

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – SEPTEMBER 8, 2014**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on September 8, 2014, at 7:30 p.m., at the Tyrone Township Hall.

ROLL CALL

Present: Commissioners Gregory Carnes, Mark Meisel, Jeff Young, Don LoVasco, and Laurie Radcliff
Guests: Chris Macklin, Paul and Beverly Gotelaere, Michael McKnight, Bryan Lehman, Jon Ward, Tim Morello, and Don Cortese

MINUTES OF JULY 7, 2014, ZONING BOARD OF APPEALS MEETING

LoVasco moved that the minutes of the July 7, 2014, Zoning Board of Appeals Meeting be approved as presented. (Young seconded). The motion carried.

MINUTES OF AUGUST 4, 2014, ZONING BOARD OF APPEALS MEETING

LoVasco moved that the minutes of the August 4, 2014, Zoning Board of Appeals Meeting be approved as presented. (Meisel 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 August 24, 2014 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on August 21, 2014, at 9:00 A.M.

VARIANCE REQUEST

#1 Paul and Beverly Gotelaere, RE: Request for a 14.9-foot front yard setback variance and a 5.5-foot southwest side yard setback variance in order to build a new proposed 14-foot by 24-foot detached garage, located at 10527 Lakeshore Drive, (TAX CODE # 4704-09-402-029).

Chris Macklin, representing property owners, Paul and Beverly Gotelaere, requested a 14.9-foot front yard setback variance and a 5.5-foot southwest side yard setback variance in order to build a proposed 14-foot by 24-foot detached garage. He stated that in 2006, the Gotelaere's received a side yard setback variance in order to build the existing home, due to the existing stream. He continued this was originally their second home, but it is now their permanent residence. He stated the house style is cape cod and it only has a crawl space, so the detached garage is needed for storage. He stated they know a 2 or 3-car garage would not be acceptable, so they are asking for a 14 by 24-foot detached 1-car garage. He continued they considered several locations for the proposed structure: closer to the road, but it would be pinned in due to the stream; and near the telephone pole, but there would be setbacks to consider. Mr. Macklin stated they considered purchasing the lot across the street but the lots could not be joined because they are not contiguous. He added that you cannot have an accessory structure without a primary residence on the lot, so purchasing the lot would not work. He continued the proposed location for the accessory structure is the best possible location, considering the stream, the well location, the grinder pump, the clearance from the road, and the house and the neighbor. He stated the proposed location would allow a vehicle to park in front of the

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garage and still be a safe distance from the road. He added the Gotelaere's would like to park one vehicle in the proposed garage and store whatever else they can that would not fit in the existing crawl space. Mr. Macklin stated they are asking for a 14.9-foot front yard setback variance and a 5.5-foot southwest side yard setback variance to build a 1-story detached garage, which will have some attic space above. He continued the unreasonable burden would be the stream, well, grinder pump and utility pole; the substantial justice is the proposed structure would be keeping with the surrounding properties of the neighborhood; and the extraordinary circumstances would be the MDEQ told them that they cannot reroute the existing stream on the property. He stated drainage will be handled by the natural slope of the property to the stream, and the foundation will be placed on a gravel bed, which will allow the water to pass through it. He continued they had a pre application meeting with the MDEQ on May 27, 2014. He added the MDEQ did not have a problem as long as they stayed around the rock pile, between the stream and the top of the embankment. He stated they contacted the Runyan Lake Heights Association (RLHA), and the RLHA felt it would be inappropriate for their Board to take a position on the matter. Mr. Macklin submitted the letter from Runyan Lake Heights Association.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated he recalls the variance granted for the house. He continued it was already a non-conforming cottage and the Board granted them a variance to stay within the existing footprint, so it would not be any more non-conforming. He stated they did a floating foundation and did a very nice improvement to the structure from a cottage to a year around residence. In response to Carnes' question, Mr. Macklin answered they will use the same floating foundation for the proposed garage as they did for the house. Carnes stated water run-off is a concern. LoVasco referenced a letter of concern regarding water runoff and drainage by Michele and Mike Ostrowski. Carnes stated locating the proposed structure near the telephone pole is no better a location than the current proposed location. Meisel stated the lots are set forth by the plat of Runyan Lake Heights of 1928, which was a cottage type community which has since transitioned and developed to about 98% full time residents. He continued some of the lots are small and have various restrictions, but this lot is part of an old plat. Meisel made the following observations: the distance to the neighbors structure is about 14 feet and the Board looks for 20 feet to allow for structure fire jump protection, the variance request for the proposed garage would be the same distance setback as the existing home; there is not an increase in the amount of non-conformity, except for the length of the non-conformity which is permitted; there is a regulated stream which limits the location, but also impacts drainage concerns there and the Board needs to make sure the water runoff is managed (not dumping sediment into Runyan Lake and not causing issues between the two homes); the foundation proposal is beneficial because it is a permeable, floating foundation which will not cause a blockage or restrict water; the road does end at the next property so there is not a real defined turn-around there, but their proposal is similar in character to the surrounding area, where a lot of homes and garages are close to the road, especially to the west where there are topography issues; and there are limitations due to the well and existing grinder pump. Meisel stated he has concerns about comments from the Runyan Lake Heights Association. Meisel continued that from a Planning Commission point of view this would not meet the requirements for site plan approval because Lakeshore Drive is a private road owned and maintained by the RLHA and there is potential impact to the road maintenance

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and utilization. He stated the RLHA needs to sign off on the ability to utilize and maintain the road and say there is no adverse impact to plowing or reasonably maintain the road, or adverse impact to drainage, because it is their road system. He added the applicant has effectively entered into a legal agreement to utilize that road system. Meisel stated from a Township point of view, we do not own or maintain those roads. In response to LoVasco's question, Meisel answered that RLHA maintains the road. Meisel continued regarding the variance request, the proposed location for the proposed garage is really the only option they have. He added there should be a little more definition about roof run-off, drainage and how water between the two houses will it be managed coming off the roof, will there be drainage tiles or should there be mandated gutters. Mr. Macklin responded there will be downspouts at the four corners and the gutters will be tipped to each corner, then the downspouts will come down to underground drain tiles to the front and the back. Meisel stated that would be reasonable. In response to Radcliff's question, Mr. Macklin answered they decided not to buy the vacant lot across the street to build the proposed garage, because the Township does not allow a garage on a property without a primary residence. Mr. Macklin added greater variances would be needed to build a garage on the vacant property across the street than what they are asking for now. Meisel stated a conditional variance could be granted pending RLHA approval. He added the RLHA needs to give approval this will not adversely affect their ability to maintain the road (snow removal), drainage, or for people to use the road.

PUBLIC COMMENT

None. Written correspondence was received from Michele and Mike Ostrowski, 10523 Lakeshore Drive, stating support of the variance request, but had several concerns they wanted to be addressed regarding the foundation, drainage, and water runoff.

MOTION

LoVasco moved to grant the request of Paul and Beverly Gotelaere for a 14.9-foot front yard setback variance and a 5.5 foot southwest side yard setback variance in order to build a new 14-foot by 24-foot detached garage, located at 10527 Lakeshore Drive, Tax Code # 4704-09-402-029, for the following findings of fact: Unreasonable Burden: Lots are set forth in the Plat of Runyan Lake Heights (1928) when the community was established as a summer cottage resort area. The existing home is a modified cottage which has been turned into a full time residence. The setbacks in the immediate area are consistent with the requested variances. The property is heavily restricted due to the location of a regulated stream, the existing well, grinder pump, and proximity to the road. Substantial Justice: The setbacks in the immediate area are consistent with the requested variances. Concerns regarding drainage and foundation structure are being addressed by the applicant. Drainage will be affected such that water will flow away from between the houses and appropriately filtered via check dams to prevent sediment from entering the stream. Minimum Variance Required: It is the opinion of the ZBA the variances 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 property is heavily restricted due to the location of a regulated stream, the existing well, grinder pump, and proximity to the road. Health and Safety: Granting this variance does not alter or negatively impact the satisfactory health and safety of the immediate area. Approval is

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conditional on the applicant providing drainage to prevent water from accumulating between the two structures and providing filtering of sedimentation from the stream. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Table of Schedule of Regulations)]. (Young seconded.) Roll call vote: Young, yes; Radcliffe, yes; Meisel, yes; Lo Vasco, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

#2 Mike and Tiaja McKnight, RE: Request for a 5-foot west side yard setback variance and a 6-foot rear yard setback variance in order to keep the existing, partially built 2-story, 24-foot by 28-foot playhouse/tree house, located at 9451 Jean Street, (TAX CODE # 4704-13-102-033).

Mike McKnight requested a 5-foot west side yard setback variance and a 6-foot rear yard setback variance in order to keep the existing, partially built playhouse. He stated that when he first started building it was less than 100 square feet. He continued that his kids wanted a treehouse, so he built a front deck and then built up; from there he tried to wrap it around the tree. He stated the tree had a larger sway variance when the wind was blowing, so he ended up stacking the two buildings on top of each other. He continued that he has more to add to it and that his yard is very small.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated nobody was home when he stopped at the property, so he did not go back there to see it up close. In response to Carnes' question, Mr. McKnight answered for the foundation he dug down 2½ feet and poured in crushed stone to allow for drainage and so the structure would not shift. He continued there are 2-foot by 2-foot walls filled with crushed stone, then deck blocks set on the crushed stone. In response to Carnes' question, Mr. McKnight answered the front of the deck is on the ground. In response to Carnes' question, Mr. McKnight responded the lower structure is 96 square feet and the upper structure is 96 square feet. In response to Radcliff's question, Mr. McKnight answered the lower deck is 144 square feet and the upper deck is approximately 120 square feet and they are joined by 17 steps straight up. He added he will be adding railings to the stairs. In response to Radcliff's question, Mr. McKnight answered when up in the structure, he is basically staring into the back of his house and it is hard to see the neighbor's house due to the trees. Meisel stated according to Zoning Ordinance Section 21.02, the side yard variance is not needed, but the rear yard variance is needed. Meisel continued the applicant needs a 6-foot rear yard setback variance and the height of the structure does not need a variance. In response to LoVasco's question, Mr. McKnight answered the playhouse area is 8 by 12-feet and that the rest is platform. Meisel stated there is no issue with the lot utilization. Meisel was unsure of the foundation and if it is sound enough so the structure does not tip over, due to its height. Carnes stated this is not a permanent structure because it is set on blocks. Meisel agreed with Carnes statement. In response to Meisel's question, Mr. McKnight responded the structure is 18 feet in height. Carnes stated if the structure was 6 feet farther from the rear lot line, this would not be before the Board because a variance would not be needed. Meisel stated it would not need a building permit because it is not occupiable and it is not large enough from a square footage point of view. Carnes stated there is a valid concern for the power pole with power lines on the corner. In response to LoVasco's question, Mr. McKnight responded it would be

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extremely hard to move the structure away from the rear property line without any heavy machinery. He continued he would have to tear down the upper structure as well as the upper and lower deck in order to move it. Meisel questioned what the substantial justice would be when there are neighbor's that have concerns with regards to safety of the structure. McKnight stated he wanted the structure to be a movable structure rather than a permanent structure and that is why he didn't pour any concrete. LoVasco stated the structure would need to be moved 6 feet forward from the rear property line and away from the power lines. In response to Meisel's question, Mr. McKnight answered he cannot move the structure 6 feet forward because of the hill there and other grade issues and he would have to add an extra railing around the lower level. He added that right now the structure is less than 1-foot off the ground. In response to Mr. Morello and Mr. Cortese comments, Carnes responded the Board is not here to dispute what a play structure is for one family versus what another family considers a play structure. Carnes stated safety is an issue and the Board is concerned with the safety of the structure. In response to Meisel's question, Mr. McKnight answered the roof will be shingled or tiled and the tarp is temporary. He continued since he was contacted by the Township he has stopped all work on the structure until the issue is resolved. In response to Meisel's question, Mr. McKnight answered the playhouse will be vinyl or wood sided. In response to Meisel's question, Mr. McKnight answered the total square footage of the building is 96 square feet on the lower and 96 square feet on the upper. In response to Radcliff's question, Mr. McKnight answered including the decking; the structure would be around 400 square feet. In response to Meisel's question, Mr. McKnight answered the lower level structure and deck is 12-feet by 20-feet or 240-square feet total size. Meisel stated there is a safety issue with the foundation.

PUBLIC COMMENT

Tim Morello, 9441 Jean Street, stated objection to the variance request because of construction, location and safety concerns. John Cortese, 9380 Denton Hill Road, stated objection to the variance request because the variance should have been obtained before the structure was built. No written correspondence was received prior to tonight's meeting.

MOTION

LoVasco moved to deny the variance request of Mike and Tiaja McKnight for a 6-foot rear yard setback variance in order to build a tree house, located at 9451 Jean Street, Tax Code # 4704-13-102-033, for the following findings of fact: The requested variance (rear yard setback) does not comply with the required Extraordinary Circumstances, Substantial Justice, or Unreasonable Burden, three of the 5 criteria required to grant a variance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Table of Schedule of Regulations) and 21.02 C-1 (R-1 and R-2 Districts Accessory Building and Structures – Number)]. (Young seconded.) Roll call vote: Lo Vasco, yes; Young, yes; Meisel, yes; Radcliff, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

#3 Bryan Lehman, RE: Request for a 30-foot front yard setback variance at the southwest corner of the property in order to build a new proposed house on vacant property located on Weathered Wood Ct., (TAX CODE # 4704-03-

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203-045).

Bryan Lehman requested a 30-foot front yard setback variance at the southwest corner of the property in order to build a proposed house on vacant lot #45 in Hills of Tyrone West on Weathered Wood Road. He stated compliance to the setback at the southwest corner of the property would push the proposed house such that the proposed house front face would be behind the adjacent homes rear face and this is the unreasonable burden. He continued there is unreasonable burden to this property based on the way the property lines are drawn. He stated there are several lots in the subdivision that do have curved property lines around the cul-de-sac (Hills of Tyrone West lots 7,8,22 and 23). He continued he believes there was a double standard used when the property lines were drawn. He stated there are no health and safety concerns or issues associated with this request. He continued by granting this variance, the house will not sit any farther forward on the property than any other house along the cul-de-sac. He stated the proposed house will not impede into either side yard setback. Mr. Lehman submitted a copy of an e-mail from the Hills of Tyrone Association stating they approve the variance request. He also stated a letter of support for the variance request was received from Patrick and Corinne Funke.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated this area was developed in two phases: Hills of Tyrone and Hills of Tyrone West. He continued as you go through the development, you have six round cul-de-sacs, and then you have a square cul-de-sac. He stated he has no idea what happened there, other than someone changed the configuration of a lot or the open space. He continued lot #50, directly across from this property, is squared up away from the square of the cul-de-sac and lot #49 is currently being built and is able to front on the square so it gets a reasonable setback. He stated this parcel gets impeded by this little notch and forces the house to be pushed back an extra 50 feet, which is actually 30 feet net. Meisel stated he does not know why they shaped this parcel like that or why the cul-de-sac is square. Meisel stated the square cul-de-sac creates a very unreasonable burden. He continued this parcel is treated completely differently from all the other parcels on the cul-de-sac simply because of the shape of their lot. Carnes stated it does not put the proposed house in line with the other houses on the cul-de-sac. Meisel stated this property is at the beginning of the cul-de-sac and it has to be pushed back 25 to 30 more feet because of the notch. Meisel continued there is nobody to go ask why this is the only cul-de-sac in the development that is square. Meisel stated he does not like the proposed driveway location is right on the property line, but it is not for the Board to decide if they can or cannot do that. He continued ideally you would want a setback of some sort, so you can plow snow and have a place to put it. He stated that as best he can tell, the driveways are all on or very near the property lines throughout most of the development. Meisel continued the subdivision is set up architecturally so every home has a side garage entrance, but it does create an interesting aspect that the driveways have to literally be at the edge of the property line. He stated this is a nice development, the houses are very nice, and it is very well laid out. He added the proposed house will be a nice house for the development. In response to Radcliff's question, Mr. Lehman answered the driveway does not need to be as wide as what is proposed. Meisel stated in this particular application the driveway is not a concern for this Board. He continued for a private driveway, it can be as narrow or

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as wide as you want and he could not find any setback requirements for driveways in the Zoning Ordinance. He stated the Planning Commission has discussed if someone put a driveway on the property line they must demonstrate at one end or side of the driveway there is some place to put their snow.

PUBLIC COMMENT

Brett and Katherine Howell, 3303 Weathered Wood Ct., stated they originally did not understand the request, but now understand it and have no issues with it. Written correspondence was received from Patrick and Corinne Funke, 3320 Weathered Wood Ct., stating support for the variance request. Written correspondence was received from Mike Remillard, stating that the association approves of the variance request.

MOTION

Young moved to grant the request of Bryan Lehman for a 30-foot front yard setback variance at the southwest corner of the property in order to build a new proposed house located at vacant parcel 045 on Weathered Wood Ct., Tax Code # 4704-03-203-045, for the following findings of fact: Unreasonable Burden: The cul-de-sac as configured (square versus round) creates an unreasonable burden upon this parcel only by requiring additional setback to comply with our Zoning Ordinance. This is the only square configured cul-de-sac in the development. Substantial Justice: The request is harmonious and compatible with the adjacent neighbors. The association and adjacent neighbor are in favor of the request. Minimum Variance Required: It is the opinion of the ZBA the variances 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 cul-de-sac as configured creates an unreasonable burden upon this parcel only by requiring additional setback to comply with our Zoning Ordinance. This is the only square configured cul-de-sac in the development. 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 20.01 (Table of Schedule of Regulations)]. (Lo Vasco seconded.) Roll call vote: Meisel, yes; Lo Vasco, yes; Radcliff, yes; Carnes, yes; Young, yes. The motion carried.

MISCELLANEOUS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, October 6, 2014 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 9:33 p.m.



Greg Carnes, Chairman
Tyrone Township Zoning Board of Appeals

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Lorie A. Thielen

Lorie A. Thielen, Recording Secretary
Tyrone Township Zoning Board of Appeals

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