

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 1 – AUGUST 13, 2012**

**CALL TO ORDER**

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on August 13, 2012, at 7:30 p.m., at the Tyrone Township Hall.

**ROLL CALL**

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

Guests: Steve Darby and Paul Bollinger

**MINUTES OF JULY 9, 2012, ZONING BOARD OF APPEALS MEETING**

Wardin moved that the minutes of the July 9, 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 July 29, 2012, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on July 25, 2012, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 Creative Wood Products, representing property owner Jamie and Sharon Linford, RE: Request for a 15-Foot South Side Yard Setback Variance for Structural and Aesthetic Improvements to an Existing Accessory Structure Behind the Existing House, Located at 10299 Bennett Lake Road, (TAX CODE # 4704-04-100-026)

At this time Wardin stated for the record that he did survey and plot plan work on the vacant parcel to the south of this parcel. He continued that the owner of the vacant parcel was aware of the variance request. Wardin stated that he does not feel there is a conflict of interest, but would ask the Board if they concur. Wardin does not have anything to financially gain, whether this request is granted or denied, and he does not have any relationship with the applicant. The Board did not see any conflict of interest.

Steve Darby of Creative Wood Products, representing property owner Jamie and Sharon Linford, requested a 15-foot south side yard setback variance for structural and aesthetic improvements to an existing accessory structure. He stated they would like to be able to pick the existing accessory structure straight up, put a new foundation under it to support the structure, and make exterior improvements to the structure. He continued the size of the accessory structure would not change; the footprint would remain exactly the same. He stated they would fix the walls, replace the dilapidated roof with trusses of similar pitch to what is existing, change the siding of the accessory structure to match the house, and add carriage style doors instead of the basic overhead doors that are there now.

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

Meisel stated the applicant is here because they are building a new foundation. He continued that a new foundation must meet the requirement that if it is a non-conforming structure it must be reasonably brought into conformance. In response to Carnes' question, Mr. Darby answered that this accessory structure is on an 8 by 12 foot

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 2 – AUGUST 13, 2012**

concrete slab. Meisel stated that from a nonconforming point of view, this accessory structure is located in the rear yard and Zoning Ordinance section 21.02.E would need to be addressed. Meisel read the following to the Board: Zoning Ordinance Section 21.02 Accessory Structure Provision - E (Lakefront Lots: LK-1, R-1 and R-2) In the LK-1, R-1, and R-2 Districts, detached accessory structures shall be located in the front or side yard, and shall not obstruct views to the water from adjacent dwellings. This provision shall only apply to lots fronting on bodies of water that are lakes as defined in this Ordinance. Further, the applicant must demonstrate compliance with 21.02.I. herein. Mr. Darby stated that they are unable to move the existing accessory structure to bring it into compliance: 1) because of the new Ordinance, 2) because it would create a site line issue with the existing house, and 3) there are no side yard or front yard locations to locate the accessory structure due to the well and septic, mature trees, power lines, and the setback requirement to the road. Meisel stated the Ordinance reads you can obstruct site line views of the property owner, but cannot obstruct site line views for the adjacent neighbors. He continued he fully agreed that the side yard and the front yard are not options. In response to Carnes' question, Mr. Darby answered that they are trying to save the existing accessory structure, which is needed for storage and at the same time make it more aesthetically pleasing. In response to Meisel's question, Mr. Darby answered that the accessory structure was built approximately 20 years ago and was existing when the applicant purchased the property. In response to Carnes' question, Meisel answered that on the submitted photo it looks like the accessory structure is over the property line because it is a Graphic Information System of Livingston County rendering and what it does is it projects lines that are approximate based on GPS data, which has a bit of error to it. Mr. Garby stated two monuments were located and they measured off the two monuments to get a straight line, without being interrupted by the large tree, and then measured over and as near as they can tell the accessory structure is approximately 3 feet off the property line. Wardin stated that the existing accessory structure is really 1 inch (.08 feet) off the property line, on the corner closest to the lake. Wardin stated that any improvement to the exterior wall would not be able to be any thicker than what is existing or it would be over the property line. In response to Wardin's question, Mr. Darby answered that a new slab would be put in because the existing floor is severely cracked. In response to Meisel's question, Mr. Darby answered that the accessory structure could not be moved 15 feet to the north because of the site line. Meisel stated the concern is that when the property is built on next door, they have basically lost 15 feet of setback and it could possibly make them have to build further into the building envelop. In response to Meisel's question, Mr. Darby answered that moving the accessory structure over 15 feet would obstruct the dining room and the living room. In response to Carnes' question, Wardin answered that the distance from the north side of the accessory structure to the south side of the house is 8 feet. Meisel stated there must be 10 feet of separation between the accessory structure and the primary structure to comply with the Ordinance. Carnes stated the drawing shows approximately 15 feet. In response to Wardin's question, Mr. Darby answered that according to Livingston County online it shows 2 septic tanks, one in the back and one in the front; the homeowner uses the septic system in the back and this is why they could not add on to the garage in the back. Meisel stated that an extraordinary circumstance must be found, because the accessory structure could be easily moved and not moving it would be a huge encumbrance to the new neighbor. He continued that the accessory structure does not comply with the Zoning Ordinance at all. In response to

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 3 – AUGUST 13, 2012**

Gonzalez's question, Meisel answered that the Board can allow the applicant to repair the accessory structure, but you do not resolve the conflict that is going to exist with the neighbor. In response to Cypher's question, Wardin answered that Zoning Ordinance Section 26.04.A (Conversion to a Permitted Use or Structure. An existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located) addresses the foundation issue. Meisel stated there technically is no setback on this parcel at all. Carnes stated the Board must meet the 5 criteria in order to grant the variance request. Meisel stated for unreasonable burden there is a dilapidated structure that has existed for more than 20 years that the homeowner wants to improve and has a reasonable plan to improve the aesthetics of the structure; the property owner did not create the situation and did not know when he purchased the property that it was so close to the property line. Meisel continued that the question is what is the extraordinary circumstance that this person should be allowed to do this when nobody else is allowed to do it; what makes this unique over and above anybody else; especially when it looks like it could reasonably and easily be moved even a portion of the 15 feet. Meisel suggested the applicant move the structure over 10 feet. Mr. Darby responded that the windows on the lower level would then be blocked. Wardin stated the Board cannot worry about the homeowners view. Meisel stated it is an inconvenience to move the accessory structure and why should the applicant be allowed to have an accessory structure in the back yard when nobody else can. Cypher answered that it has been there and it was purchased that way. Meisel stated the accessory structure 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 current owner or the former owner in the context that the former owner or arguably the current owner purchased the property with improvements that were built to the standards of the prior Zoning Ordinance in effect at that time. He continued the accessory structure was required to be in the back yard when it was built, but the Ordinance recently changed. Mr. Darby stated they looked at changing the shape of the structure, but it obstructed the view. Cypher questioned if the structure was safe, because of Zoning Ordinance section 26.06 Repairs and Maintenance (On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official). Mr. Darby responded that due to the foundation moving the walls are bowing out, the roof needs to be replaced, and the floor is broke up and needs to be replaced. Meisel read Zoning Ordinance sections: 26.00.A (Intent), 26.00.B (Pre-existing Structures or Uses), 26.00.C (Extension or Enlargement), and 26.00.D (Undue Hardship). In response to Wardin's question, Mr. Darby answered that the new roof would not be any higher than the existing roof. Meisel suggested the applicant move the accessory structure 5 feet to the north and be able to maintain it without going on the adjacent property to do so. He continued that moving the accessory structure would make the situation less non-conforming. Cypher

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 4 – AUGUST 13, 2012**

and Carnes agreed that there needs to be room on the south side to work on the structure. The Board reviewed the drawing brought in by Wardin to see the location of the proposed house on the vacant parcel, as well as the house on the next lot over to the north. Carnes stated a motion is needed on this variance request.

**PUBLIC COMMENT**

None. Written correspondence in support of the variance request was received from Steven Bliss, 10265 Bennett Lake Road.

**MOTION**

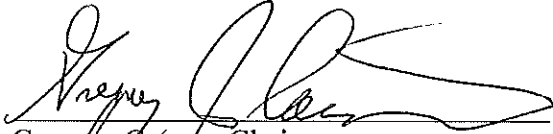
Gonzalez moved to grant the request of Jamie and Sharon Linford, located at 10299 Bennett Lake Road, Tax Code # 4704-04-100-026, for a 10 foot south side yard setback variance to retain an existing accessory structure after structural and aesthetic improvements for the following findings of fact: Unreasonable Burden: The structure is preexisting, having been built more than 20 years ago by the prior owner, under requirements of a prior zoning ordinance. The Township's current ordinance requires the location to be in the side or front yards (21.02.E), however neither location will allow conforming setbacks as a result of the existing residence and the locations of septic fields and the well. Substantial Justice: The aesthetic modifications proposed to the accessory structure will be in visual harmony with the residence and adjacent neighbors. The ZBA received one letter in support of the variance request, and no objections. The ZBA's requirement to increase the side yard setback from the existing 1 inch to not less than 5 feet will benefit the adjacent neighbor, and results in a less nonconforming location. Minimum Variance Required: It is the opinion of the ZBA the variance being granted represents the minimum variance required to result in reasonable coexistence with the adjacent neighbor, and to result in reasonable conformance with the current Zoning Ordinance. Extraordinary Circumstances: Two septic fields exist on the property as documented by the Livingston County Health Department and limit location options. Conforming locations do not exist in the side or front yards. The appellant is performing repair and maintenance to an unsafe structure as permitted by Section 26.06, and otherwise complies with Section 26.00.B. The structure is not being enlarged. The accessory structure 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 current owner or the former owner in the context that the former owner or arguably the current owner purchased the property with improvements that were built to the standards of the prior Zoning Ordinance in effect at that time. Health and Safety: Granting this variance improves the health and safety of the immediate area by increasing the side yard setback, and by performing repair and maintenance to an unsafe structure, thereby resolving a potential public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Table of Schedule of Regulations)]. (Wardin seconded.) Roll call vote: Wardin, yes; Meisel, yes; Carnes, yes; Cypher, yes; Gonzalez, yes. The motion carried.

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, September 10, 2012 at 7:30 p.m.

**ADJOURNMENT**

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 5 – AUGUST 13, 2012**

The meeting ended at 9: 59 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