

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – JULY 11, 2011**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on July 11, 2011, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Gregory Carnes, David Cypher, Dave Wardin, Mark Meisel, and Debi Smulsky
Guests: Mike & Julie Cemazar, Ron Hessling, Paul Phelps, Jeff Book-Anthony, Gordon Tomaszewski, Michael Wood, Diane & Larry Bell, Mike Schloegl, Rob Richmond, and Jan Davis

MINUTES OF APRIL 4, 2011, ZONING BOARD OF APPEALS MEETING

Cypher moved that the minutes of the April 4, 2011, Zoning Board of Appeals Meeting be approved as presented. (Wardin 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 26, 2011, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 22nd, 2011, at 9:00 A.M.

Commissioner Meisel recused himself from the first variance request, by Robert Richmond, because he had a business relationship with the applicant. He will consult within a reasonable manor at the discretion of the chairman, but otherwise will abstain from voting on the appeal and abstain from the general discussion.

**UNFINISHED BUSINESS:
VARIANCE REQUEST**

#1 Robert Richmond, RE: Request for a 175 Square Foot Size Variance in Order to Keep the Existing Newly Built Detached Accessory Structure Behind the Existing House Located at 9633 Longmeadow Street, (TAX CODE # 4704-04-102-006)

Robert Richmond requested a 175 square foot size variance in order to keep the existing newly built detached accessory structure behind the existing house. He stated that the building was supposed to be a 32 by 25-foot structure, but it ended up being a 39 by 25-foot structure instead. He continued that he has submitted additional documentation, which the Board requested at the April 4, 2011 Zoning Board of Appeals meeting. Mr. Richmond stated that a friend did the excavating, through bartering and trading. He continued that the builder went with the old plans and not the new plans. He stated that he updated his plans and that the structure ended up being a 25 by 39-foot structure, due to mistakes by his friend who did the excavating. Mr. Richmond stated that the entire structure was traded and bartered from the excavating to the framing to the siding to even the garage door. He added that it isn't like they went over by 500 feet, but that they only went over by 175 feet. Mr. Richmond stated that the Livingston County Building Department did not have an issue with the structure.

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 2 – JULY 11, 2011**

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Cypher's question, Meisel answered that there is not a difference between a gable roof height and a gambrel roof height. He continued that visually it doesn't look that way (Meisel referenced figure 1, on page 2-5 of the Zoning Ordinance). Cypher questioned how the Livingston County building department can issue a certificate of occupancy that is inaccurate. He continued that it is inaccurate for tax purposes and for the records in general. Carnes stated that the certificate of occupancy is for 800 square feet, which is within the Zoning Ordinance. In response to Cypher's question, Mr. Richmond answered that the structure was completed two months ago and that he has obtained a certificate of occupancy from Livingston County. In response to Cypher's question, Mr. Richmond responded that since the April 4, 2011 ZBA meeting, he completed construction of his accessory building. He continued that he came into the Township Hall on April 5, 2011 and spoke to Zoning Administrator, George Van Hecke, who told him to go ahead and finish the structure. He added that they typed up a letter at that time. In response to Cypher's question, Mr. Richmond answered that the letter was in regards to the height and size of the structure. The Board reviewed the submitted letter, which was not signed by Zoning Administrator George Van Hecke or on Township stationary. Carnes stated that Mr. Richmond has put the Board in a difficult position. He continued that the request must be able to meet the 5 criteria needed in which to grant a variance. Carnes asked the Board if anyone can find an unreasonable burden, substantial justice, minimum variance required, extraordinary circumstance or a health or safety hazard or nuisance. Carnes stated that if the Board were to grant this variance request, it would set a precedent and anyone in the Township could build a structure above the maximum size allowed, come before the Board and say, "I made a mistake" but I know I can get a variance for it. The Board reviewed the application and what Mr. Richmond listed for the 5 criteria. Carnes stated that the unreasonable burden would be that part of the structure would have to be torn down in order to comply with the Zoning Ordinance. The Board could not find substantial justice. Meisel stated that the Board is limited by the Michigan Zoning Enabling Act, the court of appeals says you must meet the 5 criteria, and if you do not meet the 5 criteria, it is a matter that must be litigated in court.

PUBLIC COMMENT

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

MOTION

Cypher moved that the request by Robert Richmond for a 175 square foot size variance in order to keep the existing newly built detached accessory structure behind the existing house located at 9633 Longmeadow Street, (TAX CODE # 4704-04-102-006), be denied, based on the fact that the existing structure is not in compliance with the Zoning Ordinance and is not able to meet the 5 criteria needed in which to grant a variance. Of the 5 criteria, the only one it meets would be no safety hazard or nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.02 O (Footnote to Schedule of Regulations)]. (Wardin seconded.) Roll call vote: Smulsky, yes; Wardin, yes; Cypher, yes; Carnes, yes. The motion carried. Meisel abstained from the vote.

VARIANCE REQUEST

#2 Paul D. and JoAnne K. Phelps, RE: Request for a 400 Square Foot Size

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 3 – JULY 11, 2011**

Variance in Order to Build a Proposed 30 by 40-Foot Detached Accessory Structure Behind the Existing House, Located at 9009 Apple Orchard Drive, (TAX CODE # 4704-05-101-001)

Paul Phelps requested a 400 square foot size variance in order to build a proposed 30 by 40-foot detached accessory structure behind the existing house, for additional storage. He stated that the side road is Linden Road and everything is visible. He added that the structure would help keep the neighborhood neater. Mr. Phelps stated that he had attended 3 Planning Commission meetings, since the April 4, 2011 ZBA meeting, and that the P.C. is in the process of reviewing the maximum 800 square foot size for a detached accessory structure. He continued that the P.C. is talking about giving the ZBA some discretion in making a judgment in this matter. Mr. Phelps stated that the P.C. seems receptive to the idea and have talked about a public hearing on it.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Meisel's question, Mr. Phelps answered that he decided to go ahead and build a 24 by 32-square foot structure far enough from the rear property setback that he can add on to the new structure.

PUBLIC COMMENT

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

MOTION

Meisel moved that the request by Paul D. and JoAnne K. Phelps for a 400 square foot size variance in order to build a proposed 30 by 40-foot detached accessory structure behind the existing house located at 9009 Apple Orchard Drive, (TAX CODE # 4704-05-101-001), be tabled for a time period of up to one year, for consideration at a future Zoning Board of Appeals meeting, as he currently complies with our Zoning Ordinance with respect to the accessory building that he has built and his appeal is conditional upon an amendment to the Zoning Ordinance that is currently under consideration by the Township Planning Commission to grant the Zoning Board of Appeals additional discretion when dealing with accessory buildings. The motion to table this request in no way, shape or form implies that a Zoning Ordinance amendment will occur, but it does leave open his application for future consideration, if and when the Zoning Ordinance is amended. If the Zoning Ordinance is not amended, the Zoning Board will consider the application at a future meeting. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.02 O (Footnote to Schedule of Regulations)]. (Wardin seconded.) The motion carried; 4 ayes and 1 nay (Cypher).

NEW BUSINESS:

VARIANCE REQUEST

- #1 Michael and Julie Cemazar, RE: Request for a 10-Foot East Side Yard Setback Variance and a Front Yard Location Variance in Order to Locate a Pool to the Side and Forward of the Existing House, Located at 11471 Orchard Parkway, (TAX CODE # 4704-05-102-012)

Julie Cemazar requested a 10-foot east side yard setback variance and a front yard

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 4 – JULY 11, 2011**

location variance in order to locate a pool to the side and forward of the existing house, located at 11471 Orchard Parkway. She stated that they are looking for a hardship variance. She continued that the pool would have shrubbery/arborvitae all the way around it, as well as a wrought iron fence. She stated she would rather the pool be located in the rear yard, for privacy reasons, but it is not possible.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Cypher's question, Ms. Cemazar answered that moving the pool back towards the rear is not possible because the well is located 10 feet from the back of the house. She continued that on the other side of the house it is completely under water in the spring. In response to Carnes question, Meisel answered that the Zoning Ordinance reads that there is to be a distance of no less than 20 feet between the adjoining property line and the outside of the pool wall or raised deck or walkway (Z.O. section 21.21.A). Carnes stated the fence is 5 feet from the property line. Wardin stated that the fence is labeled on the site plan that is provided and according to Michigan guidelines a fence surrounding a pool shall be 48 inches in height; according to Z.O. section 21.21.3 (Fences) no fence located within the front yard setback shall exceed a maximum height of 42 inches. Meisel responded that Z.O. section 21.21.F (Swimming Pools - Enclosure) reads all areas containing swimming pools must be completely enclosed by a fence in accordance with regulations of the state of Michigan. He continued that Z.O. section 21.21.F supersedes section 21.21.3, specific to the swimming pool requirements versus a general requirement of the Z.O. In response to Cypher's question, Meisel answered that the septic is in front of the house and to the west side. Meisel stated that when the applicant purchased the property, it is clear to him that with the way all the homes are set in the immediate area, the retention area that was established is significantly higher than what was originally anticipated. In response to Meisel's question, Mr. Wood answered that the Association of Orchard Parkway controls the retention area. Mr. Cemazar stated that they have natural wetlands to the rear. Ms. Cemazar responded that when they purchased the property, it was not supposed to be wet in the rear yard and that there wasn't the drain-off that they have now. Meisel stated he is trying to determine how this came to be, because in the application they specifically state they purchased with the intent to build a pool in the rear yard. He continued that looking at the neighboring houses you see the water is close to seeping up there. Mr. Wood responded that the house across the street from the applicant gets water in the basement. Meisel stated that the retention area did not perk as well as someone thought it would; or there is additional development which has created more retention requirement that was originally anticipated; or when the retention area was established, it was done so during lesser waters, so it misrepresented where the normal water line was. Meisel continued it is obvious to him that many of the homes in the area have significantly encumbered rear yards. Mr. Wood stated that he has lived there for 11 years and that the water level has been high every year. Ms. Cemazar stated that she was able to walk all the way to the street behind her property, when purchasing the property and there wasn't any water back there. Meisel stated that there is an extraordinary circumstance here because this was not self-created. He continued the practical difficulty is that they cannot build anything in the rear yard, for at least 3 of the properties. Cypher stated that this is an in ground pool, so the deck or sidewalk around the pool will be flush with the grade. The Board reviewed the original site condo plan. (Several of the residents had a lengthy discussed regarding the by-laws, which are part of

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 5 – JULY 11, 2011**

the condominium association). Meisel stated that we are here to discuss Township Zoning Ordinance requirements, if there is a condominium association, that is legal and valid, that has by-laws and the association is properly established, the Township does not over rule condominium association by-laws. He continued that what we do here does not mean that the condominium association is going to permit what we say by Zoning Ordinance will be allowed. Cypher stated that if the by-laws state that you can have an in ground pool, state law requires a 48 inch fence to enclose the pool, even if a fence is not stated in the by-laws. Carnes stated the applicant is asking for two variances, a 10-foot east side yard setback variance and a front yard location variance. In response to Wardin's question, Meisel answered that Z.O. section 21.21.A and section 21.21.C are two separate requirements. In response to Cypher's question, Ms. Cemazar answered that there will not be a pool house, just the in ground pool, walkway that is level to grade, and shrubbery that will go around the pool. In response to Wardin's question, Ms. Cemazar answered that the builder determined the location of the house by how many feet it had to be from the road. Meisel stated that this is in RE zoning which requires the structure to be 100 feet from the road, but there is a provision in the Ordinance that says if you are off of a private road or shared driveway, it can be reduced to 50 feet. Meisel continued that it is pretty clear they were trying to set this back similar to the other houses in the area. Wardin stated that it could be bone dry back there and they still could not locate a pool there because the whole back area of lot 12 is in a drainage easement, from the setback of the house all the way back, according to the condominium documents. Carnes added that according to Z.O. section 21.21.E a swimming pool should not be located in an easement. Meisel stated the challenge here is: they purchased this with good faith and intent to put a pool in the rear yard, the documents they had available to them at the time allowed them to put a pool in the back yard; they are encumbered by drainage easements, septic fields, a well, and side yard locations; the rear yard now is unbuildable and it is an easement; so there is only one location in which to locate the proposed pool. He continued there are a lot of extraordinary circumstances there and unreasonable burden, but where does substantial justice come in for the neighbors. He questioned if it is enough to say, we wanted a pool, but is it enough to establish criteria to say they can have a pool. Carnes questioned that if the applicants had known they could not locate a pool in the rear yard and they now located the house the minimum off the cul-de-sac and moved the house forward to located a pool where the house is now located, what would that do to the evenness of the cul-de-sac. Meisel stated that when the applicants looked at the property with everything they had available to them (condominium documents), it suggested that they were providing an area that would accommodate a pool. Meisel stated that the property was somewhat misrepresented. Cypher stated that if we were talking about a building and obstructed views, he would have a problem with it, but this will be an in ground pool surrounded by landscaping, flush with the grade with no pool house or slide. He questioned what is the difference between kids playing basketball on the one side of a house and kids swimming in an in ground pool on the other side of the house. He added that with everything talked about: from the septic field to the well to the drainage easements, they have no other choice where to locate the pool. In response to Tomaszewski's concern regarding the catch basins, Cypher responded that they are shown on the submitted drawing and that they had to meet the guidelines of the P.C. Meisel stated that there is no place else to locate a pool. At this time, the Board and the residents in the audience looked at the submitted drawing for a better understand of the area. In

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 6 – JULY 11, 2011**

response to Meisel's question, Ms. Cemazar answered that the entire pool would be located in front of the house, which is 29 feet forward of the house. Meisel stated that as a means of compromise, the applicant could consider relocating the well and move the location of the pool further back on the property. Ms. Cemazar answered that they could not afford to do that. The residents in the audience agreed that this could not be done. Meisel stated that the Board needs to focus on the situation at hand, because part of the criteria is that each and every application is unique, each and every solution is unique, also keeping things harmonious with the established development.

PUBLIC COMMENT

Michael Wood, 11486 Orchard Parkway, stated it is not so much the concern for the view but the precedent this will set by putting the structure in front of the house, it will open up every other house in the neighborhood to do so; he has no objection to a pool in the rear yard or even with the side of their garage. Gordon Tomaszewski, 11482 Orchard Parkway, stated concerns for the drainage easement, there are catch basins located across the street that drain the water to the retention basin, and it is not clear where they tiled those catch basins to, and this is an issue of concern. The Board reviewed written correspondence from: Michael Wood, 11486 Orchard Parkway, and Gordon Tomaszewski, 11482 Orchard Parkway, both opposing the variance request by Michael and Julie Cemazar.

MOTION

Smulsky moved to grant the request by Michael and Julie Cemazar for a 10-foot east side yard setback variance and a front yard location variance in order to locate a pool to the side and forward of the existing house, located at 11471 Orchard Parkway, (TAX CODE # 4704-05-102-012), based on the following findings of fact: Unreasonable Burden: Due to the location of the well, the location of the septic, drainage easements, storm run-off, and retention pond, all of which are not self created. Substantial Justice: This is really the only location in which to locate the pool and the pool will be flush with the grade, it will be harmonious with the adjacent properties. Minimum Variance: The variance being granted is the minimum variance required to construct the size pool they are requesting, which is not an unreasonable size. Extraordinary Circumstances: Due to the location of the well, the location of the septic, drainage easements, storm run-off, and retention pond. Health and Safety: There are no safety hazards or nuisances as a result of granting this variance, because it will be fenced per the state of Michigan requirements. The granting of this variance is conditional upon providing screening and landscaping to adequately hide the pool so it will not be obvious to the neighbors. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 21.02B (Accessory Structure Provisions – Number and Yard Locations) and 21.21A (Swimming Pools – Property Line Setbacks)]. (Cypher seconded.) Roll call vote: Meisel, yes; Wardin, no; Carnes, yes; Smulsky, yes; Cypher, yes. The motion carried.

VARIANCE REQUEST

- #2 Jeffrey Book-Anthony, RE: Request for a Variance to Keep a 10-Foot by 25-Foot Lean-to/Addition to the Existing Attached Garage, Located at 9274 Marinus Drive, (TAX CODE # 4704-05-203-061)

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 7 – JULY 11, 2011**

Jeffrey Book-Anthony requested a variance to keep a 10-foot by 25-foot lean-to/addition to the existing attached garage, located at 9274 Marinus Drive. He stated that when he purchased the home and garage/lean-to, they were really run down and in foreclosure. He continued that he put a new roof on the garage and new wood on the walls, about 2 years ago.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Smulsky's question, Mr. Book-Anthony answered that the lean-to addition was there when he purchased the home. In response to Cypher's question, Mr. Book-Anthony answered that there are no shingles on the lean-to right now. In response to Carnes' question, Mr. Book-Anthony answered that he purchased the foreclosed home about 3 to 4 years ago. He continued that the lean-to was already existing, but in really bad condition. He added that when adding wood to the roof, he made it a bit taller. In response to Smulsky's question, question, Mr. Book-Anthony responded that he would like to keep the existing structure and eventually finish it. In response to Meisel's question, Mr. Book-Anthony answered he did not know how this came to the attention of the Township. In response to Smulsky's question, Mr. Book-Anthony responded that he received a letter from Zoning Administrator George Van Hecke, who set up a meeting with Clerk Keith Kremer, but when he showed up the meeting was cancelled on him. He continued that he went to court and the court told him he must go before the ZBA to get a variance in order to keep the structure. In responses to Smulsky's question, Mr. Book-Anthony answered that if he does not get a variance, he is not sure if he will have to remove it or what happens next. In response to Cypher's question, Mr. Book-Anthony responded that there is a foundation there, but he does not know if it is a slab. He continued that there is dirt in the building but he saw a foundation. He continued that it looks like it sunk over the years. In response to Meisel's question, Mr. Book-Anthony answered that it looks like there is a footing that goes all the way around and that is what the old posts were sitting on originally. Cypher stated that he could not tell where the property line was other than where the fence was located. In response to Meisel's question, Mr. Book-Anthony responded that the front of the structure it is 9 feet from the property line and at the back it is 4 feet from the property line. Cypher stated that by having to take the structure down, Mr. Book-Anthony would be eliminating the walls and the sheeting on the roof, but no interior finishes. Mr. Book-Anthony stated that he also added an opening in the garage for access and two windows for light. Meisel stated that the picture on the overhead does not show the pre-existing side structure, but there is no way to determine how old the map is. He continued that he is not suggesting that what the applicant has stated is inaccurate. Cypher stated his concern for approving this, when it is obvious that a building permit was not obtained. Mr. Book-Anthony answered that would be the next step; the court said if it is approved he would have to get a land use permit and a building permit. Cypher stated that if this is just a rat wall foundation, because it is attached to the house, the whole thing would have to come down. Meisel stated that with a foreclosure, there is nobody to go back on. In responses to Meisel's question, Mr. Book-Anthony answered that he needs the additional space for storage of his work equipment and his business vehicle. In response to Carnes' question, Mr. Book-Anthony responded that the structure is pole built but on cement. Meisel stated the real question is if it is built on a real footing. Michael Schloegl stated an addition off the back of the garage would have been better. Carnes stated that the addition to the structure will probably need to be

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 8 – JULY 11, 2011**

torn down because of the footings; it can not be left as is on a post. He continued a building permit will not be issued, it will require a foundation and proper footings by the Livingston County Building Department. Meisel stated that there is space behind the garage for an addition and it would probably be more useful. Meisel stated this is really close to the neighbor from a setback requirement and the 30 foot pine tree would be a fire hazard to the neighbors if something were to happen, technically there is zero setback. Carnes stated that the request would not meet the Health and Safety criteria.

PUBLIC COMMENT

Michael Schloegl, 9280 Marinus Dr., stated he has lived there for 25 years and there was never a foundation there or a building, just a pile of dirt from a pool that was removed; the applicants structure is only 22 feet from his well and he has concern of well contamination from the chemicals used in the applicants carpet cleaning business; has a concern with the wood-burner in the garage; and the eave of the structure is only 3 feet from the fence. Larry Bell, 9275 Marinus Dr., stated that he never knew a structure was there and he has lived there since 1988, he added the structure went up about a year ago. Tom Davis, 9287 Marinus Dr., stated he does not recall a structure off the side of the garage; he added that the picture is not that old because several trees are missing from the tornado a few years ago. The Board reviewed a letter in objection to the granting of the variance request signed by the following: Kris Accardo, 9311 Marinus Dr., Bill Wernet, 9308 Marinus Dr., Kipp Stewart, 9295 Marinus Dr., Tom Davis, 9287 Marinus Dr., Sarah Didilus, 9258 Marinus Dr., Wayne Leideker, 9305 Marinus Dr., Diane Bell, 9275 Marinus Dr., and Michael Schloegl, 9280 Marinus Dr.

MOTION

Meisel moved to deny the request by Jeffrey Book-Anthony for a variance to keep a 10-foot by 25-foot lean-to/addition to the existing attached garage, located at 9274 Marinus Drive, (TAX CODE # 4704-05-203-061), based on: 1) it does not comply with the Zoning Ordinance relative to setbacks and we cannot establish unreasonable burden or extraordinary circumstances to grant a variance for that particular condition, and 2) there are health and safety concerns both with the structure as it exists today (even though it is under the jurisdiction of the Livingston County Building Department), but also from a fire hazard to the adjacent neighbors in proximity to an existing pine tree. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Schedule of Regulations)]. (Smulsky seconded.) Roll call vote: Wardin, yes; Smulsky, yes; Meisel, yes; Carnes, yes; Cypher, yes. The motion carried.

VARIANCE REQUEST

- #3 Ron Hessling, representing property owners Jeanine and Diego Velasquez, RE: Request for a 5-Foot Front Yard Setback Variance to Accommodate the Porch for a New House Under Construction, Located at 12113 Macintosh Drive, (TAX CODE # 4704-02-102-014)

Ron Hessling, representing property owners Jeanine and Diego Velasquez, requested a 5-foot front yard setback variance to accommodate the porch for a new house under construction, located at 12113 Macintosh Drive. He continued that he became aware of the problem when he received the mortgage survey. He stated he thought he had

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 9 – JULY 11, 2011**

50 feet from the property line, but when he came in he found out it was zoned RE. He continued that he originally staked it out perfect and then decided to tilt it away from how deep it was in the back corner, which makes it look better when approaching the house. He added that bringing it forward on the left, made the porch encroach into the setback by 4 feet. He stated that this was not done deliberately and he does not think it jeopardizes the integrity of the subdivision. He continued the foundation in the porch is considered part of the structure, so here he is.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Meisel's question, Mr. Hessling answered that from the front corner of the house it is setback about 85 feet. Meisel stated that in RE there is a 100 foot setback requirement, but there is a provision stating that the required front yard setback in FR and RE districts indicated in the schedule of regulations shall be enforced on all streets, state highways, county section line, and county quarter section line roads; the front yard setback in FR and RE districts may be reduced to not less than 50 feet from the easement or right-of-way for a shared driveway or private or public access street, other than a state highways, county section line, or county quarter section line road. (Z.O. section 20.02.BB). Meisel stated that if 20.02.BB applies here, then a variance might not be needed. Mr. Hessling does not want to affect the mortgage. Meisel stated that this isn't a corner of the structure, but a porch and it is only off by 4 feet. He continued his only concern would be granting a variance if it is not required. Meisel questioned if this complies with the Zoning Ordinance because of this footnote in the schedule of regulations, therefore a variance is not needed, or are we 85% sure this is in the clear and we want to cover this by granting a variance. Steve Hasbrouck stated that the 50 foot changed after the subdivision was built. Meisel stated that in most cases the Zoning Ordinance is effective at the point you do improvements to the property, this property was unimproved up to this point, this current development is bound by the current Ordinance, not the old Ordinance. Hasbrouck continued that being a site condo it would have been developed and approved based on the Z.O. in effect at that time and does that trump the current Z.O. requirements. Hasbrouck stated this is a site condo which was approved, it is undeveloped and now they want to develop it, there must be an addendum to the site condo if there are new building envelopes, they would have to amend the master deed. Meisel continued that there is an interpretation issue and if a variance were to be granted, the 5 criteria would need to be met.

PUBLIC COMMENT

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

MOTION

Meisel moved to grant the request by Ron Hessling, representing property owners Jeanine and Diego Velasquez, for a 5-foot front yard setback variance to accommodate the porch for a new house under construction, located at 12113 Macintosh Drive, (TAX CODE # 4704-02-102-014), because he complies with current Zoning Ordinance Section 20.02.BB and therefore is not required to have a variance under the current Zoning Ordinance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Schedule of Regulations)]. (Wardin seconded.) Roll call vote: Cypher, yes; Carnes, yes; Meisel, yes; Smulsky, yes; Wardin, yes. The motion carried.

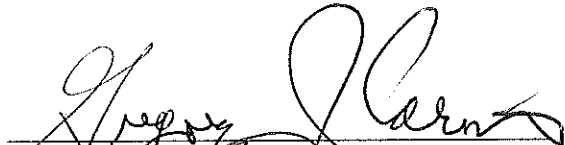
**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 10 – JULY 11, 2011**

MISCELLANEOUS BUSINESS

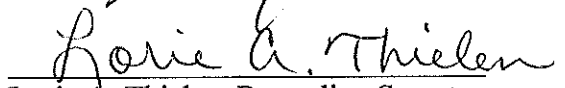
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 1, 2011 at 7:30 p.m.

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

c File
Tyrone Township Clerk
Tyrone Township Zoning Administrator
Tyrone Township Zoning Board of Appeals Commissioners