

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – JUNE 7, 2010**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on June 7, 2010, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Greg Carnes, David Cypher, Claudette Moyski, Dave Wardin, and Mark Meisel

Guests: Charlie Russell, Norman Powser, Heather Baxter, Jeff Shook, Suzanne Thiebert, Harold Thiebert Jr., Harold Thiebert Sr., Terry Klump, William Landrem, and Chris Landrem

MINUTES OF MAY 10, 2010, ZONING BOARD OF APPEALS MEETING

Moyski moved that the minutes of the May 10, 2010, Zoning Board of Appeals Meeting be approved as presented. (Cypher 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 May 23, 2010, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on May 19, 2010, at 9:00 A.M.

VARIANCE REQUEST

#1 Jeff and Lindsay Shook, RE: Request for a Front Yard Location Variance in Order to Build a New Proposed 32-Foot by 50-Foot Detached Accessory Structure in Front of the Existing House, Located at 10557 Jayne Valley Lane, (TAX CODE # 4704-12-100-034)

Charlie Russell of Russell Building and Contracting L.L.C., representing property owners Jeff and Lindsay Shook, requested a front yard location variance in order to build a new proposed 32-foot by 50-foot detached accessory structure in front of the existing house. He stated the variance is necessary due to the proximity of about 35 feet to Denton Creek and elevation changes that will not allow the proposed structure to be built in compliance with the Zoning Ordinance. He continued that this is a 10 acre parcel and they are trying to locate the proposed structure in the rear yard as much as possible.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel requested that we get the proper property classification from the Zoning Administrator for all future appeals. Meisel stated that on less than 20 acres a proposed accessory structure is to be located in the side or rear yard. He continued this property has two front yards because they are adjacent to Denton Hill Road. Meisel added that there are no size limitations for accessory structures in RE Zoning. He stated the proposed structure is located on high ground, has topography limitations due to Denton Creek, the majority of the trees will remain in place, to move the proposed structure back would force the applicant to remove more trees, and with two front yards there will be significant buffering by the existing trees. Carnes stated the biggest issues are the two front yards, the topography and the wetlands. Meisel stated this property is in RE Zoning and according to Zoning Ordinance No. 36 Section 21.02G Front Yard Accessory Structures:

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Accessory structures may be located in front yards in RE Districts only on parcels of twenty (20) or more acres in area with at least 466 feet of road frontage and shall be at least 250 feet from the primary structure and 150 feet set back from the road right-of-way. Meisel continued that the applicant meets the 466 foot road frontage requirement but does not meet the requirement of the structure to be 250 feet from the primary structure. He stated the proposed structure would be only 135 feet from the attached garage of the primary structure. Meisel continued the applicant complies with the 150 foot requirement from the road right-of-way on both Denton Hill Road and Jayne Valley Lane. He stated the Board must address two issues: the front yard location on a parcel of less than 20 acres and the proposed structure is less than 250 feet from the primary structure. Meisel added that there is more than adequate buffering and there is nothing around this property. He stated to the south there is open area, to the east there is open area, and across the street there is a house but with the location of the proposed structure and the woods it would not be seen. In response to Meisel's question, Mr. Russell answered that the accessory structure would match the exterior of the house and attached garage. In response to Cypher's question, Mr. Russell answered that the applicant plans to heat $\frac{3}{4}$ of the proposed structure in the winter. He added that there will be a small bathroom in the structure that will have a septic tank to be pumped out as needed.

PUBLIC COMMENT

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

MOTION

Moyski moved that the request by Jeff and Lindsay Shook for a front yard location variance in order to build a new proposed 32-foot by 50-foot detached accessory structure in front of the existing house, located at 10557 Jayne Valley Lane, (TAX CODE # 4704-12-100-034) be granted based on the following findings of fact: Unreasonable Burden: The property has significant topography limitations, inclusive of Denton Creek and other wetland areas. Adequate natural screening is provided which limits the impact to the neighbors. The accessory building will have same appearance as the existing attached garage. Substantial Justice: The accessory building will be harmonious with adjacent land uses. Traffic uses will not be impacted. The Extraordinary Circumstances: This variance is required to result in adequate setback from the wetlands and Denton Creek. The land features and topography are not self created. Minimum Variance: The variance being granted is the minimum variance required to construct the accessory building as presented. No Health and Safety issues are present or created by approving the requested variance. The absence of items stored outdoors may reduce crime opportunities. The reduced distance between the accessory building and main residence improves the ability to monitor the accessory building. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 21.02B (Accessory Structure Provisions – Number and Yard Locations)]. (Wardin seconded.) Roll call vote: Wardin, yes; Cypher, yes; Meisel, yes; Moyski, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

#2 Norman Powser and Heather Baxter, RE: Request for a 4-Foot 6-Inch North Side Yard Setback Variance, a 4-Foot 6-Inch South Side Yard Setback Variance, and a Front Yard Location Variance in Order to Build a New

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Proposed 25-Foot by 27-Foot 6-Inch Detached Accessory Structure in Front of the Existing House, Located at 10530 Runyan Lake Court, (TAX CODE # 4704-09-202-010)

Norman Powser requested a 4-foot 6-inch north side yard setback variance, a 4-foot 6-inch south side yard setback variance, and a front yard location variance in order to build a new proposed 25-foot by 27-foot 6-inch detached accessory structure in front of the existing house. He stated that he just recently purchased the property. He continued that there is currently no room for storage and the proposed accessory structure will provide extra storage area, as well as enhance the surrounding area.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Moyski's question, Mr. Powser answered that the distance from the existing house to the proposed garage would be 3-feet 6-inches, with the intent of attaching the garage to the existing house at a later date. He added that the existing well will be relocated. Carnes stated there are different requirements for an attached garage and an unattached garage. Mr. Powser responded that this will be an attached garage and not unattached as requested. Meisel stated if the proposed garage is going to be attached the Board must determine the maximum square footage allowed under the Zoning Ordinance. Moyski stated an attached garage can only be 50% of the size of the primary structure. Meisel stated there are many concerns to address with this request. Moyski agreed. Meisel stated the property is in LK-1 Zoning, it is a nonconforming property relative to meeting the minimum frontage required at the water, it is nonconforming in its current use with the location of the wood shed, and it is nonconforming in its current use with the existence of the fence because it is higher than 12 inches within 50 feet of the water. Meisel continued that this is an odd pie shaped lot that provides some other dimensional restrictions here, so it is narrow relative to the distances required for the width of the lot, or side yard setbacks. He stated the whole lot presents some interesting challenges so it is definitely an extraordinary circumstance, but for the record this is a platted lot and part of the plat of Runyan Lake Court which the appellant is not trying to modify but simply trying to use it. Meisel added that this is not a self created situation. Meisel stated that the proposal the applicant has does comply with the front yard setback requirement of 35 feet. Meisel added another issue needing to be addressed is the combination of the percentage of square feet utilized on the property and it appears the applicant is ok. He continued the other issue is the size of the proposed accessory structure and it appears to comply with the requirement for maximum square footage of an accessory structure. He added that there is a proposal for the relocation of the existing well with consent from the Livingston County Health Department. In response to Meisel's question, Mr. Powser answered that the driveway to the north on the lot line is the neighbor's driveway and it is directly on the property line. Mr. Powser added that the wood shed mentioned earlier is actually metal and will be removed. At this time, Meisel stated for the record that he is a member of the Runyan Lake community and a member of Runyan Lake Board, that the applicant is a relatively new resident, he has not previously met the applicant before tonight, they do not have a relationship of sorts and he believes he is completely impartial and feels he can make a fair and just decision. Moyski stated Zoning Ordinance 36 Section 20.02.O states that an attached accessory structure floor area may not exceed 50% of the total floor area of the main building and a detached accessory

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structure may not exceed 800 square feet. Carnes stated the applicant is ok with the requirements for an attached accessory structure. Carnes stated for the record: The applicant decided to make the proposed accessory structure attached to the existing house and no longer requests an unattached accessory structure. Meisel stated on the south side they would encroach closer than 5-feet 8-inches to the property line with the drive and little dog leg and it would encroach 5-feet 8-inches on the north side. Cypher stated it looks like it is 5-feet 8-inches all the way to the road on the south side and that the north side makes a little dog leg. Meisel agreed with Cypher that the north side has the little dog leg. Cypher stated there is not an issue with the driveway encroaching closer than 5-feet 8-inches and can be right up to the property line as the neighbors is. In response to Cypher's question, Mr. Powser answered that the location of the new well is located on the north side of the property and is indicated on the submitted drawing with a W. Cypher stated there are no dimensions to the adjoining houses on either side. Meisel stated the whole area there is really tight between the houses and almost every piece of property has a detached garage or an attached garage that is in a challenging location because you almost cannot park a car in front of it without being in front of two lots. The Board reviewed aerial photos of the property from all different angles on the overhead projector. Cypher stated the garage can be attached in any form. He continued it can be a fence, an open breezeway or an enclosed breezeway. Meisel stated this is a nonconforming lot and the request will not increase further into the setback than already exists. He continued the nonconformity will increase in total area and to offset that the Board could require that the existing shed be removed and the existing fence be removed back to 50 feet from the water to comply with Section 20.02.Z. Carnes stated that the proposed garage could move back to touch the house. Cypher replied that this will not fix anything. Wardin stated he agrees with the setback not increasing on the south side but thinks the setback would be worse on the north side, because the main structure as it is right now is 10 feet off the north property line. He continued that to not make the setback worse on the north side, the proposed accessory structure should be 10 feet from the property line. Cypher responded that there is a 12 or 14 foot wide driveway that goes all the way to the lake and they launch boats there. Meisel replied that that is no longer the case as of last week and the ramp area has been filled in and grassed over. Cypher responded that there is no structure there and it is his opinion that it does not appear that a structure could be there with a hard driveway that goes back there, but does not mean someone could not go there and tear up the whole driveway. Cypher stated he does not see an issue with the north side of the property, just the south side. Meisel stated that he does not have a problem with the north side either, because depending on what side you are on you have encroachments existing already of 5.8 feet or if you look at the wood deck on the north side it is 2.1 feet from the property line. He continued that 5.8 feet is consistent with the minimum structure setback and does not further encroach into the setbacks. Meisel added this situation is similar to many other situations in the Runyan Lake area.

PUBLIC COMMENT

Terry Klump, attorney representing Hal Thiebert of 10530 Runyan Lake Court, stated opposition to granting the variance request by Norman Powser and Heather Baxter. He read the letter he submitted to the Board. Hal Thiebert, 10530 Runyan Lake Court, stated opposition to the granting of the variance request by Norman Powser and Heather Baxter. He stated that he grassed in the driveway to stop other people from using it.

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William Landrum, 10528 Runyan Lake Ct., stated opposition to the granting of the variance request by Norman Powser and Heather Baxter. He stated the existing fence is his and it was put in back around the 1950's. He continued he had a concern for the closeness of his house to the overhang of the proposed garage.

The Board reviewed written correspondence from Terrance E. Klump, attorney representing Hal Thiebert, 10530 Runyan Lake Court, vehemently opposing the variance request by Norman Powser and Heather Baxter.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Cypher's question, Mr. Landrum answered that his overhang would be within 5-foot 8-inches of the proposed garage. Cypher stated the way the Ordinance is written it relates to the foundation line and you are allowed an overhang on top of that. He continued that normally in Michigan there would be a minimum of a 1-foot overhang. Cypher stated a motion could be made that the proposed structure could not encroach any closer than the 5-foot 8-inches even with the overhang. Cypher stated that the overhang is a concern to him and the distance between the two structures. In response to Mr. Landrum's question, Cypher answered that the existing fence on Mr. Landrum's property would not have to be removed. Meisel stated that it was his impression, by looking at the drawing, that the existing fence belonged to the applicant. In response to Cypher's question regarding the right-of-way for the septic for service, Meisel answered that each of the tanks is effectively a drainage easement. He continued the tanks are a function of pipe runs and locations when the system was set up. He added they are scattered between side yards, backyards and front yards, there are some on other people's properties, some of which were agreed to and some not agreed to at the time the installation occurred. Meisel stated typically the servicing requires an individual to reach down in and yank the pump out or they sometimes bring in a truck to pump the tanks. He stated the Drain Commissioner has not indicated any problems in the area, and if there is he makes note of it with the Township. In response to Cypher's question, Meisel answered that the Drain Commission has often told the property owner where they would like the tank relocated, in some cases it is because of ingress/egress or sometimes it is because the improvement is right over the top of the tank. Meisel stated there is an access issue with the well. Carnes stated there is no way you could get a rig there with the proposed garage. Meisel answered yes, but said he did not want to necessarily say that it is a problem but it does bring to mind that you could choose another location of which there arguably may not be one. Meisel continued that if there were to be a well failure there would have to be some special equipment brought in or the well would have to be relocated at that time. Meisel stated there are wells in a lot of other locations that are much less accessible than this one and they are able to service them. Wardin stated a concern with the location of the proposed well. Cypher stated there are other locations on this property in which to locate the well. Wardin stated that it has been said the variance is for 5-feet 8-inches, but according to the drawing it is a 5.8-foot variance request. In response to Wardin's question, Cypher answered that if the Board were to approve this, the total overall physical garage including the overhang should not be closer than 5.8 feet from the property line. Carnes stated a smaller garage could be put on this property and not need a variance. Cypher stated the applicant is not increasing further into the setback than his existing nonconforming structure. Cypher continued it is not conforming to today's Ordinances. Cypher questioned if any variances were given when the house was built and

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when exactly was the house built. Mr. Powser answered that the house was built in 1956. Cypher questioned if this house was nonconforming in 1956 and added that the existing Ordinances made this house nonconforming. He continued that you could take the list of issues and put it on every single house in the cul-de-sac as well as 90% of the houses on Runyan Lake. Meisel stated that he agreed but to a little less than 90%. Cypher stated that a fire truck could not get between probably more than 5 houses around Runyan Lake. Meisel stated that the statement is absolutely true. Cypher stated that most fire trucks don't pull between the houses but fight the fire from the road. Meisel stated the bigger issue on Runyan Lake is that you have a combination of houses that have no front yards and a combination of houses that have front yards of 400 plus feet deep and no fire hydrants. Cypher asked if we are looking at a safety issue here that is out of character with any other house on Runyan Lake Court. Meisel stated he would almost be comfortable in making the statement that if the applicant were allowed to build his proposed garage there, he is arguably harmonious with the existing neighborhood because almost everyone else has a garage there and almost all of them are in poor locations relative to where you would like to see them from an ordinance point of view. Cypher stated it is his opinion that by making this an attached garage there are some building code requirements that automatically help protect the applicants home because now there has to be a firewall and if it were unattached there does not have to be a firewall. He continued he does not feel the Board is in a position to require the south wall to be a firewall, but if a variance were granted, because of the close proximity to his neighbor, we could ask the applicant to put 5/8-inch fire rock on the south wall of the garage to help with protection. Meisel stated the Board should basically want the requirement to be that the applicant sheet rock the entire proposed garage. Cypher stated it is his opinion that the proposed garage not be made any smaller. He continued the applicant is not asking to increase the nonconformity over what the home already is and that the Ordinance has made the home nonconforming. Meisel stated the last thing you want to do is have someone put up a garage that is arguably too small so now they have to store half their things on the outside anyway, therefore defeating the purpose largely of the garage. He continued if you are going to build a garage, build a garage so you can get something in it. Cypher stated as long as you do not increase the existing nonconformity that is presently there.

MOTION

Cypher moved to grant the request of Norman Powser and Heather Baxter for a north side yard setback variance, a south side yard setback variance, and a front yard location variance in order to build a new proposed 25-foot by 27-foot 6-inch attached accessory structure in front of the existing house, located at 10530 Runyan Lake Court, (TAX CODE # 4704-09-202-010), based on the following findings of fact: Unreasonable Burden: The platted lot is irregular in size. Location of the accessory building in the rear yard would result in inadequate rear yard setback, and would obstruct views to the water. Substantial Justice: The lot configuration with the accessory building addition is harmonious with adjoining properties, and will not alter character of neighborhood. It will not adversely affect traffic access to or from this or other properties. The nonconforming lot and structure was platted and build prior to the current Zoning Ordinance taking effect. The existing nonconformance is not increased. The existing nonconforming shed will be removed. The Extraordinary Circumstances: Irregular shaped platted lot, platted and developed prior to the current Zoning Ordinance taking effect. The

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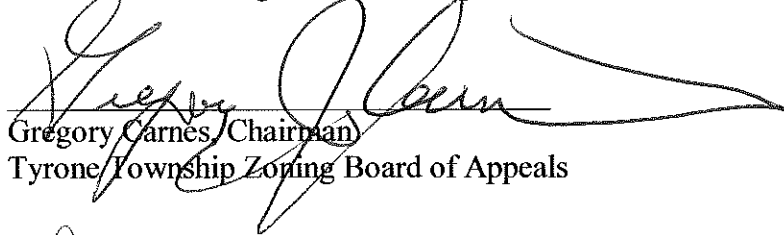
platted lot and structure non-conformances are not self created by the owner or previous owner. Minimum Variance: The variance being granted is the minimum variance required to construct the accessory building as granted. To address Health and Safety concerns this variance is conditional on the applicant agreeing to finish the interior walls and ceiling of the accessory building with fire rated drywall. The maximum improvement footprint shall not exceed 25 x 27.5 including overhangs as shown on the provided drawing. This variance is being granted conditional upon the proposed detached garage being constructed as an attached structure, as requested by the applicant. Reference drawing dated 4/7/10. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Schedule of Regulations) and 21.02B (Accessory Structure Provisions – Number and Yard Locations)]. (Moyski seconded.) Roll call vote: Moyski, yes; Meisel, yes; Cypher, yes; Wardin, no; Carnes, no. The motion carried.


MISCELLANEOUS BUSINESS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, July 12, 2010 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 9:48 p.m.


Gregory Carnes, Chairman
Tyrone Township Zoning Board of Appeals


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