husband built this structure. In response to Cypher's question, the Board as a whole does not have a problem with the stone enclosure around the grill, planters, and furniture. Tim Hudson stated that all the neighbors use this structure and it should not be taken away because the request does not meet the extraordinary circumstance. Cypher stated that the rules are not set by Tyrone Township, they are state requirements. In response to Mr. Hudson's question, Cypher answered if the top were fastened by nails it could be considered temporary, but when does it have to come down? Meisel stated the only other practical difficulty with the Zoning Ordinance is that we only have two temporary periods of time, one is 48 hours and the other is 7 days and no longer. Moyski stated she has a problem with the Zoning Ordinance. She stated that the existing structure is beautiful and she would like for the structure to remain. Meisel stated the only remedy that exists, on a long term basis, is for the community of individuals to come before the Planning Commission and try to get the Planning Commission to change the Zoning Ordinance. Meisel stated that he does not know how the Planning Commission will respond because there are different issues in different locales. Cypher stated that you cannot deny the first one and allow the second one, especially when this one is larger and more nonconforming. Meisel stated that the only difference between the two appeals is that one does not exist yet and the other exists. Carnes stated this has existed for several years and was built in good faith. Cypher stated this structure replaced a nonconforming structure that was not supposed to be there. Moyski stated that if the Board does not do something about this now, it is going to come back again and again. Meisel stated that accessory structures in the lakes areas all have to go in the front yard because they cannot go in the rear yard or side yard. Moyski stated that what concerns her is the area that all these individuals live in and them all wanting to do this. Meisel continued that the applicant could try to use the special land use route. He continued there is the ability to establish a special land use permit and this is kind of skirting the intent of the special land use permit, but there is some argument for the neighborhood compatibility. Cypher stated that if Meisel would like to make a motion to tell the Planning Commission, on his recommendation that the applicant go before them he would second that motion. Meisel stated that he does not think we can do that here because the special land use permit has to be an application through the clerk and zoning administrator to determine whether the application can even be considered. Meisel stated that there is a request before the Zoning Board of Appeals and the Board must rule on the variance request. Cypher stated the Board could table the request if Meisel would like to take it to the Planning Commission. Moyski agreed that the Board could do that. Meisel stated that the Planning Commission is where a special land use request ends up. He continued that the special land use permit route is a process of going to the Planning Commission, who can approve or deny, then regardless of their decision it would go before the Township Board, who will either approve or deny, based on the recommendation of the Planning Commission. Meisel gave an overview of the three Boards in the Township and their functions and explained how the processes work procedurally. Moyski stated that she can find four of the criteria but not all five. Cypher stated that the Board would have approved the previous appeal if the Board could have resolved meeting all five criteria, because the only difference between the two appeals is that yours is built and theirs isn't, there is absolutely no difference. In response to Mrs. Dooling's question, Cypher answered that the electrician would not have known what permits were needed because he is from the county and not the township. Cypher stated

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that the Board cannot say that ignorance to the law is acceptable. He continued that he would like to be able to grant the applicants a variance, but they do not meet the five criteria. Meisel stated there is a significant difference in this case because they did not attempt to skirt the law and then come in and say, oh I did not know I needed a permit. At this time a lengthy discussion on how the average person would know when permits are needed and where they need to go took place. Moyski stated the laws are enacted for the protection of the property owner. She continued that if this group of property owners in this particular area wishes to not have this particular law, where would they go to get it fixed, probably the planning Commission. Meisel stated the Board must approve, deny or table an appeal. He continued that if the Board does not approve the appeal, the avenue that he would recommend would be to approach the Clerk's office or the Zoning Administrator, tell them what you are trying to do and ask if a special land use permit is an option. Carnes explained that the decision by the Zoning Board of Appeals shall be final and the applicant only has 30 days to possibly go to circuit court. Mr. Dooling stated they meet four of the criteria, except extraordinary circumstance. Moyski stated that this might not be a minimum variance requested. Moyski stated there may be four reasons to grant this request, but there is one big one why we cannot. Mr. Dooling stated we have not found it yet and we have all night to do so. He continued that he leads boardrooms all the time and all over the country and he has worked with people a lot dumber than this Board and brought them to a consensus. Cypher stated that if this Board does something wrong here, the Township can get sued. He continued that the Zoning Ordinance is what the Board must make a decision from. Cypher stated that, in his opinion, nobody on this Board can say where the rear property line is at. He continued the Board has tabled appeals because the advertised variance requested was different than what the request actually came to the Board as. Meisel stated that this would be an avenue to allow the applicant additional time to try and come up with a remedy. In response to Cypher's question, Mrs. Dooling answered that she knows where the property marker is on the roadside. Cypher stated that the applicant could use the marker to get measurements and if the Board needs to go back out and look at it again it would be helpful if the applicant would put a stake by the marker. Carnes stated that an appeal can only be tabled for 90 days. In response to Bob Miller's question, Cypher answered that a contractor was hired to do the electrical work only and he has no jurisdiction over the structure itself. He continued that the structure had been there for a year now with no complaints, and now a person has an issue with it and this does not make sense to him that this is a problem. Cypher stated it is a problem because it does not conform to the Zoning Ordinance. He continued that this might not have been a formal complaint and that it could have been someone just asking if there were permits pulled or the person could be familiar with the Zoning Ordinance. Cypher stated that the request should be broken down into two separate parts: one regarding the existing deck structure itself and the other being the existing canopy on the existing deck.

PUBLIC COMMENT

The Board reviewed written correspondence from Robert and Sandra Miller, 10152 Walnut Shores Drive, Timothy W. Hudson, 10162 Walnut Shores Drive, William D. Richards, 10645 Sleepy Shores Path, Janette C. Borke, 10559 Sleepy Shores Path, Ronald J. Archambault, 10533 Sleepy Shores Path, Gregory A. Ladd, 10136 Walnut Shores, Cynthia Doyle, 10577 Sleepy Shores Path, Robert J. Luttman, 10141 Walnut

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Shores Drive, Margaret E. Polakowski, 10098 Walnut Shores Drive, Steven Davis, 10129 Walnut Shores Drive, Ronald Eckles, 10600 Sleepy Shores Path, and Larry & Linda Smemby, 10146 Walnut Shores Drive, indicating they support the variance request by Dan & Julie Dooling. The Board also reviewed the submitted photos of the deck and canopy. Bob Miller and Tim Hudson both stated their support for the variance request.

MOTION

Cypher moved that the existing deck behind the existing house, located at 10128 Walnut Shores Drive, (TAX CODE # 4704-09-401-006), is not of question here and it does not require a variance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 22.05.F.5 (Fencing)]. (Commissioner Claudette Moyski seconded.) Roll call vote: Carnes, yes; Bunka, yes; Moyski, yes; Cypher, yes. Meisel abstained from the vote. The motion carried.

MOTION

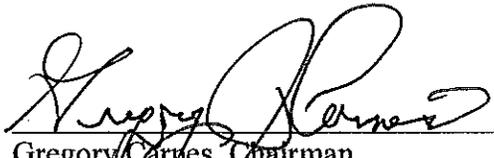
Moyski moved that the request by Dan and Julie Dooling to be allowed to keep the existing pavilion (that was added approximately a year ago), on the existing deck behind the existing house, located at 10128 Walnut Shores Drive, (TAX CODE # 4704-09-401-006), be tabled due to dimensional inaccuracies for 90 days, or until the next appeal comes before the Board after the 90 days. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations), 20.02Z (Footnote to Schedule of Regulations) and 21.02 (Accessory Structure Provisions)]. (Cypher seconded.) The motion carried by voice vote. Meisel abstained from the vote.

MISCELLANEOUS BUSINESS

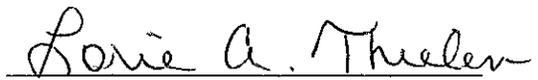
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 3, 2009 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 10:28 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