

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – DECEMBER 1, 2014**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on December 1, 2014, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Gregory Carnes, Mark Meisel, Jeff Young, Don LoVasco, and Jon Ward

Guests: Robert and Karen Maniez, and David Harris

MINUTES OF SEPTEMBER 8, 2014, ZONING BOARD OF APPEALS MEETING

LoVasco moved that the minutes of the September 8, 2014, 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 November 16, 2014 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on November 13, 2014, at 9:00 A.M.

VARIANCE REQUEST

- #1 Robert and Karen Maniez, RE: Request for a variance to allow a second detached accessory structure (2 car garage) on the property, located at 6309 Mabley Hill Road, (TAX CODE # 4704-34-402-026).

Robert Maniez requested a variance to allow a second detached 2- car garage on his property. He stated the property has several unique conditions that will hopefully allow him to get the variance requested. He continued the property was purchased in 2012 and they remodeled the house. He stated they planned to build a garage this summer and have it completed because he is retiring next April. He continued that in July, his contractor came to the Township to apply for a permit to build a 2-car detached garage, and this is when he found out about the restriction of only allowing one detached structure per parcel. He stated he had no idea when he bought the house that there was such an Ordinance. He continued they already made several modifications to the interior of the house. He stated he is sandwiched between two neighbors that each have two detached accessory structures. Mr. Maniez submitted a listing of nine properties in close proximity to his property that have two detached accessory structures on them. He continued the three neighbors on the south side of him have two detached structures. He stated the only potential place to locate an attached structure, due to the location of the house, would be on the east side of the house. He continued the corner of the house is within 50 feet of the lake so it would restrict what he could build as far as an attached garage. He continued that one of the problems he is dealing with concerns the septic tank which is located about 12 feet east of the house, on the east side. He stated he would have to fill in the existing septic tank and then purchase a new system and have it installed somewhere out from underneath where the drive would be attached to the house. He continued that his contractor told him it would cost about \$8,000 to \$10,000 to do this. He stated other problems would be: the two trees, approximately 60 feet tall, which are located about 7 feet from where the foundation will be put in; the footings have to be 42 inches deep, so they would be cutting into the roots of the trees; and the trees are right at the power line.

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He continued it would be too costly to cut the trees down. He stated the main problem with trying to attach the proposed garage is that the east room is the master bedroom and that it would not be practical to build a garage and attach it with a breezeway and then enter the home into the master bedroom. He continued that on the south side of the property it is 48 feet from the water to the house. He stated a variance would most likely be needed to build the proposed garage on the south side. He continued they planned on building a detached garage all along, but they would much rather have an attached garage, just not one that would enter into their master bedroom. He stated they need a place to put their vehicles and that they would be open to any suggestions the Board might have. He added that he has three letters from neighbors, two are south of his property and one to the north, stating they have no objection to the variance request. He stated moving the sewer would be a hardship. He continued the substantial justice would be that he is sandwiched between two properties that each have two detached accessory structures on them. He added he has almost 3 acres of property and having two accessory structures on it would not look cluttered.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated he reviewed this with the Planning Commission and the Township professional planner. He continued the concern voiced by everyone, the planner included, was how to get around the compliance issue. In response to Meisel's question, Mr. Maniez answered that the existing accessory structure is 30 feet by 50 feet. Meisel stated this is a non-conforming lot of record. He stated the Board has the issue of increasing the existing non-conformity on the property and how to deal with it. He continued the restriction in general is Zoning Ordinance Section 21.02D.1 which limits a residential property to one attached and one detached accessory structure, as well as the size limitation of 800 square feet maximum, with the possibility of increasing from 800 square feet to 1,200 square feet, permitted under 21.02.G. Meisel stated there are a large number of nonconforming properties around the lake and in the immediate area. Carnes stated the Board can assume most of those were built prior to the Ordinance change. Meisel disagreed and stated a significant number were built after 1996 and they are 1500 to 2500 square feet, the size of a house. He continued that this gets back to the established, the intended, and moving forward, the desired character of the immediate area or neighborhood. He stated if the Board wants to grant something like this, how does the Board not establish a precedence, without going in and effectively changing the Zoning Ordinance and reclassifying the Lake Tyrone area as a different zoning district that has different standards, because there are so many residents in gross violation of the existing Zoning Ordinance. Meisel stated that we have a family that purchased a house in 2012 with an existing nonconforming accessory structure, which is classified as a non-conforming lot of record. He continued even though there is a ton of substantial justice here, based on what the adjacent neighbors have, what is the basis for granting the applicant 2,176 square feet of accessory structure area, when everyone else is limited to 1,200 square foot maximum? Carnes stated that looking at the floor plan, the master bedroom is the front room and it would be impractical to enter the house through a bedroom. He continued it would be easier to grant a variance on the south side, closer to the lake, with an attached structure than it would be to grant another detached accessory building. Meisel stated the Board is back to the practical aspect that the applicant is fully entitled to have an attached garage to put their vehicles in. He continued that the Board needs to consider if the applicant can get an attached garage in there or does it have to be

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detached because they are restricted from attaching it, and that is the unique situation they are in. Mr. Maniez stated the property slopes off quite drastically and that the ground is soft at the bottom, which would make it hard to put a foundation in. Meisel stated the applicant has a detached structure that is so far away from the home, it is not practical to be considered as a garage period. He continued if you identify a practical difficulty, due to the property or the configuration of the home that prevents the applicant from attaching a garage, there needs to be a provision to allow them to have a detached garage as a result. Meisel added that the applicant is asking for a standard 2-car garage. Young stated it seems reasonable to allow the applicant to build a detached garage, due to the lot, the sewer, configuration of the house, and sloping issue of the property. Meisel stated in regards to substantial justice, the applicant submitted a list of similar properties in the immediate area with two detached structures. In response to Ward's question, Mr. Maniez answered that he talked to several neighbors and none of them had any objections to his variance request. Meisel stated the Board needs to justify allowing an accessory structure larger than the size of the existing house. In response to Meisel's question, the Board unanimously agreed that there is not a reasonable way to attach a garage to the existing house, due to the location of the house on the peninsula, the topography of the property, and the limitation with the sewer and the tank, which will become a grinder pump tank. Meisel continued that the next question would be if the Board agrees that this creates an unreasonable burden or an extraordinary circumstance that is not self-created. Carnes stated it is not unreasonable to need or want a garage close to the house and that it needs to be attached. The Board unanimously agreed that the applicant should have a garage. Carnes stated if the applicant attaches a garage, it will need a variance, regardless of where he attaches it. Ward stated the property narrows where the house is located. Carnes stated that if the property line was straight, the applicant would have room to attach a garage. He continued that this is what makes the property unique compared to the properties on each side of it.

PUBLIC COMMENT

None. Written correspondence was received from Frances A. Sroka, 6329 Mabley Hill Road, Annette Roberts, 6289 Mabley Hill Road, and Thomas Mester, 6269 Mabley Hill Road, all stating no objection to the variance request.

MOTION

LoVasco moved to grant the request of Robert and Karen Maniez for a second detached accessory structure 26 x 26 feet to be used as a two car garage, located at 6309 Mabley Hill Road, Tax Code #4704-34-402-026, for the following findings of fact:
Unreasonable Burden: The subject property is configured such that the principal residence requires a variance whether the garage is attached or not due to proximity to the water. There are other encumbrances, such as the existing sewer, other utilities and topography making an attached garage an unreasonable burden. Substantial Justice: The applicant has provided numerous examples of adjacent properties configured with multiple accessory structures, legally existing or not. The applicant has also provided letters of support from their adjacent neighbors with no opposition received. A second detached accessory structure is relatively common in the immediate neighborhood despite that existence not complying with our zoning ordinance. Granting this variance thus does not conflict with the existing neighborhood harmony and character. Minimum Variance Required: It is the

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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: There are exceptional or extraordinary circumstances applicable to the property involved that do not apply generally to other properties. Location options are limited due to proximity with Lake Tyrone, and the location of utilities which make it unreasonable to attach the requested garage to the principal residence. The ZBA believes it is a reasonable request to have a garage in close proximity to the principal residence. The existing accessory building is more than 200 feet from the principle building, making its use as a main garage in a Michigan climate impractical. All reasonable options to attach the requested garage have been exhausted. Health and Safety: Granting this variance does not alter or negatively impact the satisfactory health and safety of the immediate area. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 21.02D.1 (Accessory Buildings and Structures Provisions – LK-1 District Accessory Buildings and Structure - Number)]. (Young seconded.) Roll call vote: Young, yes; Meisel, yes; Ward, yes; Lo Vasco, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

- #2 Lone Tree Trio, LLC, representing Tyrone Hills Preserve LLC, RE: Request to allow the existing 64 square foot V-sided real estate sign with an 8-foot span to remain in its current location for a minimum of 3 years, located at the southwest corner of Lee Jones Road and Old-23, (TAX CODE # 4704-08-101-074).

Dave Harris of Lone Tree Trio, representing Tyrone Hills Preserve LLC, requested to allow the existing 64 square foot V-sided real estate sign with an 8-foot span to remain in its current location for a minimum of 3 years. He stated there are 30 more lots to sell and that the sign is needed for advertising to passing vehicles.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel questioned after what amount of time would this temporary sign become a permanent sign. He continued that at the end of this 3 year extension, the sign will have been up for 9 years. Carnes stated that there was an original sign erected in 2005, and in April 2008 the sign was changed and the location was moved to the current sign location. Meisel stated he does not want to set precedence here. He continued the sign is having some positive effect in selling lots. He added the sign is needed to let people know there are lots available back there, because you cannot see them from the road; there are some topography issues there; you do not want people driving by something like that, with the traffic on Old-23 and people having to turn around which can cause issues as well. Meisel stated granting another 3 years for this sign is not unreasonable. He continued that this is probably the last 3 year extension for this sign; otherwise it becomes more like a permanent sign. He added that this is a temporary real estate sign and the expected norm for a sign like this is 3 years. Meisel stated there are some extraordinary circumstances here, but 9 years is a long time for a real estate sign. Carnes stated that 3 years from now there hopefully will not be 30 lots left to sell. Meisel stated that this is a very nice sign that is nicely done, it looks good, it does what it needs to do as far as telling people what is there and how to get there. Carnes stated this will probably be the last time an extension will be granted. Lo Vasco stated the sign would probably change to say how many lots

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are left to sell. Meisel stated the issue is that without this size of a sign, the sign becomes almost useless and not visible to people passing by. He continued the sign is a nice sign and the whole area with the pond on one side and the open area it looks like there is an entrance there to something nice. Meisel read the motion from August 11, 2008, to the Board so they had the background as to why the sign was originally granted for a period of 3 years and then was again re-motoned on October 3, 2011. Meisel recommended the Board make a motion to grant this variance request for a third time.

PUBLIC COMMENT

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

MOTION

Meisel moved to grant the request of Lone Tree Trio, LLC representing Tyrone Hills Preserve LLC, to allow the existing 64 square foot V-sided real estate sign with an 8 foot span to remain in its current location for 3 additional years, located at the southwest corner of Lee Jones Road and Old-23, tax code 4704-08-101-074, for the following findings of fact, as previously determined during the 8/11/2008 and 10/3/2011 ZBA meetings: Unreasonable Burden: The property being advertised by the sign exists far back within the development and is not able to be viewed from the Lee Jones Road and Old US-23 location. The immediate area is encumbered by a natural pond, water feature, and wetland area to the south, and a valley and permanent monument sign to the north, limiting sign location options. The sign location is not at least 1,320 feet from the US-23 right of way, however such a location would defeat the purpose and benefits of the sign as its view would be severely restricted. The land the sign is upon fronts Old US-23 not US-23, but US-23 is approximately 50 feet from Old US-23, both running parallel to each other in this area. There are no other signs in the immediate area. If the sign is limited to a height of 6 feet the clear vision zone required to see oncoming traffic on Old US-23 is restricted and creates a safety issue, thus we apply the footnote from table 27.1 footnote (3). Substantial Justice: The sign helps direct traffic to the intended location, which is not readily visible due to the development's setback. A sign helps minimize turn-arounds and the undesired and unnecessary traffic in the immediate area resulting from interested parties searching unsuccessfully for the intended destination, which is to the benefit of the public at large. The development being advertised will relate harmoniously with adjacent land uses and will not alter the essential character of the neighborhood. The sign is buffered from adjacent residential areas. Minimum variance required: The reasonable minimum required is being granted given the encumbrances the applicant is facing. This variance is being granted in such a fashion that the spirit of our regulations will be observed and public safety and welfare secured. Extraordinary Circumstances: The land that the sign is upon fronts Old US-23 not US-23, but US-23 is approximately 50 feet from Old-23, both running parallel to the other in this area. Other potential locations for the sign are encumbered by a natural pond, wetlands, site distance or clear vision issues, or viewing restrictions. It is believed this is the best location for this sign in keeping with the spirit of our regulations. Health & Safety: Granting this variance reduces errant traffic resulting from missing the intended destination, which often results in dangerous turn-arounds by vehicles including backing out of private driveways or driving through the commercial establishments in the immediate area. The elevated sign height also minimizes any impact on clear vision to traffic on Old US-23. There are no adverse

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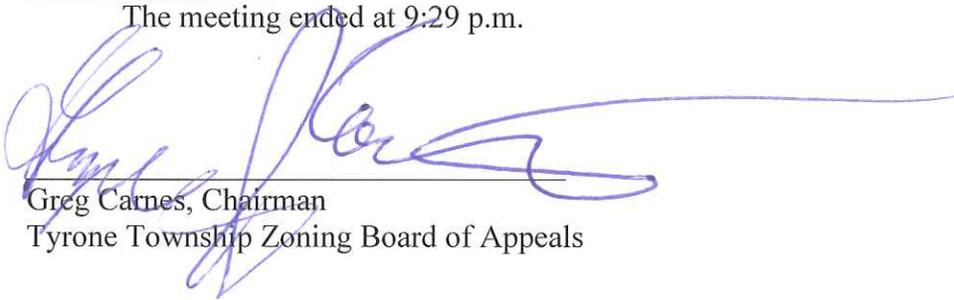
impacts to health and safety. [Ref. Tyrone Township Zoning Ordinance No. 36 - Section 27.03.A.4 (Other Signs - Permit Required – Real estate development sign in any district)]. (LoVasco seconded.) Roll call vote: Ward, yes; Lo Vasco, yes; Meisel, yes; Young, yes; Carnes, yes. The motion carried.

MISCELLANEOUS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, January 5, 2015 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 9:29 p.m.



Greg 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