

**TYRONE TOWNSHIP ZONING BOARD OF APPEALS MEETING
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CALL TO ORDER

Chairman Gregory Carnes called the Zoning Board of Appeals Meeting to order on February 1, 2016, at 7:00 p.m., at the Tyrone Township Hall.

ROLL CALL

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

Guests: Phil and Susan Schlack, Bill Hoffman, Tommy Hoffman, Charles Sawdon, Marian and Cliff Krause, and Marc Raymond

MINUTES OF JANUARY 4, 2016, ZONING BOARD OF APPEALS MEETING

Meisel moved that the minutes of the January 4, 2016, 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 January 17, 2016 edition of the **TRI-COUNTY TIMES** and was posted at the Tyrone Township Hall on January 13, 2016, at 9:00 A.M.

Unfinished Business:

VARIANCE REQUEST

#1 Randy Roat, RE: Request for a 2-foot southwest side yard setback variance in order to build a proposed addition to the existing home, located at 10247 Bennett Lake Road, (TAX CODE # 4704-04-100-024).

Charles Sawdon, representing property owner Randy Roat, requested a 2-foot southwest side yard setback variance in order to build a proposed addition to the existing house/attached garage. He stated the new drawing he submitted shows 5 houses to the north, of the Roat property, and 4 of those houses between them have side yard setbacks well under the 40 feet proving they do not meet the 20 foot side yard setback requirement

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Carnes stated the houses on the drawing are to the north and a distance away from the Roat property. He continued they are off the main road, except for the one at the corner. Carnes stated he still cannot justify the criteria of unreasonable burden. Meisel stated if you look at similar size lots that are in the approximate location, 3 houses plus/minus, those all comply. He continued if you go 5 plus houses to the north, where the lots are laid out completely different but are of similar size, those do not comply. He stated the Roat property does have a slightly irregular shape, there are some topography challenges, and they have a septic field to the north, but he is not sure how any of this provides unreasonable burden justification for the expansion of an existing garage. Meisel stated the standard for unreasonable burden is a situation that does not allow you to do what the applicant is requesting to do. He continued there is a way to configure this without the need for a variance. Carnes agreed. Mr. Sawdon stated he agreed and that he was seeking a variance to make it more attractive. Carnes stated the Board cannot speculate as to how the lot to the south will be divided and developed. Meisel suggested

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the applicant could see if the boundary to the south could be tweaked to accommodate the request, possibly purchase 18 inches to 2 feet of property. Carnes stated a boundary re-alignment could be done.

PUBLIC COMMENT

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

MOTION

Commissioner Meisel moved to deny the variance request by Randy Roat for a 2-foot southwest side yard setback variance in order to build a proposed addition to the existing home, located at 10247 Bennett Lake Road, TAX CODE # 4704-04-100-024, for the following findings of fact: The ZBA was unable to establish Unreasonable Burden. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 20.01 (Table of Schedule of Regulations)]. (LoVasco seconded.) Roll call vote: Lo Vasco, yes; Young, yes; Trollman, yes; Meisel, yes; Carnes, yes. The motion carried.

**NEW BUSINESS:
VARIANCE REQUEST**

- #1 Marc Raymond, RE: Request for a 5-foot east side yard setback variance, a 1-foot west side yard setback variance, and a 4-foot rear yard setback variance in order to build a proposed addition to the existing home and garage, located at 10414 Spring Street, (TAX CODE # 4704-09-204-036).

Marc Raymond requested a 5-foot east side yard setback variance and a 1-foot west side yard setback variance. He stated they want to do a remodel but cannot decide on a floor plan until they get the variance requests. He continued the lots are fairly narrow in this location and it is impossible for the majority of the lots on the lake to meet the setback requirements.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated the lots in this area are 40 feet plus/minus lot widths. In response to Carnes' question, Mr. Raymond answered that the current house is about 950 square feet and they wish to expand it to 1,200 square feet, including the proposed 2nd story. Carnes stated this would line up with the house to the east. In response to Meisel's question, Mr. Raymond answered he is expanding the width of the existing house from 26 feet to 28 feet. Meisel stated the existing house is by definition already nonconforming. He continued this exists because the lots were established by plat in 1932 which is well before the current Zoning Ordinance. He stated that prior to 1996 the side yard setbacks were 8-feet and in 1996 the side yard setbacks were increased to 10-feet. He added that there is some debate as to what the setbacks were prior to the 8-foot establishment. Meisel stated it is legally non-conforming and it sits where it does, so now you get into Article 26 which allows the expansion or use of non-conforming structures and uses. He continued we have established criteria that allows one to continue an established non-conformity along an existing line, as long as that non-conformity does not increase, so in this case it would be the east side yard setback. He stated the applicant wants to move the garage over and extend the house out to the garage, as long as he maintains an equivalent side yard setback per Zoning Ordinance No. 36 Article 26.04.A.3, that is allowed. He continued the

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expansion into the west side yard becomes an increase in non-conformity, so the Board has to determine how to deal with that. He added there is a shed on the property line by the road on the east side which is non-conforming. Mr. Raymond stated the shed will be removed. Meisel stated removing the shed will be a reduction in non-conformity. Carnes stated this is good because it is an improvement. Meisel stated the survey indicates the home appears to be 50 feet from the water from the lot lines. Meisel continued there is a meander line on this lake and the Ordinance states 50 feet from the water, so there is additional lot depth there of about 3 to 4 feet. He continued the applicant does not appear to have a problem with the rear yard setback. Meisel stated the request is to extend the east side yard setback to the garage and it is a reasonable request based on the fact that it is specifically permitted and stated in the Zoning Ordinance. He continued the issue is with the west side yard lot line because you are increasing the non-conformity at that point and unreasonable burden must be justified. He stated there are no issues with the sight lines to the water with the adjacent properties. In response to Trollman's question, Mr. Raymond answered that the east side is staying the same and will line up. Carnes stated the applicant is improving the non-conformity by removing the shed and reducing the garage non-conformity on the west side. Meisel added the applicant is extending from the existing home on the east side and the west side to the garage, effectively connecting the garage and the home with the same width, which is permitted under Zoning Ordinance Section 26.04.A.3 (Nonconforming Structures – Enlargement, Extension, or Alteration of a Nonconforming Structure – Permitted Expansion or Extension). Meisel stated that this is not increasing the existing non-conformity but it is an extension of the non-conformity. He read aloud Zoning Ordinance Section 26.04.A.3(a-e). Meisel stated there is a minimum size requirement for construction for homes in single family residential which is a minimum of 1,200 square feet on the first floor or 800 square foot minimum on the first floor with 400 feet on the second floor. He continued that the current situation is non-conforming with respect to size and the proposed expansion will bring it into conformance with the minimum square footage. In response to Meisel's question, Mr. Raymond responded that he is building up and will add 400 square feet. In response to Meisel's question, Mr. Raymond answered that the two-story addition will be over the existing house. Meisel stated this could potentially block some views to the west, but this is permitted under the Zoning Ordinance. The Livingston County Building Department should make sure there are no drainage issues with the proposed addition. Meisel stated the applicant is permitted to go up 30 feet east and west. He added that in regards to encroachment towards the water, as long as the applicant is 50 feet from the high water mark they would meet our requirements. He added that it looks like the applicant can go 2 to 3 feet closer to the water which would put him in line with the neighbor to the east. Mark read Zoning Ordinance Section 26.04.A.3.d (The addition, whether at ground level or above, shall not extend beyond the existing nonconforming first floor footprint of the building), which the applicant appears to comply with. In response to Carnes' question, the applicant answered he would be using the existing foundation, assuming there is an existing foundation.

PUBLIC COMMENT

Correspondence was received from William and Tommie Hoffmann, 10418 Spring Street, Fenton, strongly objecting to the Raymond variance request. They also expressed their concerns aloud.

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MOTION

Commissioner Meisel moved to grant the request by Marc Raymond for a 5- foot east side yard setback variance and a 1-foot west side yard setback variance in order to align the existing garage with the existing house, and further to attach the existing garage to the existing house located at 10414 Runyan Lake Point, TAX CODE # 4704-09-204-036, for the following findings of fact: Unreasonable Burden: The lot dimensions were established as part of the Plat of Runyan Lake Point in 1932, which was platted before the current Zoning Ordinance took effect. The minimum side yard setback has also increased since that time from 8 feet to 10 feet for LK-1. The applicant proposes to remove the westerly portion of the existing garage to align both the east and west sides with the existing house, consistent with the provisions of Section 26.04.A.3. The proposed attachment between the house and garage will comply with our sight line requirements. Substantial Justice: The side yard setback variances being requested are an extension of the existing nonconformity along the easterly and westerly property lines and per Section 26.04.A.3 an extension of the nonconformity can be granted by the ZBA if it does not create a public nuisance. The proposed building will reasonably blend with the neighborhood and adjacent homes. A letter requesting denial was received but the issues raised are permitted under Section 26.04.A.3 of our Zoning Ordinance. The home will therefore remain compatible and harmonious with adjacent land uses and neighbors. The applicant will demolish the shed located at the north end of the property removing a non-conformity. The expansion of the existing home further brings the home into compliance with the minimum square footage requirement, reference Section 20.02.G. 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 Point in 1932, which was platted before the current Zoning Ordinance took effect. The minimum side yard setback has also increased since that time from 8 feet to 10 feet for LK-1. The applicant proposes to remove the westerly portion of the existing garage to align both the east and west sides with the existing house, consistent with the provisions of Section 26.04.A.3. The proposed attachment between the house and garage will comply with our sight line requirements. 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 20.01 (Schedule of Regulations)]. (Young seconded.) Roll call vote: Trollman, yes; Meisel, yes; Lo Vasco, yes; Carnes, yes; Young, yes. The motion carried.

VARIANCE REQUEST

- #2 Philip and Susan Schlack, RE: Request for a for a 35-foot front yard setback variance in order to build a proposed new house and attached garage, located on vacant property on Ledgewood Drive, (TAX CODE # 4704-30-400-040).

Susan Schlack stated they wish to set their proposed garage 15 feet from the front yard line on vacant property on Ledgewood Drive. She continued they are requesting a 35-foot front yard setback variance in order to build a proposed new house and attached garage. She stated the building envelope is very tight for their lot and it leaves them very little room to work with. Ms. Schlack continued that they must conform to the Lake

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Shannon By-Laws which requires a minimum 1800 square foot house. She added the Lake Shannon By-Laws state they cannot have additional out buildings, so they would need a 3-car attached garage. She stated with the Lake Shannon requirements, they cannot build within the existing building envelope. She continued that with the current Zoning Ordinances, they cannot use their land to build.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

In response to Carnes' question, Ms. Schlack responded that they could not slide the entire structure closer to the lake for two reasons: 1) they do not want to go in front of the neighbors house to the east and block their view, and 2) there has been a lot of erosion on the beach and 50 feet would be where they are proposing to build. Carnes agreed. He stated this area has never had a seawall or rocks placed there to protect it from erosion. He continued that this area really gets hammered due to the slalom course.

PUBLIC COMMENT

None. Correspondence received from the Lake Shannon Architectural Control Committee having no objections to the variance request.

MOTION

Commissioner Young moved to grant the request by Philip and Susan Schlack for a 35-foot front yard setback variance in order to build a new house on vacant property, located on Ledgewood Drive, TAX CODE # 4704-30-400-040, for the following findings of fact: Unreasonable Burden: The lot is constrained by topography challenges, is highly irregular in shape, and bounded by Lake Shannon resulting in a very limited building envelope. The lot was platted as part of the Lake Shannon development and was intended to be developed. Adjacent homes immediately to the north and south have similar constraints. The applicant proposes a home location consistent with those adjacent homes with respect to front and rear yard setbacks. The variance requested does not impact sight lines of the neighbors to the north or south. The Lake Shannon bylaws also require a minimum 1800 square foot home. Substantial Justice: The proposed building envelope will reasonably blend with the neighborhood and the lots immediately adjacent with similar topography constraints and challenges. No objections were received for the requested variances. The developed parcel will therefore be compatible and harmonious with adjacent land uses and neighbors. The Lake Shannon Architectural Committee is in support of the requested variance. The applicants have chosen their building location also in consideration of the neighbor to the south's sight lines. 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. The Lake Shannon bylaws require a minimum 1800 square foot home. Extraordinary Circumstances: The lot is constrained by topography challenges, is highly irregular in shape, and bounded by Lake Shannon resulting in a very limited building envelope. The lot was platted as part of the Lake Shannon development and was intended to be developed. Adjacent homes immediately to the north and south have similar constraints. The applicant proposes a home location consistent with those adjacent homes with respect to front and rear yard setbacks. The variance requested does not impact sight lines of the neighbors to the north or south. Health and Safety: Granting this variance does not adversely impact public safety or create a public nuisance. [Ref. Tyrone Township Zoning Ordinance No. 36 –

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Section 20.01 (Schedule of Regulations)]. (LoVasco seconded.) Roll call vote: Lo Vasco, yes; Trollman, yes; Meisel, yes; Young, yes; Carnes, yes. The motion carried.

VARIANCE REQUEST

- #3 Lisa Thompson, RE: Request for a front yard location variance in order to locate a proposed new 48-foot by 32-foot accessory structure 100 feet in front of the existing house, located at 8199 Denton Hill Road, (TAX CODE # 4704-23-400-006).

Lisa Thompson did not attend tonight's meeting.

COMMENTS AND QUESTIONS BY ZONING BOARD OF APPEALS MEMBERS

Meisel stated the property is zoned FR, and the size of the proposed structure is permitted, but the issue is not demonstrating unreasonable burden. Meisel continued the septic is located on the driveway side of the existing house. He added the applicant stated in their application that they cannot locate the proposed accessory structure in the side yard to the south because of an existing old foundation. Meisel stated the applicant could remove the old foundation. He continued there is a power pole there and they might have some constraints, but that is a utility issue. Carnes stated if the utility pole is an issue and it is located on their property, they could request it to be moved. Meisel continued he does not know why they would want to locate the proposed structure in the front yard. Carnes stated the septic would not interfere with the driveway. Trollman stated the applicant could tear down the existing shed and locate the proposed structure where the shed is located in the back and to the side. Meisel stated the only reason to locate an accessory structure in the front yard would be because they are totally constrained and you have a really, really deep lot. He continued that having a barn in the front yard is not what you want to have in single family residential, especially a proposed structure of this size. Meisel stated looking at an overview of the area, the accessory buildings are all in the rear yards. He continued the proposed structure should be in the rear yard. Meisel stated there is no mention of open space that is established or required. He continued the drawing shows a low area that is potentially wet, in the front yard. Meisel stated that the criterion of unreasonable burden has not been met. LoVasco, Carnes, and Trollman all agreed. In response to LoVasco's question, Ms. Krause answered that the applicant cleared out many trees in the front yard location for the proposed accessory structure. Meisel stated this is a self-created situation because the location of where the house is built did not take into consideration future needs. He continued the proposed accessory structure would be two times the size of the existing house, which is permitted in FR and this lot size. In response to the Krause's concerns, Meisel responded that the applicant would need to demonstrate that they meet all the requirements for an accessory structure, including the foundation and drainage which falls under the control of the Livingston County Building Department.

PUBLIC COMMENT

Correspondence was received from Cliff and Marian Krause, 8177 Denton Hill Road, stating their concern with the barn being located in the front yard and the effect it will have on their visual sight lines. Cliff Krause, 8177 Denton Hill Road, stated his concern for the size of the proposed structure, the blocking of their view, the location of the proposed structure effecting the resale value of his property, the height of the proposed

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structure, the color of the proposed structure and if it will blend in or stand out, the grading of the property, drainage and erosion concerns, and the visual impact the proposed accessory structure will have on the area.

MOTION

Commissioner LoVasco moved to deny the variance request by Lisa Thompson for a front yard location variance to construct an accessory structure on property located on 8199 Denton Hill Road, TAX CODE # 4704-23-400-006, for the following findings of fact: The ZBA was unable to establish Unreasonable Burden or Substantial Justice. [Ref. Tyrone Township Zoning Ordinance No. 36 – Section 21.02.B (FR and RE Districts Accessory Building and Structures)]. (Trollman seconded.) Roll call vote: Meisel, yes; Young, yes; Carnes, yes; Lo Vasco, yes; Trollman, yes. The motion carried.

MISCELLANEOUS

The next regular meeting of the Tyrone Township Zoning Board of Appeals is scheduled for Monday, March 14, 2016 at 7:00 p.m.

ADJOURNMENT

The meeting ended at 8:58 p.m.



Jeff Young, Vice-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