

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – JULY 9, 2012**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on July 9, 2012, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Gregory Carnes, Mark Meisel, Dave Wardin, and Cam Gonzalez

Absent: David Cypher

Guests: Russ and Kris Bradley, Chris Macklin, Jim Huck, Greg Witten, Jim Stenz, Debra Piper, and Paul Phelps

MINUTES OF APRIL 2, 2012, ZONING BOARD OF APPEALS MEETING

Meisel moved that the minutes of the April 2, 2012, Zoning Board of Appeals Meeting be approved as presented. (Gonzalez 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 24, 2012, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 20, 2012, at 9:00 A.M.

VARIANCE REQUEST

- #1 Russ and Kris Bradley, RE: Request for an 8-Foot 3½-Inch North Side Yard Setback Variance for a Proposed Accessory Structure Addition and a 3-Foot 8-Inch South Side Yard Setback Variance for a Proposed Addition to the Existing House, Located at 7532 Ore Knob, (TAX CODE # 4704-30-102-017)

Chris Macklin, architect for Russ and Kris Bradley, requested an 8-foot 3½-inch north side yard setback variance for a proposed accessory structure addition and a 3-foot 8-inch south side yard setback variance for a proposed addition to the existing house. He stated the existing garage is too small and that all the bedrooms in the house are too small, the house was built in the 1960's. He added that space is needed for storage. Mr. Macklin continued that two bedrooms will be enlarged and a new master suite, including a bathroom and closet, will be constructed. He stated that the south end of the house is predominately the master suite area. He continued that the north side garage addition will be kept in line with the existing garage and that a majority of the existing garage needs to come down. He added that they need to go into the existing structure, both living space and existing basement, approximately 10 feet. Mr. Macklin stated that because of this, it pushes any new garage out 10 feet more, at least. He continued this is why they need an 8-foot 3½-inch north side yard setback variance for a proposed accessory structure addition. He stated the 3-foot 8-inch south side yard setback variance is needed because of the proposed bay window. Mr. Macklin continued that there is a foundation under the bay and if the foundation had to be eliminated, the variance needed would be approximately 1-foot 8-inches. He added that the house tilts at an angle so it skews away from the property line. Mr. Macklin stated the unreasonable burden is trying to fit a garage using the 20 foot setback, which puts the garage literally in the middle of the house

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and then puts the entry in the middle of the bedrooms. He continued that for the most part the north end of the house is staying intact. He added that pushing the garage back another 8 feet would make getting into the house very non-functional. He stated the existing house has a decent amount of living space but has a lack of storage area. He continued the additional space is for mechanical space in the basement and a functional mudroom, laundry room and bathroom up on the main floor. Mr. Macklin stated that the substantial justice would be that the house was built 40+ years ago and the exterior has not been updated. He continued that the outdated weeping brick and mortar exterior will be removed and replaced with an EIFS system. He stated that they will be able to inspect the walls for any problems and fix any leaks in the air infiltration and water drainage system. He continued that a new roof is needed and that the roof pitch will change with the new roof. He stated the new design of the house will better enhance the overall character of the neighborhood and surrounding lake community. He added that there is a good amount of space between the north side neighbor and the south side neighbor to allow emergency vehicle access if needed. Mr. Macklin stated the extraordinary circumstances would be that due to the location of the existing house, which sits within the current required setback along the north property line, it would be difficult to do any alterations to the garage without obtaining a variance. He continued that the location of the well, the sloping site terrain, and south end of the home cause the needed variance for the south side addition because the space is fixed in the west, east and north directions and they cannot disturb the view of the lake. Mr. Macklin stated no health, safety or environmental concerns exist since the additions still maintain a safe distance from the neighbors, giving ample access for emergency vehicles. He continued there will be minimal grading, which will not affect drainage. He added any addition of garage/storage space going towards the west will cause the need to have the septic tank relocated and also inspected. Mr. Macklin stated the view of the northern neighbor will be minimally impacted and the view is already blocked with foliage. Mr. Macklin handed out pictures, (reference Photo A and Photo B, plus 3 additional aerial photos), to the Board for review. He also submitted a letter from the Lake Shannon Architectural Control Committee.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Meisel's question, Mr. Macklin answered that there will not be any boat or trailer storage in the garage addition. In response to Wardin's question, Mr. Macklin answered that they did not consider moving the well location, since the well was replaced and relocated a couple years ago. He continued that they are moving the septic holding tank location, which is 8 to 10 feet from the edge of the existing garage. In response to Meisel's question, Mr. Macklin responded that the Livingston County Health Department has been contacted and will come out for an inspection once the holding tanks have been relocated, to approve the location and verify the septic system is up to standard. Meisel stated that on the positive side, the garage will maintain the line of the existing structure and will not encroach any further into the setback than already exists; the screening is a plus; and it is good that a foundation is being used for the south side with the bay. Meisel continued that the Zoning Ordinance is very protective of the site lines and the views to the water and in his opinion this request would have no adverse effect to the neighbor on the south. Mr. Bradley stated that he is trying to improve the value of the property; he did not locate the house in the corner, but he is trying to move it away from the property line as best he can; he is trying to make the house look symmetrical; and the

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changes with the house will make the entrance more inviting and improve the values of properties around the lake. Meisel stated the plan is well thought out and not unreasonable. He continued there is an existing structure with an established building envelope and this simply continues along that line, consistent with other decisions the Board has made in the past. He stated he has empathy with the neighbor's obstruction concern, but does not believe the Board can reasonably suggest somebody has the right to view across somebody else's property at a 45 degree angle, they have the right to put landscape in to make their property private and the only limitation, by Ordinance, is a 4-foot high fence in the front yard. Gonzalez stated the variance requests will be an improvement to the area. He continued that 200 foot trees could be put in and they would block the view, and there is no way to reasonably stop it. Carnes stated the Board needs to stick to the 5 criteria needed in which to grant a variance. He continued all the criteria were addressed concerning the garage addition. Wardin suggested that there are two variance requests and they should be discussed separately. The Board agreed. Wardin stated that the proposed garage addition, while he sympathizes with the neighbor to the north, continues along the building line and does not encroach on the front setback, so he does not have a problem with it. He continued he does have a problem with the bedroom addition, because he cannot find unreasonable burden or extraordinary circumstances. Meisel stated if you look at the line of the driveway, they are within that envelope; if you look at the landscape features that are within that area, they are also within those landscape features, the distance to the neighbor to the south is also significant. Wardin states he agreed with the driveway and the landscape features, but the Board does not dictate those by Zoning Ordinance. Wardin continued he cannot substantiate the 5 criteria for the bedroom addition. Meisel agreed. He stated it is a matter of mere convenience for the master bedroom addition and he cannot find unreasonable burden or extraordinary circumstances. Mr. Macklin responded that the reason it is there is because it is the current end of the house where the addition will be at and in order to get into that space, whether it be to the bedroom, the closet or the bathroom, there had to be a hallway and that 3-foot 8-inches is the hallway. He continued that the hallway runs parallel to the old end of the house. Meisel stated it could be redesigned and built within the building envelope. Carnes stated that the 8-foot 3½-inch north side yard setback variance for a proposed accessory structure addition meets the 5 criteria needed for a variance request. He continued that the 3-foot 8-inch south side yard setback variance for a proposed addition to the existing house does not meet all the criteria needed for a variance request. Mr. Macklin suggested removing the foundation underneath the bay and it would reduce the need for a variance by 2 feet. Meisel stated he can understand why they want to do what they are doing, but how do you justify it. Wardin stated that under the definition of extraordinary circumstances it says the circumstance shall be related to the land and not the property owner. Meisel responded that his understanding of this legally is that the Board is supposed to deal with topography issues and not so called use issues. He continued that by definition when you build a house on the property, if you have limitations or restrictions, those are generally self-created even though you may have purchased the house from someone else.

PUBLIC COMMENT

Debra Piper, 7540 Ore Knob Drive, read a letter of her opposition to the variance request and possible compromises (reference correspondence dated July 9, 2012,

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submitted at tonight's meeting). Jim Huck, 8495 Starwood Drive, stated support for the variances being requested. Jim Stenz, 7241 Surfwood Drive, stated support for the variances being requested. No written correspondence was received prior to tonight's meeting.

Secretary Note: Debra Piper had major issues with the existing deck, side walkway, and existing stairway since they allegedly violate the Township Zoning Ordinance. Meisel explained that the deck cannot be addressed unless it is being modified or torn down, even though it is an existing, non-conforming structure (it is grandfathered in by virtue of when the Zoning Ordinance was changed relative to setbacks). Ms. Piper's best course of action would be to talk to the Township Zoning Administrator regarding this issue, because the ZBA does not have jurisdiction.

MOTION

Meisel moved to grant the variance request of Russ and Kris Bradley, located at 7532 Ore Knob, (TAX CODE # 4704-30-102-017), for an 8-foot 3½-inch north side yard setback variance for a proposed accessory structure addition based on the following findings of fact: **Unreasonable Burden:** The existing structure's north side yard setback exists at approximately 12 feet. 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 nonconforming building line, as has been previously determined by this Board, as well as to permit an increase in the length of the home while not increasing the nonconformance as far as proximity to the property line, as long as the bulk of the addition is otherwise within the building envelope. **Substantial Justice:** The modifications proposed to the home are reasonable improvements that blend harmoniously with the neighborhood and despite one strong objection appears to have the support of the other near neighbors, and therefore would meet the test for being compatible and harmonious with adjacent land uses and neighbors. **Minimum Variance Required:** It is the opinion of the ZBA the variance being requested and granted represents the minimum variance required to result in reasonable use of the property. **Extraordinary Circumstances:** 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 adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Table of Schedule of Regulations)]. (Wardin seconded.) Roll call vote: Wardin, yes; Carnes, yes; Gonzalez, yes; Meisel, yes. The motion carried.

MOTION

Wardin moved to deny the variance request of Russ and Kris Bradley, located at 7532 Ore Knob, (TAX CODE # 4704-30-102-017), for a 3-foot 8-inch south side yard variance for a proposed addition to the existing house due to the inability to establish unreasonable burden and extraordinary circumstance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Table of Schedule of Regulations)]. (Meisel seconded.) Roll call vote: Meisel, yes; Gonzalez, yes; Carnes, yes; Wardin, yes. The motion carried.

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MISCELLANEOUS BUSINESS

TABLED REQUEST

Motion by Meisel to remove from the table the variance 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). (Gonzalez seconded.) The motion carried by voice vote.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel explained that Mr. Phelps has been attending Planning Commission meeting and he was arguably instrumental in helping to move along recently adopted changes to the accessory structure requirements. He continued it is greatly appreciated because it offers some additional flexibility and opportunity for residents that have a need for some additional space. Meisel stated that the best option for Mr. Phelps would be for him to withdraw his variance request from the ZBA and proceed to the Planning Commission to apply for the 400 square foot addition to his existing accessory structure under the new accessory structure standards. Meisel continued that he is not suggesting it will be granted or it will not be granted by the Planning Commission. Meisel suggested the Chairman appeal to the Township Supervisor and the Township Clerk to credit Mr. Phelps partially or in full his application fee and apply it to his application for the Planning Commission, should he decide to apply for the 400 square foot addition to his existing accessory structure.

VARIANCE REQUEST WITHDRAW

Paul Phelps withdrew his variance request 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).

MOTION

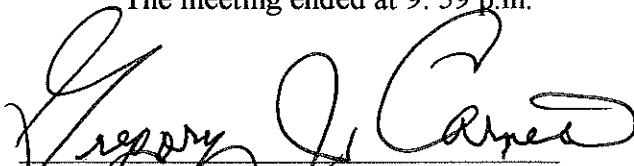
Meisel moved to recognize the application withdrawal and request Chairman Gregory Carnes recommend to the Supervisor and Clerk the ZBA application fee paid by Mr. Phelps for a 400 square foot accessory building variance be credited in substantial part or fully to his application for Planning Commission approval of the same request based on: (1) Mr. Phelps patience and pursuit of an amendment to the Zoning Ordinance to allow accessory structures larger than 800 square feet, and (2) For his participation in the development of the amendment to the Zoning Ordinance which recently took effect. Mr. Phelps has been advised his best option for pursuit of an addition to his current accessory structure is to utilize the recently adopted Zoning Ordinance amendment which includes standards that may permit accessory structures larger than 800 square feet but not more than 1200 square feet. (Gonzalez seconded.) The motion carried by voice vote.

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 13, 2012 at 7:30 p.m.

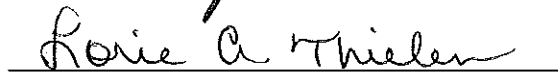
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ADJOURNMENT

The meeting ended at 9: 59 p.m.



Gregory J. Carnes, Chairman
Tyrone Township Zoning Board of Appeals



Lorie A. Thielen

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