

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 1 – APRIL 13, 2015**

**CALL TO ORDER**

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on April 13, 2015, at 7:30 p.m., at the Tyrone Township Hall.

**ROLL CALL**

Present: Commissioners Gregory Carnes, Mark Meisel, Jeff Young, Don LoVasco, and Joe Trollman

Guests: Nancy Prince, Dan and Pamela Kenny, and Bob Krueger

**MINUTES OF DECEMBER 1, 2014, ZONING BOARD OF APPEALS MEETING**

Young moved that the minutes of the December 1, 2014, Zoning Board of Appeals Meeting be approved as presented. (Trollman 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 March 29, 2014 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on March 25, 2014, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 Daniel and Pamela Kenny, RE: Request for a 10-foot north side yard setback variance and a 20-foot south side yard setback variance in order to build a proposed new house and attached garage, located on vacant land at 10395 Spring Street, (TAX CODE # 4704-09-204-034).

Daniel Kenny stated he and his wife currently live on Runyan Lake Point. He continued that they have been looking at this property on the point for a number of years now and recently purchased the property last October. He stated the property is considered non-conforming under the current Zoning Ordinance requirements. Mr. Kenny continued that he cannot build the required minimum size structure on this property without a variance. He continued his goal is to protect the lot in regards to boat safety by building back in the southeast corner of the lot to prevent any obstructions from boat traffic. He stated there are 4 oak trees and they will be inside that area. He added that the area he staked out is the worst case scenario. Mr. Kenny stated he is requesting a 10-foot north side yard setback variance and a 20-foot south side yard setback variance in order to build a proposed new house and attached garage. He continued that the south side variance is only for the one corner. He stated the house itself will be at the 50 foot requirement and they are following the triangular shape of the lot. He stated the house on the south side of the property is a two-story house and it is 9 feet from the lake right now at one corner. He continued the house on the north side of the property is 30-35 feet from the water's edge to their house. He added that he is asking for less variance than what is already established from the neighbors in the surrounding area. Mr. Kenny stated that the road comes in from the east side of the lot and creates a natural access into the property that is not obstructive. He continued that he plans to build a 1½-story house, more like a cottage, that will be 65-70 feet from the edge of the road. He stated they will be moving the existing septic tank to a location between the garage and the porch area. He continued the well will be located towards the water's edge. Mr. Kenny stated they will be using 6-

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inch tiles to provide proper drainage. He stated the lot itself is quite dry, but he believes it will require an engineered foundation. He continued he contacted Construction Testing Services, (CTS), and upon approval of the variance request they will come out and do some borings. He added that after the borings are done the designs will be taken to Lopez Engineering so an engineered foundation can be created. Mr. Kenny stated they plan to retire in this home and are having wider hallways put in and will have wheelchair access. Mr. Kenny showed the Board his preliminary drawings. He added they will maintain a rock seawall around the perimeter of the point.

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

Carnes stated the applicant did a good job staying within the building envelope with his design. In response to Carnes' question, Pamela Kenny responded that the back of the proposed house will only be 1-story, so they do not block the views for boaters around the point. Carnes stated the applicant will not be blocking the view of the neighbors because the neighbors are closer to the water than what the applicant is proposing. Meisel stated the applicant has an advantage in that most of the adjacent neighbors are looking at views to the south or to the north for the main body of the lake, so they end up with a nice view to the west. Meisel stated he appreciates that the applicant has paid a tremendous amount of details to the surrounding area, the impact to the adjacent neighbors, the impact to the lake, navigation and shoreline protection. Meisel stated publically that he is also on Runyan Lake and also on Runyan Lake Point, he is an officer of the Runyan Lake Point Properties Association, he is not an adjacent neighbor to this property, he has no close or personal relationship with the applicant, and he has no financial gain to be made from endorsing, approving or commenting on this application and he feels he can be objective in this manner. He added if anyone feels it necessary, he will recuse himself from further discussion on this appeal. Meisel stated he tried to contact Runyan Lake Point Property Owners Association (RLPPOA), for comment on this appeal, but he did not hear back from them. Meisel continued it is his opinion that according to the RLPPOA by-laws, there are no restrictions that would directly affect their ability to build as they are requesting. Carnes stated that no comment by RLPPOA is their comment. Meisel stated that the way the RLPPOA by-laws are structured is that building requirements, building standards and building code are limited to the Township. He continued there is a fencing restriction for obstructing views to the water and he does not see that as an issue. He stated the property was platted in 1932 as part of the Plat of Runyan Lake Point as Outlot B and was originally set up as a cottage area and has transitioned over to year-around homes. Meisel continued it has been mentioned the adjacent homes are on non-conforming lots, some are a 1/16 of an acre versus the ¼ acre now required in LK-1. He added there is an interesting twist here because the applicant is asking to develop "Outlot B" and outlots in a platted area are generally reserved for common property type uses. He continued on the plat of 1932 the roads were dedicated for the use of the people in the plat and there is no conveyance or mention of outlots. Meisel stated he tried to get the history of "Outlot B": prior to the Kenny's purchase it was privately owned by the Farnen's; prior to the Farnen's it was privately owned and there was a cottage built on it at some point. He continued that he could not determine exactly when this went into private ownership. He added he assumes based on the title search that there is clean title to the property and that there have been at least 3 prior owners to this property. Meisel stated in regards to the garage location, at the east side to the north side

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of the property (adjacent to the Prince's) there is open area, but there are utilities in that area and a utility pole so they would not want to encroach into that area. Carnes stated the street comes down in that way too. Meisel stated in regards to health and safety having the swimming area in the cove is out of the way of any watercraft navigating the area. Meisel stated this seems to be the best use of the property given its configuration. He continued that this is a difficult property to develop because of the water on 3 sides making the property technically having 3 rear yards with 50 foot setbacks. He added that he knows of two previous attempts to develop this property. Meisel stated the proposed plan is really nice and compatible with the existing area. He added that he does not know how else to develop this piece of property. Carnes stated this is the first plan that fits the building envelope really well.

**PUBLIC COMMENT**

No written correspondence was received prior to tonight's meeting. Nancy Prince, 10411 Spring Street, stated support of the variance request. She stated her only concern was where the snow would go in the winter. RLPPOA replied on 4/14/15 and had no objections to the variance request.

**MOTION**

LoVasco moved to grant the request of Daniel and Pamela Kenny for a 10-foot north side yard setback variance and a 20-foot south side yard setback variance in order to build a proposed new house and attached garage on vacant land located at 10395 Spring Street, (Tax Code # 4704-09-204-034), for the following findings of fact: Unreasonable Burden: The subject property was platted in 1932 as part of the Plat of Runyan Lake Point as Outlot B. At some point in time this lot came under private ownership and was previously developed. Its location, specifically being a peninsula, limits the amount of available area which can be developed due to the 50-foot setback requirement from water. The homes in the immediate area on Spring Street are on non-conforming lots and have much less than 50-foot setbacks from Runyan Lake. Requiring this applicant to fully comply with the setback requirements while permitting others to develop on smaller lots with fewer setbacks from the water is an unreasonable burden. The lot has few other developmental options. Substantial Justice: The homes in the immediate area on Spring Street are on non-conforming lots and have much less than 50-foot setbacks from Runyan Lake. The area was platted in 1932 with a cottage developmental intent, which has transitioned to year round homes. The applicant's proposal is consistent with the surrounding area and will be harmonious with the existing neighborhood. No objections to the applicant's request have been received, and support was offered during the meeting during public comment. The applicant has shown great attention to retaining navigational sight lines for boaters, and has stated he intends to leave the shoreline largely natural, thereby protecting and preserving the natural resources the 50-foot setback is intending to protect. Unfortunately no communication was received from the Runyan Lake Point Property Owners Association (RLPPOA), however it is not believed there are any association restrictions which would encumber the applicant. 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 subject property was platted in 1932 as part

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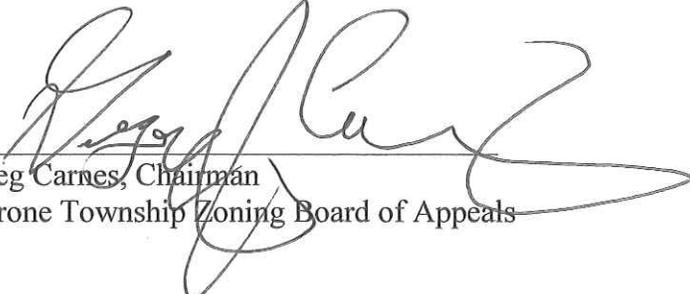
of the Plat of Runyan Lake Point as Outlot B. As some point in time this lot came under private ownership and was previously developed. Its location, specifically being a peninsula, limits the amount of available area which can be developed due to the 50-foot setback requirement from water. The homes in the immediate area on Spring Street are on non-conforming lots and have much less than 50-foot setbacks from Runyan Lake. Requiring this applicant to fully comply with the setback requirements while permitting others to develop on smaller lots with fewer setbacks from the water is an unreasonable burden. The lot has few other developmental options. Health and Safety: Granting this variance does not alter or negatively impact the satisfactory health and safety of the immediate area. The granting of this variance is conditional on the applicant complying with any restrictions which might exist which are enforceable by the RLPPOA. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 7.04.A.1.b (General Requirements for LK-1 Uses – Existing Lots of Record – Nonconforming Lots – Undeveloped Nonconforming Lots)]. (Trollman seconded.) Roll call vote: Young, yes; Meisel, yes; Trollman, yes; Lo Vasco, yes; Carnes, yes. The motion carried.

**MISCELLANEOUS**

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, May 11, 2015 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 8:16 p.m.

  
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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

c File

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