

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING  
APPROVED MINUTES – PAGE 1 – JULY 6, 2015**

**CALL TO ORDER**

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on July 6, 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: Mark and Kris Graham, Scott and Christine Maschke

**MINUTES OF APRIL 13, 2015, ZONING BOARD OF APPEALS MEETING**

Young moved that the minutes of the April 13, 2015, 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 June 21, 2015 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on June 17, 2015, at 9:00 A.M.

**VARIANCE REQUEST**

- #1 Mark and Kris Graham, RE: Request for a 3.6-foot southeast side yard setback variance and a 3.9-foot northeast side yard setback variance in order to convert a section of the existing covered porch into permanent living area and extend the north section of the porch 8-feet towards the lake, located at 10602 Runyan Lake Road, (TAX CODE # 4704-09-202-020).

Mark Graham requested a 3.6-foot southeast side yard setback variance and a 3.9-foot northeast side yard setback variance. He stated he is turning one side of the existing porch into permanent living space and the other half of the existing porch would be extended out 8 feet. He continued the covered porch would remain covered and the proposed extension would also be covered. He added that none of his neighbors expressed any concerns for his variance request. He stated he has letters of support from the neighbors on each side of him.

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

Carnes stated it looks like the proposed new deck is getting closer than they already are on the southeast corner. Mr. Graham responded that the house sits at a slight angle. Carnes stated the applicant is extending the existing nonconformity. He continued that on the southwest side, the wood deck that is a non-permanent foundation structure, it will become a permanent foundation structure. Meisel stated he has no issues with the request per say, but in order to grant a variance the Board needs: documented dimensions to establish specifically where the locations of the structures are; what the setbacks are; and what the variances being granted will be. He continued that the survey provided has no dimensions for the length of the property; the distance from the water to the proposed structural changes; or the distance to any structural feature. Meisel stated his other concern with two dimensions that show a distance from the water to the meander line (which is where they establish the stakes for the legal property description), did not appear to be 24 feet when he inspected the property. He continued the drawing does not appear

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to be to scale. Meisel stated the survey incorrectly shows Genesee County in the legal description when it should be Livingston County. He continued that he does not have any confidence in the survey he is looking at. Meisel stated there are two nonconforming structures on the property and the Board could potentially be adding a third nonconformity. Carnes stated this is a fairly new survey and looking at the scale, above the date, it doesn't really line up with the 24 feet. Meisel stated the applicant is asking to cover an open porch, so from an intrusion point of view, there is no issue with the request. In response to Meisel's question, Mr. Graham answered that the deck will be at the same height it is now, approximately 30 inches above grade. Meisel stated that this could be another variance request because it is more than 12 inches above grade and may be within 50 feet of the water. He continued a measurement is needed to be sure, because he could be 50 feet from the water and not need a variance. Meisel stated the regulations do not say 50 feet from the property line, but 50 feet from the water's edge. He continued there is some unreasonable burden because there is a meander line that was established, for the purposes of surveying that results in the legal description for property depth not including all the property to the water's edge, and the water's edge does not move because of the statutory level control on the lake so it is pretty much stable. He added there is 10-12 feet of additional property there and from the setback of the water point of view, if it isn't 50 feet from the property line, then the meander distance gives an opportunity for some unreasonable burden or extraordinary circumstance that the applicant can utilize for what they are asking for. In response to Carnes' question, Meisel responded that he does not know if they are 50 feet from the water because there are no dimensions. In response to Carnes' question, Mr. Graham responded that he does not know the distance he is to the water. In response to Mr. Graham's question, Meisel answered that Field to Finish should know to have: the building envelope; front, side and rear yard setbacks shown on the drawing; anything that encroaches into those setbacks needs to be dimensioned; and dimensions to the adjacent dwellings should be shown. He continued that the submitted survey shows two dwellings for the adjacent neighbors with no dimensions, there isn't a measurement from the front property line back to the house, and there isn't a dimension from the back of the house to the property line. Meisel stated he does not think they are 80 feet from the water on the north side property line. Meisel stated the ZBA cannot grant a conditional variance. Young asked if this appeal should be tabled in order for the applicant to get the required measurements. Young stated the applicant could go get the measurements and come back tonight with them. Mr. Graham stated he would like to go take the measurements and come back.

**At 7:50 pm, LoVasco motioned to table this request, seconded by Meisel, to allow the applicant to obtain the requested measurements.**

**At 8:20 pm, LoVasco motioned to remove the appeal from the table, seconded by Meisel.**

Mr. Graham stated looking at the existing drawing: on the northwest side the lake to the stake is 21 feet; from the stake to the lakeside of the edge of the porch it is 66 feet; on the other side from the lake to the stake it is 23 feet 8 inches; and from the stake to the edge of the porch it is 35 feet 6 inches. Carnes stated Mr. Graham is in good shape because if you go from the stake to the water's edge on the short side, he is 58 feet away. Meisel stated

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technically there is an issue because there is a 50 foot rear setback requirement to the property line, which is the stake, and the applicant is only 35 feet from the stake. He continued he can personally deal with it by recognizing there is an additional 23 feet 8 inches of lot depth the applicant owns because the surveyor used the meander line to establish the stakes due to the property legal description. Meisel states there is a pretty big meander here and the reality is that there is a 50 foot setback existing there. Carnes stated that a variance is not needed for the rear yard setback because the distance from the back of the house to the water is 58 feet. Meisel stated you don't expect the stakes to be 24 feet from the water. He continued the way around this is that the applicant is asking to cover their existing porch which is a nonconforming lot of record and it exists. He continued that unless you can show an act of violation because it was built after the effective date of the Ordinance, all they are asking to do is put a wall up and some windows and permanently enclose the area which already has a roof over it, so the dimension to the water in that area is not changing. Meisel stated that even though the use is changing technically it is not changing at all and it will not impact anyone. He continued that on the north side, the dwelling is orientated such that it is not affected by water views. In response to Carnes' question, Mr. Graham answered that the current deck is 10 feet from the house and that a 10-foot by 16-foot area will be enclosed on the southeast corner, which is the short side. Meisel stated on the side he wants to change, the north side, from the deck, it is 66 feet from the property line. He continued from the ZBA documented policy, the nonconformity is not increasing. Meisel stated the deck is only nonconforming with respect to the side yard setback. Carnes stated they are increasing the nonconformity on the one corner by 4 inches. Meisel read Ordinance 36 – Section 26.04.A.3.a (Nonconforming Structures - Enlargement, Extension, or Alteration of a Nonconforming Structure – Permitted Expansion or Extension). In response to Carnes' question, Mr. Graham answered that the two sheds are being used and that they are moveable. Carnes stated that both sheds are very nonconforming in a variety of ways. He continued that it could be put in the motion that Mr. Graham will improve the nonconformity with the sheds based on the ZBA granting the requested variances. Carnes stated that improving the nonconformity of the shed to the north that is on the property line would be extremely helpful. Mr. Graham responded that the shed to the north could be moved over off the property line. Meisel stated that even moving the shed over 6 inches so it is entirely on the applicant's property would be an improvement. In response to Carnes' question, Mr. Graham responded that it could be put in the motion that he will move the shed off the property line at least 6 inches or more as an improvement to the nonconformity. Meisel stated that Genesee County needs to be changed to Livingston County at the top of the survey, so the legal description is correct.

**PUBLIC COMMENT**

None. Written correspondence was received from: Valerie Falahee, 10596 Runyan Lake Road; Mike and Judith Hayek, 10608 Runyan Lake Road; and Mrs. John Nicoll, parcel # 4704-09-202-017; all stating support of the Graham variance request.

**MOTION**

Young moved to grant the request of Mark and Kris Graham for a 3.6-foot southeast side yard setback variance and a 3.9-foot northeast side yard setback variance in order to convert a section of the existing covered porch into permanent living area and

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extend the north section of the porch 8-feet towards the lake, located at 10602 Runyan Lake Road, (Tax Code # 4704-09-202-020), for the following findings of fact: Unreasonable Burden: The lot dimensions were established as part of the Plat of Runyan Lake Cove Annex, which was platted before the current Zoning Ordinance took effect. The minimum side yard setback has also increased during that time from 8 feet to 10 feet for LK-1. The applicant proposes to enclose an existing covered porch which will not further encroach into the rear yard as a result, and has no adverse sight line impact to the adjacent neighbors. Substantial Justice: The side yard setback variance being requested is an extension of the existing nonconformity along the northerly long property line and per Section 26.04.A.3.a, an extension of the nonconformity can be granted by the ZBA if it does not create a public nuisance. The proposed building envelope will not change and reasonably blends with the neighborhood and adjacent homes. Letters in support of the request from neighbors were received, and no objections were offered. The home will therefore remain compatible and harmonious with adjacent land uses and neighbors. The applicant has also offered to relocate the northerly shed further away from the side lot line thus reducing the existing nonconformity. Minimum Variance Required: It is the opinion of the ZBA the variance being requested and granted represents the minimum variance required to result in reasonable use of the property. Extraordinary Circumstances: The lot dimensions were established as part of the Plat of Runyan Lake Cove Annex, which was platted before the current Zoning Ordinance took effect. The minimum side yard setback has also increased during that time from 8 feet to 10 feet for LK-1. The applicant proposes to enclose an existing covered porch which will not further encroach into the rear yard as a result, and has no adverse sight line impact to the adjacent neighbors. Health and Safety: Granting this variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Sections 20.01 (Table of Schedule of Regulations), 20.02 (Schedule of Regulations), and 26.02B (Non-Conforming Lots of Record)]. (LoVasco seconded.) Roll call vote: Meisel, yes; Trollman, yes; Young, yes; Lo Vasco, yes; Carnes, yes. The motion carried.

**VARIANCE REQUEST**

- #2 Scott and Christine Maschke, RE: Request for a 50-foot rear yard setback variance in order to build a new house on vacant property, located on vacant parcel “Timberwolf Court - Lot 8”, (TAX CODE # 4704-36-200-018).

Scott Maschke requested a 50-foot rear yard setback variance to build a new house. He submitted an engineered survey to the Board. He stated the property is topographically challenged. He continued that based on the building envelope, he does not see anywhere else to build a home because of the hills, inclines and wetland issues. He stated the building envelope has a kind of cutout in it. He continued he thought he could draw a straight line across from east to west at the corners of the building envelope. He added that this would put him back about 50 feet and encroach into the designated open space area. Mr. Maschke stated the proposed house will be 77.8 feet from the open space, including his proposed deck, which exceeds the required 75 feet. Mr. Maschke added that he is now asking for a 24 foot variance instead of a 50 foot variance.

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

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Meisel stated he does not know where the open space designation came from because he does not have legal descriptions to identify the open space areas or any documentation showing when it was established. He continued the open space is not found on record, it is not registered with the County, it is not part of any legal descriptions, and there is no reference to it. In response to Meisel's question, Mr. Maschke answered the designated open space is shown on a drawing that was surveyed in 2005. At this time, Mr. Maschke approached the Board with an original survey he was given of the whole area. A lengthy discussion ensued while Mr. Maschke and the Board reviewed the drawing amongst themselves. After the review, Meisel stated the encroachment is in the weird little angle that was put in the open space, which really doesn't follow the topography. In response to Meisel's question, Mr. Maschke answered that he will keep Parcel 9 until retirement years. He stated he wanted to combine the parcels, but was told by Tyrone Township Assessor Bruce Little that they could not be combined until the first of the year. He added that he applied for a mortgage with the two parcels. Carnes stated there are definite topographical issues. In response to Young's question, Mr. Maschke answered that their drive will come off of Black Bear Trail.

**PUBLIC COMMENT**

None. Written correspondence was received from Richard and Debra Gibes, 13875 Black Bear Trail, stating support of the variance request.

**MOTION**

Meisel moved to grant the request by Scott and Christine Maschke for a 26 foot rear yard setback variance in order to build a new house on vacant property, located on "Timberwolf Court - Lot 8", (Tax Code # 4704-36-200-018), for the following findings of fact: Unreasonable Burden: The lot is constrained by topography challenges, with significant areas of wetland to the south and open space established as part of the site plan approval. The parcel is 3.11 acres but has limited area appropriate for a useable building envelope. The variance requested does not impact neighbors to the south and does not defeat the intent and purpose of the established open space and wetland preservation areas. Substantial Justice: The proposed building envelope will reasonably blend with the neighborhood and many lots in the immediate area have similar topography constraints and will arguably need similar variances in the future. No objections were received for the requested variances. The developed parcel will therefore be compatible and harmonious with adjacent land uses and neighbors. Minimum Variance Required: It is the opinion of the ZBA the variance being requested and granted represents the minimum variance required to result in reasonable use of the property. Extraordinary Circumstances: The lot is constrained by topography challenges, with significant areas of wetland to the south and open space established as part of the site plan approval. The parcel is 3.11 acres but has limited area appropriate for a useable building envelope. The variance requested does not impact neighbors to the south and does not defeat the intent and purpose of the established open space and wetland preservation areas. Health and Safety: Granting this variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 –Sections 20.01 (Table of Schedule of Regulations) and 20.02 (Schedule of Regulations)]. (Young seconded.) Roll call vote: Lo Vasco, yes; Young, yes; Trollman, yes; Meisel, yes; Carnes, yes. The motion carried.

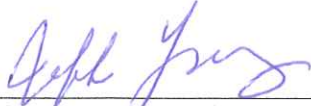
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**MISCELLANEOUS**

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, August 3, 2015 at 7:30 p.m.

**ADJOURNMENT**

The meeting ended at 9:13 p.m.



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Jeff Young, Vice-Chairman  
Tyrone Township Zoning Board of Appeals



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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