

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
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**CALL TO ORDER**

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on August 3, 2009, at 7:30 p.m., at the Tyrone Township Hall.

**ROLL CALL**

Present: Commissioners Greg Carnes, David Cypher, Debi Smulsky, Don Bunka, and Mark Meisel

Other: Tyrone Township Zoning Administrator George Van Hecke

Guests: Richard and Eva Buckner, Steve Donnay, and Ken Burke

**MINUTES OF JULY 6, 2009, ZONING BOARD OF APPEALS MEETING**

Cypher moved that the minutes of the July 6, 2009, 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 July 19, 2009, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on July 15, 2009, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 Steven Donnay, RE: Request for a 6-Foot 6-Inch North Side Yard Setback Variance to Allow an 8-Foot by 4-Foot 6-Inch Addition, Built Last Year Without Permits, to Remain. Also, a Request for a 1-Foot 6-Inch North Side Yard Setback Variance to Construct a Proposed 22-Foot 6-Inch by 30-Foot Garage, Located at 10446 Runyan Lake Road, (TAX CODE # 4704-09-200-014)

Steven Donnay stated that the addition was built this year, not last year. He stated that he built the addition and that he continued down an existing wall. He continued that the corner of the addition is approximately 3½ feet or 42 inches away from the property line, so he is asking for a 6-foot 6-inch north side yard setback variance. He stated he would like to add a garage to the west side of the house. He continued the north wall would be 8 feet 6 inches from the property line, so he is asking for a 1-foot 6-inch north side yard setback variance to construct a proposed 22-foot 6-inch by 30-foot garage. Mr. Donnay submitted several letters of support from neighbors for the Board to review.

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

Greg Carnes stated that there are two variance requests before the Board. In response to Carnes' question, Mr. Donnay answered that the proposed garage would be attached. Cypher stated that by viewing the requests separately, the Board could accept both requests, accept one request and deny the other or deny both requests. Carnes agreed. Meisel stated that it would be easier to look at these requests separately because one is for an existing structure and one is for a proposed new structure. Carnes recommended that the Board look at the requests individually. Carnes stated the Board would look at the 8-foot by 4-foot 6-inch addition first. In response to Cypher's question, Tyrone Township Zoning Administrator George Van Hecke answered that there was no way to tell if when the house was built that it was built under the Zoning Ordinance and

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within the setback requirements at that time, but it appears that it was probably non-conforming to the new Ordinance. In response to Cypher's question, Van Hecke answered it appears at the time it was built, it was built in accordance with the Ordinance at that time. Cypher stated that it is his understanding that part of the reason why the addition was put on was because of a foundation failure. He continued that probably at least the majority or all of the east elevation has all new foundation underneath it and it is his understanding that the reason the applicant did what he did there was because of foundation failure. Mr. Donnay responded that he has a letter from his insurance company regarding the foundation failure and he needed to repair it. Cypher stated it was his understanding, from walking out there, that the original door to the home actually exited to the north where this addition was put on. Mr. Donnay responded this was correct. In response to Cypher's question, Mr. Donnay answered that as you exited the house there were two steps out of the house onto a small concrete pad and if you exited off the pad the renters would be walking on the neighbors property. Mr. Donnay added that the edge of the concrete pad was right at the property line, if not over the property line. Cypher stated that by doing what the applicant did, it actually kept the renters or homeowners from exiting onto the neighbor's lawn. He continued if the neighbors had put a fence along the property line, it would have been difficult to exit the home. Mr. Donnay stated that right now you would exit the home to the east and the renters no longer exit to the north or from the north. Cypher stated that the applicant is now further away from the neighbors' property line than what it was prior to the changes. Mr. Donnay said it is now approximately 15 feet away from the property line. He continued that as you enter and exit the house you are away from the property line. Cypher stated that the northeast corner is still further away from the property line than the existing southwest corner of the structure as it sets. Mr. Donnay stated that from his measurements it is, from the east side it measures 42 inches and from the west side it measures 41 inches from where the existing structure used to be. Mr. Donnay continued the only point of reference he had to go by was from a survey that was done approximately a month ago and they left the stakes as is. He stated they ran a line between the stakes as best they could. He added that there are a couple of trees that are in the way of running a straight line so they went between the two points that are near the north side of the house. Cypher asked the Board and the applicant if they reviewed the submitted survey for Richard and Eva Buckner, the next door neighbor. Mr. Donnay responded that the only survey he is aware of is the stakes that are out there and they have been out there for about two months. Smulsky stated those are the stakes she used for measurements. Meisel stated he thinks the stakes are the result of the submitted survey. Mr. Donnay stated that he did drive a stake in himself with a copper pipe out near the road because he was trying to get the line through the v of the tree, the one tree closest to the road. He continued he was able to line up only three of the stakes and not the fourth stake. He stated either the stake closest to the corner of the northeast corner of the house or the stake at the road is off. Mr. Donnay stated he moved the stake on the northeast corner of the house in closer to try to get the line. He added if the Board had been to the house yesterday they could see the attempt to run a string in a straight line between the stakes. Cypher stated with the location of the house to the north of the applicant, there are Ordinances in place to prevent getting closer to property lines. He continued with the home to the north established where it is, down over the hill, and the driveway on the south of this property it minimizes health and safety issues for getting to the lakeside of the house. Cypher stated this does not increase encroachment further

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into the setback, so it does not increase the nonconformity. Cypher continued that the situation was improved by having the door come out the side of the house which made the home more attractive. In response to Meisel's question, Van Hecke answered that the two single family dwellings on a single family residential lot were grandfathered in because they have been there for so long. He continued that if either of the structures had been demolished, or destroyed by fire, wind, or storm the structure would not be able to be rebuilt. In response to Meisel's question, Van Hecke answered that you cannot increase the nonconformity by enlarging it but you can make repairs to it to make it safer. In response to Meisel's question, Van Hecke replied that the nonconformity was increased in this case because the applicant added on to it. In response to Smulsky's question, Van Hecke answered that the applicant should have come before the Board to get a variance before he constructed the addition. In response to Smulsky's question, Mr. Donnay answered that he probably knew that he needed a variance before adding the addition. In response to Meisel's question, Mr. Donnay answered that he did not obtain any permits from the Livingston County Building Department (LCBD). Mr. Donnay stated that the LCBD is aware of the situation and he was waiting to see the outcome from this Board before going any further. In response to Bunka's question, Mr. Donnay answered that the renters moved out and he has new renters waiting to move in. In response to Meisel's question, Van Hecke answered that he has not seen any preliminary assessment of whether the addition would comply with the LCBD standards and that their concern is mostly with meeting the code requirements. In response to Van Hecke's question, Mr. Donnay answered that when he made roof repairs he changed the direction of the roof to make it structurally sound. He continued that he put in the foundation to reinforce it and he did this in March/April of 2009. Meisel stated that should the neighbor develop the front portion of their yard within the setbacks of 35 feet back, 50 feet back, and 10 feet on each side, the way we administrate or Zoning Ordinance, they may have to give up an additional 7+ feet of their property to maintain 20 feet between the structures. He continued that effectively they would lose 7 feet of their property. Cypher questioned when the Township started doing this. Meisel responded that when anybody does development, we try to maintain a 10 foot separation on each property line, and if one is nonconforming, then usually there is an attempt or requirement to space the homes with a 20 foot separation for fire safety. Cypher stated that had never heard of that being enacted especially on existing developments. Van Hecke stated that if you want to do a repair to your house and put a ladder up, you shouldn't encroach on the neighbor's property next door. Meisel stated that the 1-foot overhang makes the roof close to being on the property line. Meisel stated that before there was a practical difficulty because there was a section of the home that was that close, but now it has been lengthened so there is additional area that is more challenging to build upon. In response to Bunka's question, Van Hecke responded that if the home were to burn down and the owner wanted to rebuild in the middle of the lot, they would have to abide by the setbacks. Van Hecke stated that they would also have to abide by the averaging setback and could not build forward and block the view of the neighbors; they would have to increase the setback from the water to minimize sight line impacts. Meisel stated they could build on the same footprint and the same height, but if they wanted to increase the height, they would have to move it back subject to sight line interpretation, which depends on topography and a number of other things. Carnes stated that he wants to make sure the neighbor does not lose 7 feet of their property and can still build using the 10 foot setback, regardless of what the Board

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determines here.

**PUBLIC COMMENT**

Eva and Richard Buckner, 10450 Runyan Lake Road, stated that this variance request directly affects their property. Mr. Buckner stated that the Zoning Ordinance is there for a reason. He continued that there needs to be room between the houses for safety reasons. He stated they are planning to build in the future and they are worried about losing 7 feet of their property, which would be a hardship for them. Mrs. Buckner stated they plan to build a permanent home 10 feet from the property line and they are concerned with the property losing value. Mrs. Buckner stated this Board may not be active at the time they decide to build and at the time they decide to build the new board members may require that they give up the 7+ feet of their property. Mrs. Buckner expressed a concern with the two structures being closer than 20 feet together and a fire could destroy them both. Mrs. Buckner referenced exhibit #1, showing the applicants house (outlined in yellow) being 8 feet from the property line and there was no bump out on the drawing, which is from when the sewers were put in around 1988 to 1990. Mr. Buckner pointed out that the other house is shown right on the lot line, which is located at lake level. He continued it is close to his cottage, which is 8 feet from the property line and within the old code guidelines. He added that his cottage was conforming when built and that the Donnay cottage was nonconforming when built.

Cypher questioned if this submitted drawing is to scale and Mr. Buckner answered that he received the drawing from the Township. Carnes stated that our Zoning Ordinance was not in effect at that time anyway. Meisel stated that Cypher's comment earlier was appropriate, there is a mix of old cottages being converted into new homes, old cottages that remain, you have vacant parcels, you have a number of parcels that are owned in common, and in some cases there are some easements, so there is a mixed bag. Meisel continued that the only thing you can do is take a snapshot of the area at that point in time, and the dimensional accuracy that was available and cross your fingers. Mr. Donnay stated he purchased the house in 1995 and the offshoot/bump out was there. In response to Smulsky's question, Mr. Donnay answered that the only addition he added was the closed off corner. In response to Carnes' question, Mr. Donnay answered that both houses are on one lot, and he purchased them as one unit back around June of 1995. He continued they have different addresses on the same lot.

Mr. and Mrs. Buckner responded that what Mr. Donnay stated was incorrect. She submitted two aerial views of the Donnay house, one from 5/13/08 and one from 5/1/2009. She stated that on the aerial picture dated 5/13/2008, you can see the corner of the Donnay house on the north side of the property is in line with the existing cedar tree. She continued that on the aerial picture dated 5/1/2009, you can see that the corner of the house on the north side of the property is now about 8 feet out from the existing cedar tree. She also noted that the roof is turned in another direction. Mrs. Buckner submitted a hand drawing showing in yellow the addition and in pink the bump out put on earlier. Mrs. Buckner stated they had their property surveyed and it cost them \$800.00 to do so, which is a hardship for them.

The Board reviewed written correspondence from: Eva and Robert Buckner, 10450 Runyan Lake Road, stating objection to the granting of the Donnay variance requests; Lee Stone, 10466 Runyan Lake Road, stating support for the addition and objection to the variance request for the garage; Laura Cypher, 10418 Runyan Lake Road,

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stating no issues with the proposal and for approval of the request; Rob Eastman, 10438 Runyan Lake Road, stating no issues with the proposal and for approval of the request; Margaret Quinn, 10460 Runyan Lake Road, stating no issues with the proposal and for approval of the request; and Robert Church, 10411 Runyan Lake Road, stating no issues with the proposal and for approval of the request.

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In response to Carnes' question, Mr. Donnay answered that he purchased the house at 10446, by the road, in June of 1995 and the addition was already on it, he purchased it that way. Mr. Donnay continued that the bump out area was always there and he sided it all the way across when he added the corner area. He showed a picture to the Board that was taken around 1998 and it shows the bump out area of the house. Mrs. Buckner stated that what Mr. Donnay is calling a bump out is actually the corner of the house that was notched in where the door led out north practically on her property. She continued it was notched into the house and the side of the house was straight, there was nothing bumped out and it was 8 feet away from the property line. She added it was bumped in to accommodate the door, with a little two step down and then onto a pad. In response to Cypher's question, Van Hecke answered that the Zoning Ordinance was adopted in 1997 and changes were made in 1998 including the 10 foot side yard setback in LK zoning. In response to Cypher's question, Van Hecke answered that anything before that they used to just say as long as you don't come in any closer to the property line than what was already there, would not make it more nonconforming, even though the overall area of the nonconformity increased. Van Hecke continued that the attorney said you really cannot do that because you are increasing the size of the nonconformity and they decided you cannot add on unless you get a variance. In response to Cypher's question, Mr. Donnay answered that the pink area on the hand drawing is the bump out that was there when he purchased the house and it is where the bathroom is located, a shower, a sink, a 3 foot area of nothing, and a vanity. In response to Cypher's question, he responded that this is the area where there is a window from the west side elevation. Mr. Buckner stated that Mr. Donnay moved the window from the north side of the home and moved it around the corner. Mr. Buckner added that there was no foundation underneath that bump out and Mr. Donnay just ran the siding down to the ground. Mrs. Buckner added that now there is all new foundation there. Mr. Buckner stated that Mr. Donnay has done other improvements to both this house and the house by the lake and they never said anything to be neighborly. Mrs. Buckner stated Mr. Donnay added a big addition on the side and they have to pay the consequences of it being 3-feet 1-inch to 3-feet 5-inches from the property line, according to the survey they had done. She continued she cannot believe Mr. Donnay would build so close to the property line and that a neighbor would do this to another neighbor. Mrs. Buckner stated that they probably would not even be here had Mr. Donnay followed proper procedures and pulled the proper building permits and he would not have been allowed to build so close to the property line. Mrs. Buckner continued that this directly affects the value of their property and it is going to be a fire and safety issue. Mrs. Buckner stated that when you ask for a variance a hardship must be shown and on Mr. Donnay's application there is nothing listed for a hardship. Mr. Buckner stated that Mr. Donnay has room on the south side for an addition or even room in the front for an addition. Mr. Buckner stated Mr. Donnay is asking for an 8-foot by 4-foot 6-inch addition for a corner, according to the drawing Mr. Donnay submitted. He

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continued that if you look at the drawings, it is at least 16 to 20 feet long and not 8 feet. Mr. Buckner continued that according to the Tyrone Township assessor's records, it shows the total length of the house to be 34 feet long and the existing building is actually 42 feet long according to Mr. Donnay's submitted drawing. In response to Cypher's question, Meisel answered that every property on Runyan Lake was reconfirmed in the fall of 2003 by an independent assessor hired by the Township and the reassessments were effective in the 2004 tax year. Cypher stated that Mr. Donnay would not have needed a variance for the addition except for the 8 foot area in the corner. Cypher stated that having Mr. Donnay tear down a 4-foot by 8-foot area in the northeast corner of the house, the nonconformity is still there because he is still only 3-foot 7-inches to 3-foot 1-inch from the property line. Cypher continued that the nonconformity of the 80 square feet of the wall area in the northeast corner of the building, there is still 20-feet 5-inches by 10-foot high of sidewall that is only 3-foot 7-inches to 3-foot 1-inch, so the nonconformity was not increased further into the side yard setback. Cypher stated he has heard comments that he had not heard before in the 12 years of serving on the ZBA and also the 5 years of serving on the Planning Commission. He continued that 90% of the past motions usually have verbiage that it has not increased the nonconformity further into the setback, especially when it comes to Runyan Lake. Cypher stated that around Runyan Lake probably 90% of the variances granted were because they did not increase the nonconformity any further into the setbacks. Cypher continued he understands the Board has to meet criteria here but to have an area torn down on a home that he does not have a visual of what it looked like previously is difficult. With a side door leading onto the adjacent property, that is extremely close, but to have somebody coming in and out of the door looking into the neighbors living room versus now having a wall there so the people will not be walking on the adjacent property is much better. He added everyone going in and out of the house on the lake side previously came out of that side door, he sees it as a plus to the property and the neighborhood. In response to Smulsky's question, Cypher answered that in his opinion, as one vote, if Mr. Donnay had gone through the proper procedures and made a request for a variance on the corner he probably would have voted yes for the variance request. Cypher added that he cannot think of a case in a lot of years that has had the strong objection from the adjoining property owner that we have had here. Smulsky questioned that given all the information the Board has been given this evening by both of these parties, how do you make a fair decision on this? Cypher responded that it is difficult but in his opinion if we deny Mr. Donnay his request and he has to go through the channels, everything stays there except for the 4-foot by 8-foot bump out area. He stated the other nonconformity is there and the addition to the front/lakeside, whenever it was put on, is within the Zoning Ordinance and whether permits were pulled for that or not, that is not our issue. Cypher stated that he has never heard a discussion of a property owner having to give up a portion of their property because of a nonconformance of the neighboring property. Cypher stated that as far as safety, if you look at the map at least  $\frac{3}{4}$  of the houses that are there and will be there for a long, long time, probably do not have 10 feet between any of them all along there. Cypher continued that the Board cannot make Mr. Donnay go back to 10 feet on the whole side of the house. Bunka stated the grandfathered distance is 8 feet. Meisel stated that no matter what you do there is a portion of the home that is 3 feet plus inches from the property line. Carnes stated the Board cannot determine when the addition was added, somewhere between 1990 and 1995. In response to Smulsky's question, Van Hecke answered that if all they did was

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repair the area, it would have been fine. Meisel stated that Mr. Donnay did a remodel and added on to it in this case. Cypher stated there is no question that Mr. Donnay added onto the house. Cypher continued that for part of the addition on the lakeside Mr. Donnay would just have needed a building permit and it is only the 4-foot by 8-foot corner that would need a variance. Meisel stated that it is evident that a lot more was added onto the home than the 8 feet requested. Meisel continued no matter what the Board does, the decision has to be based on a statement of existing footprint because the Board needs to get out of the debate of how many feet and how many inches is really there and the decision the Board makes is to effectively address what is there is there. Carnes stated that even though the addition did not get any closer to the property line, the length of the nonconformity has increased, so technically the overall area of the nonconformity was increased. Carnes continued that the Board has granted variance requests in the past that did not encroach any further into the setback but just increased the length of the nonconformity. Cypher stated that there is not a house next door and the Board is not taking any of the property from the neighbor next door, whether the Board grants or denies the request, and the Board is not restricting the neighbor from where they can or cannot build their home. Meisel stated there is a substantial amount of area here (adjacent neighbor's property) that would reasonably accommodate a fairly good size structure. Cypher stated that the Buckner property is 127 feet at the road which is larger than most. Meisel stated that while the Board is typically concerned about getting rooflines closer than 20 feet, the reality is that unless there is something substantial, they would probably be able to build 10 feet from the property line. He continued that there are three cedar trees and unless they remove these cedar trees they will stay setback from them. Meisel stated the Buckner's could reasonably build 10 feet from the property line and probably get permission to do that. He continued if someone told them no you cannot build 10 feet from the property line, they would have a reasonable argument to come back to the ZBA and say remember this meeting and the decision that was made and get their 7 feet back. Meisel stated that the Board works in the here and the now. He continued that between now and say 6 months, the developmental standards in the LK-1 zoning district or anywhere else could change. He added that the setback requirements could increase or decrease or the minimum or maximum size of your home could change, so unfortunately we have to stay in the here and now and try and make sure there are reasonable accommodations for them in the future. Cypher stated that the Planning Commission cannot write a Zoning Ordinance that fits every parcel of property in the Township. Cypher continued that 95% of the people that want to do anything on Runyan Lake have to come before the Board. Mrs. Buckner responded that they are asking the Board for their help and would like the Board to make Mr. Donnay remove the 16 feet that he added along the property line, so that he is not 3-feet 1-inch from the property line. She continued that Mr. Donnay did get closer to the property line and by removing the addition he would be 8½ feet from the property line. Carnes stated we need to address the criteria for granting a variance and that it will be tough to answer all 5 criteria. Meisel stated for health and safety it is not anymore adversely impacted than existing. Cypher stated moving the exiting of the home away from the property line would be a safety issue. Meisel stated for unreasonable burden there is a portion of the home that was there prior to the time that this Board can take any action on and there is insufficient information to say anything but yes it was there. He continued there is a continuation along the building line/wall line that tucks in another 3 inches. Meisel stated that he agreed with everything that

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Cypher said earlier but he is struggling with unreasonable burden and extraordinary circumstance. Meisel stated the extraordinary circumstance of the prior bump out, regardless of when it was there, is self created at least by the former owner of the land, if not the current owner. Meisel stated the Board could argue for unreasonable burden that the prior Zoning Ordinance/Zoning Regulations permitted construction of a home that was closer to the property line than the current Zoning Ordinance allows. Meisel continued that as Cypher stated earlier, continuing along that same building line effectively does not increase the nonconformity further into the setback area. Smulsky stated it does increase the size of the nonconformity. Meisel responded we did not increase the nonconformity by encroaching closer to the property line, but increased the length of the wall footage. Cypher stated the Board really has not used the square footage of wall space except in cases where there are homes that are in close proximity to it. Bunka cited Zoning Ordinance No. 36 – Section 26.03 Nonconforming Structures - where it specifically states you cannot increase nonconformity. Cypher stated the way our Ordinance is set up it does not talk about anything but the measurement, it does not talk about wall space, but it does talk about heights – which is not an issue here with heights. Meisel agreed. He continued it does not say if the nonconformity is 8 feet long it is the same nonconformity if it is 20 feet long, there is no differentiation in that. Cypher stated our Ordinance only measures distance from Point A to Point B and no other measurement. Meisel concurred. Van Hecke stated the request could be tabled to check with the attorney to see if this would be enlarging the nonconformity. He continued if the attorney feels this does increase the nonconformity, the Board would have to uphold that. Meisel stated he thinks the Board could use the old Zoning Requirements as an extraordinary circumstance. Meisel continued the minimum variance is kind of a default thing. Meisel stated substantial justice could be the harmonious improvements. Meisel continued for health and safety there are enhancements to the crumbling foundation. Carnes stated that if the request is denied the applicant would have to remove a portion of his structure. Cypher asked what portion you tell the applicant he needs to remove. Meisel stated he could remove just the corner or he could have to remove everything he put up without a permit. Meisel continued this was self created but it was allowed. Bunka stated if it is not conforming and it has to be improved or removed it must be brought to conformity. Van Hecke stated we need to consider the 16 feet for the length of the new addition, which is obviously more than the 8 feet Mr. Donnay is asking for. Van Hecke continued the assessors drawing shows the length of the house to be 32 feet and the drawing submitted by Mr. Donnay shows it as 42 feet long. Carnes stated that the survey has two dimensions on it, recorded and measured, and none of them are the same. He continued if another surveying company came in they would probably come back with completely different numbers too. Mrs. Buckner responded that the surveying company found stakes in the ground with the cement three feet down and went off of these markers. Carnes responded that he does not dispute this but back in 1918, now the clay has been moving and shifting and water can move the monuments. Meisel stated that all of these measurements are based off of a monument that is located someplace. He continued about every century the earth where those monuments are located moves about ¼ inch. He added that back when a lot of these measurements were done, they were not precise measurements. Meisel stated now they use GPS which is more accurate, but you have two practical difficulties: what was recorded at the time and the unfortunate movement of the soils of the earth. He continued in some areas on older properties there are sometimes two to three feet that

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property lines are off, on both properties. Meisel stated there appears to be a pattern here of Mr. Donnay not getting the proper permits and following proper procedures. Smulsky stated that this puts the Board in the most difficult position. She continued that the Board works really hard with the homeowners to try to find a way for them to do things when they pull permits and to try to grant them variances. Smulsky stated it is hard to work with someone who built something with disregard to following the Zoning Ordinance and proper procedure; it puts the Board in a difficult position for setting a precedent, especially on Runyan Lake. Van Hecke stated that Mr. Donnay did not request the correct size for the variance and it was published incorrectly. Meisel stated in this case this addition was already there and since there would not be any new construction, Mr. Donnay isn't asking to construct but is asking to retain what is there. Bunka stated he thought Mr. Donnay was asking for a variance so he could have the construction he had done approved. Bunka continued that as far as the state, county and township are concerned the property has not been approved yet, because we are allowing the process to start now. Meisel stated he does not disagree with that. At this time, Carnes asked that a motion be made on this request.

**MOTION**

Meisel reluctantly moved to grant the variance request by Steven Donnay for a north side yard setback variance not dimensioned to allow the existing structure to remain as built, located at 10446 Runyan Lake Road, (TAX CODE # 4704-09-200-014), conditional upon approval by the various departments of Livingston County (electrical, building, etc, that are applicable) for the following findings of fact: **Unreasonable Burden:** A significant portion of the existing structure's footprint existed prior to recent amendments to Tyrone Townships Zoning Ordinance and despite the fact that those regulations are no longer in force the structure exists such that it encroaches on the currently required setback. It would be an unreasonable burden to remove that existing structure built under regulations in effect at that time and it is a reasonable request to maintain the existing nonconformance, as has been determined by this Board, as well as permit an increase in the length of the home while not increasing the nonconformance as far as proximity to the property line. **Substantial Justice:** The modifications done to the home are a reasonable improvement that blend harmoniously with the neighborhood and despite one strong objection appears to have the support of the other near neighbors, based upon correspondence submitted, and therefore would meet the test for being compatible and harmonious with adjacent land uses and neighbors. **Minimum Variance Required:** We are granting the minimum variance that is required to maintain the existing structure as it exists today. **Extraordinary Circumstances:** The extraordinary circumstance is that the home was built at a time when the current Tyrone Township Zoning Ordinance was not in effect, therefore its location is what it is and the circumstance is arguably not self created by the owner or the former owner in the context that the former owner or arguably the current owner purchased a home that was built to the standards of the prior Zoning Ordinance in effect at that time. **Health and Safety:** Granting this variance does not increase the hazard of fire or otherwise endanger public safety as a result of no near proximate residence to the nonconformance and also the fact that there are three cedar trees in the way that appear to have sentimental value to the near neighbor and are therefore perceived to remain there regardless. Meisel amended the motion to again for the record state that granting this variance is challenging and difficult for this Board and in no way, shape, or form shall be construed as a precedent that will allow somebody who has

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built without permits, knowingly or otherwise, to be granted a variance under similar circumstances or non-similar circumstances. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Schedule of Regulations)]. (Cypher seconded.) Roll call vote: Bunka, no; Smulsky, no; Meisel, yes; Carnes, yes; Cypher, yes. The motion carried

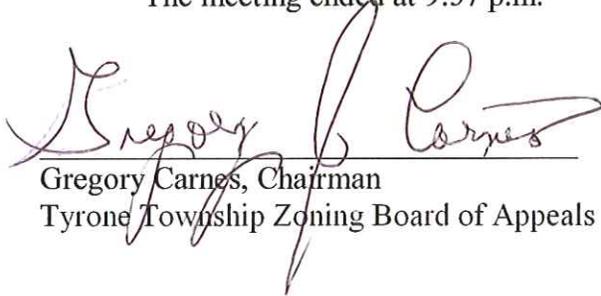
At this time, the Board had a brief discussion regarding the variance request for the proposed garage. The Board agreed as a whole that Mr. Donnay could construct a proposed garage without the need of a variance. The Board suggested that Mr. Donnay revise his proposed garage to be able to be built within the guidelines of the Zoning Ordinance. Mr. Donnay agreed to revise his plans for his proposed garage. Mr. Donnay withdrew his variance request for the proposed garage.

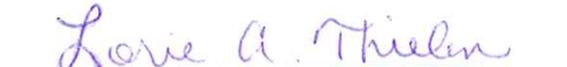
**MISCELLANEOUS BUSINESS**

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, September 14, 2009 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 9:57 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