

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – JUNE 3, 2013**

CALL TO ORDER

Vice-Chairman David Cypher called the Zoning Board of Appeals Meeting to order on June 3, 2013, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners David Cypher, Mark Meisel, Anne Linder, Jeffrey Young and Joseph Trollman

Guests: David and Kathleen Anderson, Chris Macklin, and Lee Stone

MINUTES OF MAY 13, 2013, ZONING BOARD OF APPEALS MEETING

Meisel moved that the minutes of the May 13, 2013, Zoning Board of Appeals Meeting be approved as presented. (Young 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 19, 2013, edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on May 15, 2013, at 9:00 A.M.

VARIANCE REQUEST

- #1 Dave and Kathleen Anderson, RE: Request for a 10-Foot 10-Inch Front Yard Setback Variance in Order to Build a New House and Attached Garage, Located at 10460 Runyan Lake Road, (TAX CODE # 4704-09-202-003). The Current House will Either be Demolished or Used for Storage, Depending on the Zoning Board of Appeals Decision.

Chris Macklin, representing Dave and Kathleen Anderson, requested a 10-foot 10-inch front yard setback variance in order to build a new house and attached garage, located at 10460 Runyan Lake Road. He stated the applicant is planning to build a 3 car side loaded garage. He continued that the property drops off drastically to the lakeside, which is somewhat dictating where they can place the house. He stated if they push the house farther towards the lake, than the proposed location, the foundation could be compromised. He stated that the landscaping and the patio will still need to be tiered, due to the nature of the lot. He stated they looked at different scenarios, all of which would require a variance. He continued that the natural slope of the lot is not just lakeside, but also northward, meaning the property is higher on the south end and lower on the north end. He added that if the garage were moved to the other side, the water would drain into the garage. He stated that there is a telephone pole that they must work around. He continued that the guy wire might have to be relocated, depending on how close the garage comes to it. He added that locating the garage on the north end of the lot would have issues with pulling into the garage. He stated that the pedestrian traffic would be on the north end of the property which is safer than the south end which is much steeper. He continued that the unreasonable burden would be the grading, the telephone pole, and side loading versus front loading garage. He added that the proposed location of the house and garage on the lakeside is within conformance of other houses on either side of this lot. He stated the substantial justice would be that anything built would be an improvement to the lot over the existing small cottage down towards the lake. He added that should the small

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cottage be allowed to stay, the Andersons would update it to be comparable to the character of the new house. He stated the extraordinary circumstances would be the slope of the lot with respect to the location to the telephone pole. He continued that Consumers is ok with relocating the pole which would be very costly or relocating the guy wire which would be more economical. He stated the health, safety or environmental issue would be that having the 3-car garage up top would move the cars from lake side to street side, which is more desirable and safer.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Linder stated the main issue is the proposed 3-car garage and that by reducing the size to a 2-car garage, it could be built within the Zoning Ordinance, without the need for a variance. Linder questioned what are the extraordinary circumstances requiring the applicant to have a 3-car garage. Mr. Macklin answered that it would be for storage and that it would depend on what the Board decides would happen with the existing cottage. Linder questioned what would be more desirable to the applicant: a variance for the proposed 3-car garage and removing the existing cottage or not granting the variance for the proposed 3-car garage and being allowed to keep the small cottage. Mr. Anderson responded that there would be significant costs to redo the existing cottage. He continued that he would like to get a variance for the proposed 3-car garage and knock down the existing cottage. In response to Cypher's question, Mr. Anderson answered that the existing cottage is on a concrete slab. In response to Cypher's question, Mr. Macklin answered that the proposed 3-car garage would be 24 by 36 feet. In response to Meisel's question about the access drive down to the cottage, Mr. Anderson answered that there are no plans for it at this time. He continued that it has been there since before any of the other houses were built there. He added that both he and his neighbor, Mr. Lee, use it and the property line runs up through it and they have had a shared agreement on it. Meisel stated his concern is that the Board is being asked to grant a variance which will create a nonconforming structure, since there already is a nonconforming structure in existence. He continued that the existing drive down to the cottage would create an additional nonconformity because the Livingston County Road Commission will require the drive to become a shared private driveway and the LCRC will not approve it because there are too many driveway cuts there. Cypher stated that the drive is all grass. Meisel questioned how does the Board get it to comply with the Zoning Ordinance, it is a shared private driveway and it needs to be recognized as such and it has to have a 66-foot wide easement. He continued it goes across two parcels of property. Meisel stated that the applicant is asking to improve the property and now the applicant would need to bring the property into compliance with the existing Zoning Ordinances. Meisel continued that the applicant has a cottage on the property with full sanitary sewer, which by definition of the Livingston County Board of Health constitutes a home. He added that you cannot have two homes on a single piece of property. He continued that the next issue is that it does not meet the side yard or rear yard setback requirements, which are two nonconformities. Meisel stated it is being accessed by a shared private driveway that is not on record, and in his view the LCRC would never permit it. He added that the applicant is asking for a front yard setback variance, which he fully agrees with, but the Board would be creating a monster here and he does not know how to get around it. Meisel stated there are two things: it is too close to the other existing driveways and you cannot have two driveways in proximity like that to service a single home. Cypher stated that the applicant needs to

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take off the note showing an existing gravel driveway. Meisel stated that there are too many access points in close proximity on the road and it creates a safety hazard. Linder questioned if instead of a separate access point to the road from the proposed driveway it just connected into the gravel drive, so when you turn in you immediately turn to the right. Meisel responded that they can do that as long as they enter into a shared driveway maintenance agreement. Mr. Anderson stated that they have been sharing a common entrance point to both driveways and that they both maintain the driveway. Mr. Macklin stated that the grades will be adjusted and there will be some small retaining walls put in. He added that the existing gravel drive only serves the existing cottage and if the existing cottage goes away then it would not be a drive. Linder stated that she is not sure if allowing the existing cottage to remain on the property for storage would satisfy the zoning requirements. Meisel stated that when the neighbor to the south built, it was a requirement that they remove the existing structure. Mr. Anderson responded that they would remove the water and sewer from the existing structure if they were allowed to keep it. Meisel stated that allowing the existing cottage to remain and granting a variance for the proposed house and garage would increase the number of nonconformities on the property and he does not see how the Board can justify that. Meisel added that the cottage actually has two nonconformities because of the side yard and rear yard setbacks. Cypher stated the cottage was conforming whenever it was built. Meisel responded that it may have been conforming when it was built. Mrs. Anderson stated that they would redo the cottage only if they do not get the variance for the proposed 3-car garage. Meisel stated there are topography limitations. He continued a 3-car garage is not unreasonable and would be consistent with other homes in the area. Linder stated it would be more desirable to get rid of the existing two nonconformities with the cottage and have one nonconformance with the 3-car garage. She added that the drive to get to the existing cottage is a problem and it would be eliminated by removing the existing cottage. Meisel stated it would be better to grant the variance that allows them better use of the property, which allows them to be consistent with adjacent developments, and you don't increase the nonconformity but exchange some non-conformities for a better situation. He added that he cannot come up with a good reason to keep the existing structure by the water. Mr. Anderson answered that he really does not want to keep the existing structure by the water. Mr. Macklin stated that they might be able to get some additional storage area in the terracing. Meisel stated the drive to the cottage is the problem. He continued that there needs to be a shared driveway agreement that is recorded, it needs to have an easement and there needs to be a maintenance agreement. He added that this will protect both parties by having it in writing, so if one of the parties moves the other person is protected if the next person is not as accommodating. In response to Cypher's question, Meisel answered that there are no sight line issues because water views are not being blocked; that in this situation, this is what is technically defined as a cove, the setback is reasonable; and there is a huge limitation with topography for location of the proposed structure. Trollman stated that there is a good view of the lake for both of the adjacent neighbors to the north and to the south and that there are large topography issues associated with this property.

PUBLIC COMMENT

Lee Stone, 10466 Runyan Lake Road, neighbor to the north, stated he is in favor

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of granting the variance requested by the applicant. Written correspondence dated May 30, 2013 was received from Joe and Lynn Perrera, 10456 Runyan Lake Road, stating support of the variance request.

MOTION

Linder moved to grant the request of Dave and Kathleen Anderson for a 10 foot 10 inch front yard setback variance to build a new house and attached garage located at 10460 Runyan Lake Road, Tax Code # 4704-09-202-003, and that the existing cottage be demolished, because it conforms with the requirements placed on the neighbor to the south, it solves the issue of the shared private driveway being used for primary vehicle access and it reduces the overall number of nonconformities on the lot. (Young seconded.)

After a brief discussion by the Board, the motion was amended as follows:

MOTION

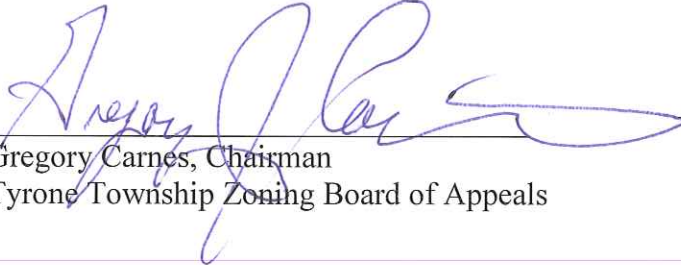
Linder moved to grant the request of Dave and Kathleen Anderson for a 10 foot 10 inch front yard setback variance to build a new house and attached garage located at 10460 Runyan Lake Road, Tax Code # 4704-09-202-003, for the following findings of fact: Unreasonable Burden: The existing topography limits the location of the structure to either near the water or near Runyan Lake Road. A location near the water will not meet the sight line or rear yard setback requirements, and because the lot narrows as it approaches the water, lot width becomes a constraint. The requested location by the road provides the best location for a reasonable use of the property, and is consistent with the setbacks of adjacent neighbors. Substantial Justice: Replacing the existing cottage with a new home is consistent with the adjacent property uses, structures, and home locations. Updating the home will also improve visual harmony with the adjacent neighbors. The ZBA received verbal support for the variance request by Lee Stone and verbal and written support from the Perreras'. The variance is also conditional upon the removal of the existing structure, and thus substantial justice is served by allowing a variance for a larger garage to restore the lost storage space in the existing structure. 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 neighbors, and to result in reasonable conformance with the intent of the current Zoning Ordinance. Extraordinary Circumstances: The existing natural topography limits the location of the structure to either near the water or near Runyan Lake Road, and modification of the topography is not practical. A location near the water will not meet the sight line or rear yard setback requirements, and because the lot narrows as it approaches the water, lot width becomes a constraint. The requested location by the road provides the best location for a reasonable use of the property, and is consistent with the setbacks of adjacent neighbors. A utility pole is also present on the southwest corner of the parcel, further limiting home and garage placement options. Health and Safety: Granting this variance does not alter or negatively impact the satisfactory health and safety of the immediate area. Granting this variance is conditional on removal of the existing cottage, and its sanitary sewer and well infrastructure. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Table of Schedule of Regulations)]. (Young seconded.) Roll call vote: Young, yes; Meisel, yes; Trollman, yes; Linder, yes; Cypher, yes. The motion carried.

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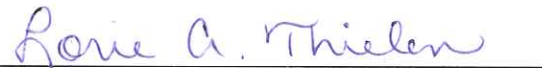
The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, July 8, 2013 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:27 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