

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
APPROVED MINUTES – PAGE 1 – OCTOBER 5, 2015**

CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on October 5, 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: Rajiva and Anna Tirtha, David Day, Rodney Day, Cristen Velliky, Heather Behrens, Mary Bierschbach, and Nathan Shue (Tri-City Construction)

MINUTES OF SEPT. 14, 2015, ZONING BOARD OF APPEALS MEETING

Young moved that the minutes of the September 14, 2015, Zoning Board of Appeals Meeting be approved as presented. (LoVasco 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 September 20, 2015 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on September 16, 2015, at 9:00 A.M.

VARIANCE REQUEST

#1 Rajiva and Anna Tirtha, RE: Request for a 10-foot side yard setback variance in order to build a proposed new home, located at 6087 Parkwood Drive, (TAX CODE # 4704-30-201-048).

Rajiva Tirtha requested a 10-foot side yard setback variance in order to build a new home on the property. He stated that before he purchased the property he was told by the Township that the side yard setbacks were 10 feet. He continued he was informed by the Lake Shannon Architectural Control Committee (LSACC) that the side yard setbacks for this property were 10 feet. He stated he had drawings by the previous owner of the property, dated 2006, showing the proposed house 10 feet from the side yard lot lines. He continued that based on this information he had an architect draw up some plans that they thought were well within the side yard setbacks. He stated it was at the engineering phase that they found out the side yard setbacks for the property were actually 20 feet. He continued he had his architect modify the plans but he would need a 10-foot side yard setback variance. He stated that the septic field has to be at the southeast corner of the property; the position of the driveway comes in from the north; and the location of the turnabout to the garage created the need for the variance. He continued that once the public notice was sent to the neighbors he had a lot of support from them and they did not have any concerns with the 10-foot side yard setback variance. He stated the neighbor to the north expressed a concern with drainage issues and suggested moving the proposed house slightly to the south. He continued he had the plans modified after the public notice went out, to appease the neighbor to the north, and he would now need to request a 3½-foot south side yard setback variance and a 6½-foot north side yard setback variance. He stated the septic field cannot be relocated and his neighbors are in favor of the new variance requests. He added that out of 15 properties in the area 11 of them do not comply

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with the 20-foot side yard setback requirement and 6 properties do not comply with a 10-foot side yard setback (see exhibit A).

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated the address should be 9087 Parkwood Drive and not 6087. He added that the road begins at 7100 and the numbers go up from there. Mr. Tirtha responded that Consumers gave him the 6087 address assignment. Meisel clarified that Lake Shannon is zoned R-1 and not LK-1, which has different zoning requirements. Carnes stated the applicant changed his house plans to try to conform to the 20-foot side yard setback variance, which the applicant originally thought was a 10-foot side yard setback requirement. Mr. Tirtha responded they took 6 feet off of the house and the garage, but they need a turnabout area in the driveway to the garage, they must fit the septic field in the southeast corner of the property, and need to meet the 2-car minimum garage requirement of the LSACC. Meisel stated Tyrone Township amended Zoning Ordinance No. 36 in 1996. He continued that setbacks have not changed for zoning districts since that time. He continued that some of the setbacks were changed (increased) in 1996. Meisel stated Lake Shannon is a planned development and is constrained by a laid-out subdivision plan that has lots that are dimensioned in various sizes, many of which are not conforming based on today's standards. He continued there was a developmental intent established when the Lake Shannon area was planned for development. He stated if you look at the existing homes that are in close proximity to the applicant, they are all developed as though the side yard setbacks are 10 feet. He continued the applicant did a commendable job researching and documenting the fact that a majority of his adjacent neighbors have less than 20-foot side yard setbacks. He stated this documentation establishes unreasonable burden for the applicant, because he is being asked to comply to a standard that none of his neighbors are complying with. Meisel stated the applicant has taken specific effort to improve/reduce the variance being requested over and above what was originally applied for. He added they took a proactive effort and some substantial justice for all the proximate neighbors. Meisel fully concurs that there are topography issues. He stated they have a septic constraint and they would have a very odd elevation, compared to the neighbors, if they were to bring in fill for the northwest part of the property, which could create drainage issues. He continued this is a planned community with by-laws that are in the deed, there are deed restrictions, and there is a requirement for a 2-car attached garage. Meisel stated this is one of the more compelling cases the Board has seen in recent times. Carnes stated the Board does not like to make a non-conforming situation; this is not what the Board is here to do. He continued there are extenuating circumstances which is why we are here tonight. Young stated this is one of the most well prepared applications he has seen. Trollman stated he likes the graph. Meisel stated there are 2 differences from 1969 that we should note: 1) we now have sediment control, erosion and drainage requirements from the Livingston County Drain Commission (LCDC) that the applicant has to submit and comply with, and 2) topography information that is relatively accurate and explicit is readily available, so we can see where the contours are and where the water is going to flow. He continued, based on the topography information, water should be reasonably controlled along the lot line between the two homes. He stated the LCDC is much more interested in preserving "drain law" – what happens if water traverses from the applicant's property to the neighbor's property.

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PUBLIC COMMENT

Renata Skurka, 8077 Parkwood Drive, stated a concern with the topography of the property and drainage in the area. Written correspondence was received from: Maria Hughes, 8070 Parkwood Drive, Norinne C. Rozman, Lot 170, Lake Shannon No. 6; Lawrence and Joseph Rozeman, Lot 171, Lake Shannon No. 6; all having no objections to the variance request. Correspondence received from the Lake Shannon Architectural Control Committee having no objections to the variance request.

MOTION

Meisel moved to grant the variance request by Rajiva and Anna Tirtha for a 6.5 foot north and 3.5 foot south side yard setback variance in order to build a proposed new home, located at 9087 Parkwood Drive, (TAX CODE # 4704-30-201-048), for the following findings of fact: Unreasonable Burden: The lot is nonconforming by today's Zoning Ordinance standards, but was planned for development as part of an approved subdivision with established deed and architectural restrictions, and bylaws. The developmental character has been long established, and existing adjacent homes have less than the currently required 20 foot side yard setback. The lot width, approximately 94 feet, is less than the current 130 foot minimum, reducing the usable lot width intended for the R1 district. This burden is not self-created since it results from changes to the Zoning Ordinance. The lot is further constrained due to the septic field location, and the topography also limits garage placement. Substantial Justice: The developmental character has been long established, and existing adjacent homes have less than the currently required 20 foot side yard setback. Letters of support have been received from the adjacent neighbors, and the Lake Shannon Architectural Committee has expressed their support conditional on a variance being granted to the applicant. The proposed building envelope will reasonably blend with the adjacent neighbors. Minimum Variance Required: The applicant has proactively reduced the variance being requested from that originally applied for. 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 non-confirming by today's Zoning Ordinance standards, but was planned for development as part of an approved subdivision with established deed and architectural restrictions, and bylaws. The developmental character has been long established, and existing adjacent homes have less than the currently required 20 foot side yard setback. The lot width is less than the current 130 foot minimum, reducing the usable lot width intended for the R1 district. The lot is also constrained by topography to the northwest, and filling the low area would create an aesthetically unpleasing elevation when compared to the neighbor to the northwest. The lot is further constrained due to the septic field location, and the topography also limits garage placement. The Lake Shannon bylaws also require a 2 car attached garage. Health and Safety: Granting variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Table of Schedule of Regulations)]. (LoVasco seconded.) Roll call vote: Lo Vasco, yes; Trollman, yes; Meisel, yes; Young, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

#2 Nathan Shue, representing property owner Heather Behrens, RE: Request for a 2-foot north side yard setback variance and a front yard location variance, in order

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to build a new proposed 20 by 20-foot detached garage, located at 9569 Long Meadow Street, (TAX CODE # 4704-04-102-009).

Nathan Shue, representing property owner Heather Behrens, requested a 2-foot north side yard setback variance and a front yard location variance, in order to build a new proposed 20 by 20-foot detached garage. He stated the proposed garage would be in front of the existing garage. He continued that the existing well is at the north end of the garage now. He stated the garage is needed to store items for the winter and to park vehicles. He continued the house is approximately 270 feet off the main road and none of the other houses are set back that far from the road. He stated Ms. Behrens house is set back behind all the houses in the area and the proposed garage will not block any views for the neighbors. He continued that Ms. Behrens spoke to her neighbors about the variance request and there are no objections from her neighbors. He stated the septic is located to the left of the back yard, there is a hill in the back yard, and there is a pool at the southeast corner of the back yard so there is no other place to locate the proposed garage. He continued the north side property line runs at an angle. He stated the proposed garage would be 18 feet off the front corner and 24 feet off the back corner. He continued there is a turn-around already existing there and they would like to utilize it.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated the property is zoned RE and requires a 20-foot side yard setback variance, so the applicant would need a 2-foot side yard setback variance. Meisel continued they are more than 120 feet set back, so the garage will literally be hidden and it is arguably well placed on the property. He stated looking at adjacent homes to the south there are existing accessory structures there inclusive of one that was non-conforming when it was built (Richmond's). He continued when looking at developmental intent criteria and the aesthetic aspects of putting a bunch of accessory structures on properties, he looks to see if it will improve the overall aesthetics of the property by allowing people to store things to improve public safety, therefore things are not out for theft. He added that he looks to see if the placement of the structure is in relative harmony with the existing established character of the area or are they establishing a character that is desirable for future development. He stated this is a tough one because other than the fact that they are well set back from the road, have a configuration that they do, and the septic where it is, he does not know what the unreasonable burden is. He continued the bad news is that they cannot put the structure in the rear yard; the good news is that they are 120 feet from the road; as far as anybody passing by cares they will not be able to see the structure, so it certainly will not aesthetically detract from the existing character. He stated he is a proponent of people having an accessory structure and most people cannot manage with a 2-car garage nowadays. He continued that a 20 by 20-foot detached garage is pretty small by today's standards. Meisel questioned why would the Board deny this? He stated that the circumstances are such that unless the Board wants to categorically deny this, where else would you put the proposed structure. Carnes stated a concern more for the front yard location variance than the 2-foot side yard setback variance. Meisel agreed. In response to Meisel's question, Mr. Shue answered that the 2-foot side yard setback variance came about because they thought they needed a 15-foot side yard setback variance and not a 20-foot side yard setback variance. Mr. Shue stated he built an accessory structure two doors down and to the south that is 16-feet off the property line,

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because the Zoning Administrator, at the time, told him it had to be 15 feet from the property line. Meisel stated this variance request is less nonconforming than the neighbor's nonconformance two doors down and to the south. He continued the house is about 120 feet back from any house in the area and it is 270 feet from the road and the proposed structure will not be seen.

PUBLIC COMMENT

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

MOTION

Young moved to grant the variance request by Nathan Shue, representing property owner Heather Behrens, for a 2-foot north side yard setback variance and a front yard location variance, in order to build a new proposed 20 by 20-foot detached garage, located at 9569 Long Meadow Street, (TAX CODE # 4704-04-102-009), for the following findings of fact: Unreasonable Burden: The garage will be set back approximately 270 feet from the road. The developmental character has been long established, and existing adjacent homes have detached accessory structures much more visible and closer to the road despite being in the side yard. A neighbor to the south has an accessory structure with only a 16 foot side yard setback. It is our opinion it is not necessary to require the applicant to modify the existing driveway to allow for a 20 foot side yard setback at the western corner since the eastern setback will be 24 feet and the garage will be sufficiently set back from the road such that it will not encumber views or otherwise infringe on the adjacent property. Substantial Justice: The developmental character has been long established, and existing adjacent homes have lesser setbacks and will be unburdened by the detached garage. Several adjacent neighbors also have detached accessory structures, including at least one that was nonconforming when built. No objections have been received from the adjacent neighbors. The proposed garage will reasonably blend with the adjacent neighbors. It should be noted the size of the proposed garage is a very reasonable 20 x 20 feet. 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 house is set back approximately 270 feet from the road. The developmental character has been long established, and existing adjacent homes have detached accessory structures much more visible and closer to the road despite being in the side yard. A neighbor to the south has an accessory structure with only a 16 foot side yard setback. It is our opinion it is not necessary to require the applicant to modify the existing driveway to allow for a 20 foot side yard setback at the western corner since the eastern setback will be 24 feet and the garage will be sufficiently set back from the road such that it will not encumber views or otherwise infringe on the adjacent property. Based on the primary residence location, established lot drainage to the adjacent wetlands, and the septic field and well locations, there is no land available to construct a garage in the rear yard. Retaining the existing lot drainage location prevents disruption to protected wetlands. Health and Safety: Granting this variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 –Section 21.02.C.2.a (Accessory Buildings and Structures Provisions – R-1 and R-2 Districts Accessory Buildings and Structures)]. (Trollman seconded.) Roll call vote: Trollman, yes; Young, yes; Lo Vasco, yes; Carnes, yes; Meisel, yes. The motion carried.

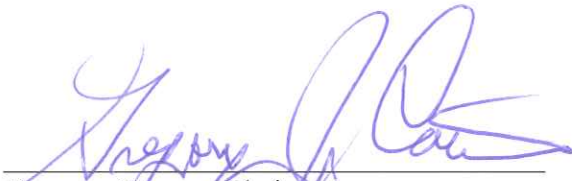
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MISCELLANEOUS


The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, November 9, 2015 at 7:30 p.m.

ADJOURNMENT

The meeting ended at 8:47 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