

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 1 – MAY 10, 2010**

**CALL TO ORDER**

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on May 10, 2010, 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

Guests: Mike and Julie Tittl, David and Deborah Hense, Brian and Tiffany King, Mike Tittl Sr., William Shook, and Joanne and Charlie Drury

**MINUTES OF FEBRUARY 8, 2010, ZONING BOARD OF APPEALS MEETING**

Cypher moved that the minutes of the February 8, 2010, 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 April 25, 2010, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on April 22, 2010, at 9:00 A.M.

**VARIANCE REQUEST**

#1 Mike and Julie Tittl, RE: Request for a 3-Acre Variance From the 10-Acre Minimum Required, to be Allowed to Keep Their Existing Dogs with No Intention of Boarding Outside Dogs, Located at 8341 Allen Road, (TAX CODE # 4704-31-400-039)

Julie Tittl requested a 3 acre variance from the 10 acre minimum required to be allowed to keep their existing dogs with no intention of boarding outside dogs. She stated that they have lived in their home for 13 years. She continued that her family has been showing and raising German Shepherd dogs for the last 25 years. She stated that there has never been a complaint filed against them at Tyrone Township. She continued that their dogs are family members first and then show dogs. She added that her daughter has been involved with the dogs ever since she could hold a leash. She stated that this is a hobby that they can do together. She continued she is a founding member of the American White Shepherd Association which is AKC registered but not accepted in the confirmation ring. She stated the ultimate goal is to have happy, healthy dogs that are great representatives of the breed and to one day win the coveted honor of Best In Show at the Westminster Kennel Club Dog Show. She continued she helped form the standard for the White German Shepherd and helped form the club and get the by-laws in place. She stated that she is not a boarding kennel, they like to have their dogs, and they want to be able to keep their dogs.

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

In response to Moyski's question, Ms. Tittl responded that they own 7 dogs. In response to Cypher's question, Ms. Tittl answered that she does little breeding and the only time she does breeding is to keep her dog line going and improve the dogs, not to just produce dogs. She continued that on an average it could be one a year but there have been

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years where she has not breed at all. In response to Carnes' question, Ms. Tittl answered that in the last 13 years she has bred the dogs 9 times. In response to Carnes' question, Ms. Tittl answered that she does not consider herself a breeder, only a hobbyist. In response to Meisel's question, Ms. Tittl answered that she came to the Township for dog licenses and this is how she found out she was not compliant with the kennel section of the Zoning Ordinance. In response to Meisel's question, Ms. Tittl answered that there were no complaints regarding the number of dogs she owns. She continued that there was an incident where a dog got out of the yard, ran down the driveway and scared a person, but the dog did not bite them. She added that Livingston County came out and asked for licenses, so she came in to the Township to license the dogs. In response to Smulsky's question, Ms. Tittl responded that she was somewhat aware that licenses were needed for the dogs, but was not aware that a kennel license was required for her dogs. Mr. Tittl stated they have 3 acres of property that are fenced in for the dogs and that they do not just run loose. Ms. Tittl added that they electrified the fence once the one dog got loose. In response to Meisel's question, Ms. Tittl answered that 2 dogs stay in the barn and 5 dogs stay in the house. In response to Meisel's question, Ms. Tittl responded that the penned areas are 5-feet by 15-feet long, has inside cemented flooring, outside cemented area, is 6-feet high, have indoor/outdoor access and then 3 acres fenced in around it. In response to Cypher's question, Meisel answered that Tyrone Township is not unique in limiting the number of dogs allowed or requiring a kennel license and that most municipalities allow 2 to 4 dogs. In response to Cypher's question, Meisel responded that local jurisdictions typically supersede county and state ordinances. Cypher stated under Zoning Ordinance No. 36 Section 21.28E (Stables and Animals - Animal Units) it shows that on 7 acres you can have 2 animal units, the ordinance then lists what an animal unit is equivalent to. Cypher continued that while reviewing the correspondence he read that one of the neighbors agreed to lease 3 acres of land to the applicant, but according to Zoning Ordinance No. 36 Section 21.28F (Stables and Animals – less than 10 Acres) it states that land cannot be leased to increase the size of the primary parcel. Meisel responded this particular ordinance section does not apply to this case because it refers to stable animals not domesticated animals. Meisel stated his view, from what he has heard so far, is that the applicant complies with all county and state regulations, that the applicant has appropriate housing, has shelter areas, has containment, but does not have parcel size. He continued this now gets back to unreasonable burden and extraordinary circumstance. Meisel stated we have a situation similar to a decision made last time where 100% of the neighbors saying this is ok, it is pretty much an extraordinary circumstance. He continued there also is a neighbor willing to give up 3 acres and the question becomes is this a reasonable means of achieving a 10 acre minimum, at which he stated he is not sure how he feels about it. Moyski stated that if you look at the ratio of acres to animals they are well within compliance of the Zoning Ordinance. Cypher stated if you look at Zoning Ordinance 22.05G(2) – Minimum Parcel it states for dog kennels, the minimum lot size shall be 10 acres for the first 10 dogs and an additional one-third acre for each I additional dog. Meisel stated that there is an adequate buffer around this property with only a couple neighbors within close proximity. Cypher stated that the property borders along the gas line and that almost half of their property line is on open space/easement and there are only two houses that are within any kind of close proximity to this really odd shaped property. Meisel stated that the property is pretty much open to the north, to the east, and arguably west, with a somewhat close neighbor southeast and someone directly south. He

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continued there is distance there and a tree line for adequate buffering. Meisel stated that a neighbor willing to lease property to make up the shortage could be seen as an extraordinary circumstance. Moyski agreed with Meisel's statement. Cypher stated the Board received six letters in favor of the variance request, but he is not sure if someone from the public is not in favor of the variance request. Meisel stated his personal view would be the fact that they would lease 3 acres of property, that would be an extraordinary circumstance but would not be an exemption from the requirement to get a variance because they would be leasing the property, it would not be their property, and it is not a contiguous parcel because they would not own it. He continued that even though they have approximately 7 acres, legally they have 6.89 acres. Meisel stated that when it was split off in 1997 there was originally 7.153 acres in the legal description but excepted from that was the portion of the parcel in Hartland, but he was unable to find it anywhere in the county records to tell him if that is the difference of the .2 or .3 acres or if this is the typical variation between the survey and GIS's data.

Secretaries Note: In response to Cypher's question as to where in the Zoning Ordinance the maximum number of dogs is listed, it was later found to be listed under Zoning Ordinance No. 36, Section 2.01 (Definitions) Kennel - any lot or premises wherein or whereon three (3) or more dogs of six (6) months or older are kept or boarded either temporarily or permanently.

**PUBLIC COMMENT**

David and Debora Hense, 6223 Linden Road, stated support for the variance request and stated they are willing to lease 3 acres to the applicant. David Hense stated the applicants are good neighbors, they have had no issues in 10 years, and this is a hobby to them. Bill Shook, 8350 Allen Road, stated support for the variance request. Charles Drury, 8325 Allen Road, stated support for the variance request. The Board reviewed written correspondence from: Charlie and Joanne Drury, David and Debora Hense, Nadine Naras-Bailey, Lance V. Knupp, Jim and Linda Denton, and Elaine Passalacqua, indicating they support the variance request by Mike and Julie Tittl.

Carnes stated this is not a kennel operation because it is not for profit. He recommended that whoever makes a motion puts this fact into the motion. He reminded the public that a variance stays with the property, so if the applicant moves, you do not want a kennel going in there afterwards.

**MOTION**

Meisel moved to grant the request of Mike and Julie Tittl for a 3 acre (3.11 acres per GIS) variance from the 10 acre minimum required to be allowed to keep their existing dogs (more than 3) with no intention of boarding dogs for commercial purposes, located at 8341 Allen Road, (Tax Code # 4704-31-400-039), due to the following findings of fact: Unreasonable Burden: As currently written the zoning ordinance does not differentiate well between dogs kept for personal use and those kept for profit with respect to how kennels are defined. The dogs are raised for show on a 7 acre parcel. Except for quantity, all other requirements set forth in 22.05.G are met. The ZBA also finds Sections 22.05.G.1, 7 & 8 should not apply to this applicant as they are requirements for commercial kennel operations. Substantial Justice: All neighbors in proximity to the

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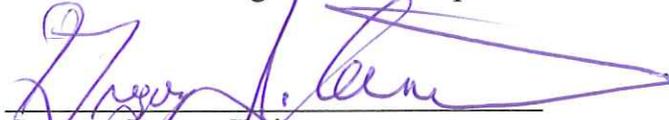
applicant have submitted letters and most made personal appearances in support of the applicant. The continued use will relate harmoniously with adjacent land uses. There have been no complaints received from proximate property owners against the applicant in the past. Minimum Variance Required: The minimum variance required is being granted. Extraordinary Circumstances: The proximate neighbors are all in support and the Hense's are willing to lease 3 acres to the applicant to effectively comply with the minimum land area required. Granting this variance will maintain the desired 1 dog to 1 acre ratio. Health and Safety: Granting this variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 22.05G(2) (Dog Kennels – Minimum Parcel)]. (Moyski seconded.) Roll call vote: Smulsky, yes; Cypher, yes; Meisel, yes; Moyski, yes; Carnes, yes. The motion carried

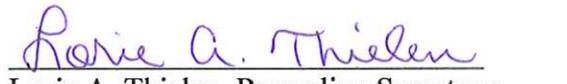
**MISCELLANEOUS BUSINESS**

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, June 7, 2010 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 8:46 p.m.

  
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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