

TYRONE TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES
AUGUST 10, 2020

CALL TO ORDER

Chairman Greg Carnes called the Zoning Board of Appeals Meeting to order on August 10, 2020, at 7:05 p.m., which was conducted via Zoom Teleconference due to continuing public meeting & gathering restrictions associated with COVID-19.

ROLL CALL

Present: Chairman Greg Carnes, Vice-Chairman Joe Trollman, Commissioners Mark Meisel, Don LoVasco, Jon Ward & Don Bunka.

APPROVAL OF THE JUNE 22, 2020 MINUTES

Motioned by LoVasco, supported by Trollman to approve the minutes as presented. Motion carried.

READING OF THE PUBLIC NOTICE

Planning & Zoning Assistant Karie Carter read aloud the public notice for tonight's meeting, which was published in the Tri-County Times on Sunday, July 26, 2020, in compliance with the Open Meeting Act, and was posted at the Tyrone Township Hall.

NEW BUSINESS

APPEAL NO. 1: Appeal of a Planning Commission decision. A request by Mark & Molly Betley to appeal the Planning Commission's sightline determination as set forth in Section 20.02.X made on July 1, 2020, regarding their proposed single-family home located at 10466 Runyan Lake Road, Fenton, Michigan 48430, Parcel ID: 4704-09-202-004. The property is zoned LK-1, Lake Front Residential. Reference Tyrone Township Zoning Ordinance No. 36, Article 7 – LK-1 Zoning, Section 20.02.X, Section 28.03.B, and 28.04.C.

Before comments were heard by the applicant, Commissioner Meisel stated that he would be recusing himself from this appeal and that Commissioner Bunka would be filling in for him.

COMMENTS BY APPLICANT

George Rizik, attorney for the applicants, Mark & Molly Betley, began by speaking on behalf of his clients. He referenced a letter he sent to the board members which was a preview of what he was going to talk about. He explained that the Betleys own lot 4 of Runyan Lake Court. He showed a GIS map on the screen and he placed a red circle around the house on lot 4 where it sits today. He explained that they submitted a plot plan showing where they wanted to locate their house. He then showed a plot plan showing the proposed house. He explained that the

house to the north was lot 5, and the lot to the south was lot 3. Lot 4 is in the LK-1 Lake Front Single-Family Residential District which is governed by Article 7 of the Zoning Ordinance. Article 7 in itself does not contain any restrictions on the construction of principal structures, such as a dwelling, within sightlines. It contains sightline restrictions only on accessory structures. He stated that looking only at Article 7, anybody can build a principal structure regardless of sightline. The Schedule of Regulations is where a sightline is first addressed as to principal structures. It contains a footnote (X) that addresses setbacks. First, it says that the minimum rear yard setback is 50-feet. So, generally, any house that you build on the lake in the LK-1 cannot be any closer to the lakefront property line than 50'. However, it refers the reader to Footnote X which says: *A greater rear yard setback may be required by the Planning Commission where the established setbacks of adjacent buildings are greater than the minimum required in the Zoning District. Where the average rear yard setbacks for the adjacent buildings on either side of the proposed use is greater than the minimum required for the district, the Planning Commission may require a rear yard setback equal to or greater than average rear yard setbacks of the adjacent buildings to preserve sightlines to the water. This setback requirement also applies to accessory structures.*

He said that if the houses on lot 3 and lot 5 are further back than the 50' normally required for this district, then the Planning Commission can average out their setbacks in order to determine a setback for lot 4. The provision itself sets no standards for what the Planning Commission is to use to preserve sightlines. It just says "do your best". There is no hard and fast rule for applying. The lack of standards for applying the rule make it illegally vague, and it puts a burden on the Planning Commission to do something without any reference to standards. It says you *can* use an average if you want to if the other houses are greater than 50', and then it says you *may* require a rear yard setback equal to or greater than the average. It doesn't tell them anything to do. However, the second part of Footnote X exempts this property from all those considerations, it contains a mandatory exception: *The only exceptions to this provision shall be for cases where the subject or adjacent structures are located along a cove or peninsula or where the rear yard setbacks of adjacent structures differ by more than 40 feet. For these cases, the Planning Commission shall determine if a cove or peninsula exists, as well as the appropriate setback required such that sightlines for existing adjacent structures are protected.*

Once again, he said, it tells the Planning Commission "do your best, try to determine what the appropriate setback is for that area for existing adjacent structures so their sightlines are protected". The term "shall" is mandatory; lots 3, 4, & 5, as well as other lots on the cove, are automatically excepted from Footnote X, however, it tells the Planning Commission to do what they have to do to establish a sightline, we aren't providing any standards by which to do that. Once again, that provision is subjective, has no standards, and is illegally vague. It puts a burden on the Planning Commission to do right without knowing what the standards or factors are to consider.

Mr. Rizik stated that even if the provision was enforceable, the Planning Commission applied it incorrectly in this case. It drew the sightline from the corner of the principal structure on lot 3 to the corner of an accessory structure on lot 5 (showed the drawing on screen). The definition of

sightlines in the ordinances is: *A line across the width of a lake lot which connects the point closest to the lake on the foundation of the adjacent principal structure on either side of the lot or parcel of land upon which the proposed structure is to be constructed, provided that the adjacent principal structures are contiguous to the lot or parcel upon which the proposed structure is to be constructed or are located on a lot within 300 feet of the proposed structure.* It doesn't allow you to join principal structure corner with accessory structure corner. So, what was shown by the Planning Commission is incorrect; but it's not their fault because they're trying to read the ordinance the same way we are, without any guidance. Mr. Rizik said that he was not suggesting any malice or ill will by the Planning Commission, they just didn't have any standards. If we apply the correct definition of sightline to lot 4, we would draw a line from the principal structure on lot 5 to principal structure corner on lot 3, then we would see that lot 4 is almost unbuildable, and cannot be used for a principal structure or an accessory structure and you limit on the west side of the sightline because of the street setback as well. You really can't get anything in here. Look at the house on lot 3, which was built recently and it received a variance in order to do that. By applying the sightlines, which does not apply to a cove or peninsula, no house would be able to be built. The Planning Commission's erroneous placement arises from a misreading of Footnote X. While the definition of "sightline" requires measurement only from corners of principal structures, Footnote X makes reference to accessory structures. That reference in Footnote X does not mean that you measure the sightline from accessory structure corners, but that accessory structures, like principal structures, cannot encroach over the sightline requirements – that is you cannot build an accessory structure closer to the lake than what would otherwise be sightline. He said he thinks that's where the misreading from the Planning Commission comes from.

Mr. Rizik said that every lot in this subdivision – Runyan Lake Court - obstructs their neighbor's sightline. He said it is because they all are on a cove or a peninsula, and sightlines cannot be honored, and that is why the ordinance makes a mandatory exception for houses on peninsulas and coves.

He illustrated several examples on the GIS screen of how existing homes are obstructing the views of others.

Chairman Carnes stated that he understood where he was going with this presentation, but this was all done prior to the ordinance. Remember, he said, this lake was platted in the 1920s for summer cottages. Now there are year-round residents here. Thankfully, back in the 1990's Supervisor Royce Hyde and the board adopted this ordinance.

Mr. Rizik answered by saying that if that's the case, and you're telling me this can never change because it was plotted in the '20s, then explain the house on lot 3 and lot 6 and the relatively new houses on this peninsula. What happened for those can certainly happen for lot 4. Lot 4 is probably one of the older houses in the area. Lot 3 received a variance to shove their house over what you and I would call a sightline. The sightline does not apply to this house just as it didn't apply to lot 3 or any other houses in the cove. If you could apply sightlines on the peninsula then the first two houses that were built on the ends of the peninsula will stop every other house from being built. The houses on lots 3, 6, 10 & 11 were not built in the '20s. These were all houses

that were built when this ordinance was in effect; particularly lot 3. The sightline ordinance is expressly not applicable to houses on a cove or peninsula; the Planning Commission does not have the authority to apply the sightline ordinance to a cove or a peninsula because the second part of Footnote X expressly says that the Planning Commission cannot do that. It was an innocent misreading of the ordinance. Why does it say the exceptions to the sightline provisions *shall* be for houses on a cove or peninsula? *Shall* is mandatory. Footnote X does not apply to lot 4 because the ordinance says it doesn't. The ordinance suggests to the Planning Commission is to do whatever they want to do without providing standards. Anything they do is always subject to attack, which is unfair to the Planning Commission and unfair to the applicant. Every applicant should be able to walk into the township and ask what they have to do to comply with the ordinance and the Zoning Administrator should be able to tell them without saying "I don't know, whatever the Planning Commission says".

He continued to explain that if you look at the Zoning Enabling Act, it says that "a decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance". Mr. Rizik said he would suggest that telling the Planning Commission "do whatever you gotta do" is not a standard set forth in the ordinance. This ordinance specifically says the whole average language is not to be applied to house on coves and peninsulas, so that takes that standard away from the Planning Commission. The circumstances all show that were the Betleys to come in and ask for a variance they would be entitled to it because the property meets all the criteria for a variance that are set forth in the zoning act and the ordinance. There are practical difficulties in carrying out the strict letter of the zoning ordinances. The granting of the variance will nonetheless observe the spirit of the zoning ordinance, secure public safety, and most importantly, do substantial justice. There is no reason why all the houses in the peninsula should be able to be close to the lake, and all the newer houses like lot 6 and lot 3 should be closer to the lake and violate the sightlines, and the Betleys can't do the same. He said that if the township wants them to have to go through the process of seeking a variance, they will be glad to do it, but he feels it would save a lot of headache and maybe a fee by just recognizing that the Planning Commission made a mistake. He said they are asking the ZBA, on the appeal, to overturn the Planning Commission's decision and order the Zoning Administrator to issue a permit for the house as shown on the Betley's plot plan.

He then showed an older picture of the view from the Betley's deck. It showed where two trees were once on the lot. The trees blocked the views of the owners on lots 3 and 5. He said the Betleys could have left them there but they cut them down to help with the site plan and where they would lay out their house. The house would be no closer to the lake than those trees were. They are asking for nothing that wasn't there before. Nothing that anybody else in this area has not received or been entitled to.

He summarized by saying that Footnote X does not apply to lot 4 because the ordinance mandatorily excepts cove lots, like lot 4, from Footnote X's effect. The fix for the exception proposed by Footnote X is to allow the Planning Commission to make any decision it wants, without any objective standards for its decision. That is unconstitutional because of vagueness and lack of standards.

PUBLIC COMMENTS

Carnes asked if anyone in the audience had any questions or comments. Jamie Stewart introduced herself as an attorney who was present on behalf of Robert Landers and his family and David & Kathleen Anderson, neighbors who are adjacent to the Betley's property. She wanted to address the issue concerning board member Joe Trollman. She made note that he had wished Mr. Betley a happy birthday on Facebook. Both of her clients were advised both by Mr. Trollman and Mr. Betley that they are "good friends" and Ms. Stewart requested Mr. Trollman to voluntarily recuse himself from this case.

Ms. Stewart explained that Mr. Betley has asked for an administrative review; an appeal of the Planning Commission's decision. The board has the authority to reverse the order of another administrative body only if it finds that the decision that was appealed meets certain criteria, not that the ordinance meets certain criteria. She said that Mr. Rizik is focusing on the ordinance itself and wants the board to make a decision tonight that all prior decisions were unconstitutional. She said this is not the forum or proper appeal to challenge the alleged unconstitutionality of any ordinance. The board has the ability to review the actual decision and they should be looking at what the Planning Commission did and whether or not it was arbitrary or capricious, an erroneous finding, was discretionary abuse, or was an erroneous interpretation. She said Mr. Betley alleges that the language in the ordinance is "arbitrary". But the appropriate legal standard to be applied by this board is not whether the *ordinance* is arbitrary, it's whether the *decision* was arbitrary. Ms. Stewart referenced the applicant's Appendix C which is the detailed drawing prepared by the Planning Commission utilized in reaching their decision that 152-feet was an appropriate setback. On the one hand, she said, Mr. Rizik said the ordinance is unconstitutionally vague, they have no idea how to apply a sightline; but then he is very specific on how he outlines what should have been done based on the ordinance, which is fundamentally inconsistent. Mr. Betley repeatedly mischaracterizes the setback requirements that apply to his property. He describes it repeatedly as being a 50-foot minimum, but that is not what the ordinance prescribes. He completely ignores the second half of the ordinance he references, which says that when there is a cove the Planning Commission shall determine if a cove or peninsula exists as well as the appropriate setbacks required such that sightline for existing adjacent structures is protected. That is not that they *may* determine, they *shall* determine the appropriate sightlines. That was quoted from Section 21.20.A.d; and that is exactly what the Planning Commission did. They extensively discussed how to determine the sightline. There has been nothing presented to this board to legally reverse the reasoned judgment of the Planning Commission. This administrative appeal should be denied.

She stated that her clients, David & Kathleen Anderson, had variance that was pursued through this board May 13, 2013, and the ZBA found with respect to the location of the Anderson's home, which is directly south of the Betley's property, that the requested location by the road provides the best location and is consistent with the setbacks of adjacent neighbors. This discussion about other properties isn't relevant in the ordinances. What is relevant when you're looking at sightlines is not what the sightline is of a property way up the way, it's the adjacent neighbors that you're looking at, and that's precisely what the ZBA did when they granted the

variance for Mr. Anderson and that's precisely what the Planning Commission looked at. There is no evidence that the Planning Commission was misguided, they looked at exactly what they were supposed to look at. It would be a violation of the spirit and intent of the ordinances to overturn the reasoned judgment of the Planning Commission and it should be denied.

Mr. David Anderson, owner of the property to the south of Mr. Betley, wanted to reiterate the fact that Vice-Chairman Trollman and Mr. Betley were good friends and he feels that Trollman should recuse himself from this case or that he be subject to being dismissed from the ZBA. He said that he feels the Planning Commission did an outstanding job and put a lot of work into this. They developed a compromise that everyone agreed to at the Planning Commission meetings, which was a 152' setback. He said that Mr. Rizik brought up a great point about measuring between the primary structures, and that would move the house back to 186' feet, which he would be okay with as well. But everyone at the meetings agreed that the 152' would be reasonable. With regards to the trees, yes, he cut two down but planted three new ones. You can see through trees for seven months a year when the leaves are gone. He feels the Planning Commission's decision should be upheld.

Penny Lucia, representing her father, Robert Landers, who owns the property to the north of Mr. Betleys, said she agreed with everyone so far. She said she also heard about the friendship between Mr. Betley & Vice-Chairman Trollman and feels he should voluntarily recuse himself. She also stated that the two trees were a gradual growth that did become sort of a blockage of the view, but trees get cut down and wanted to know why they were even being considered. There are three more trees on the lot line between Mr. Betley's property and her father's. She asked if they will grow tall and be an issue in the future? She said she felt that the Planning Commission made a very reasonable compromise. It will still cause some sightline issues for her father's property, but she doesn't want to prevent Mr. Betley from being able to build a beautiful home.

Larry Laubrick talked about the two trees that were removed. He said they were approximately 60-80 feet tall Black Walnut Trees, and it probably took 60-80 years to get that tall. The new trees that were planted were Cleveland Pear Trees which will grow no taller than 40-50 feet tall. (*inaudible – unable to transcribe*). He wondered if there were any other legal concerns that the township may have advised the Planning Board in regards to this process being strung out for the 6-8 months that it has been.

BOARD QUESTIONS AND COMMENTS

Carnes said that he has no comment regarding the trees. He is here to establish the building envelope of this piece of property. He asked if there were any other comments regarding just the building envelope of this property. There were no comments. He brought the topic back to the board.

Meisel suggested that the board discuss the many comments received regarding Trollman recusing himself.

Trollman explained that he has maybe 1000 friends on Facebook and wishes many of them "happy birthday". He said he has known the Landers family longer than he has known the

Betleys. He said knows about 90% of people who live on the lake, he owns the local party store, and based on those facts should he recuse himself from everything? Mr. Anderson stated that he was told specifically that they were very good friends. He also stated that since Trollman was also friends with the Landers it would be reasonable to recuse himself because of the relationship on both sides. Carnes said that if Trollman feels that he can render an unbiased vote, a vote that deals with this piece of property...that's what this is about. It's about a piece of property that is going to be here for hundreds of years. If Joe feels like he can render an unbiased vote, then he should not recuse himself.

Ward asked if the Planning Commission made the determination of the setbacks for lot 4 based on some sightlines, was this the same thing that happened with the property to the south on lot 3. Was there a sightline determination done with that lot?

Mr. Anderson stated that they had an agreement with both neighbors and in writing before going to the Planning Commission. It was determined that he wouldn't impact the sightlines.

Mr. Betley stated that he has been held to the highest standards in the township. He said that when you look at Anderson's plan it's way different. Mr. Betley said he was made to do all these drawings in order to help them determine sightlines and all Mr. Anderson had to do was draw a big cloud around his giant patio and major retaining walls that collapsed. He wasn't held to that standard.

LoVasco asked both attorneys if a decision had to be made today. Both stated they did not. LoVasco felt that they shouldn't make a rash decision on this. He asked if everyone could get together and make a compromise. He said he felt that they all needed more time to digest all this. Ms. Stewart stated that they felt very strongly that the decision of the Planning Commission was a significant compromise for the benefit of Mr. Betley and that he is closer to the water than either of the neighbors to the north or south.

Carnes explained that they had two different interpretations of the ordinance, and they need to decide the correct interpretation.

Ward wanted clarification about what their job was tonight. He asked if it to decide if the Planning Commission made the correct decision. Mr. Rizik stated that part of determining whether the Planning Commission made the right decision is also determining whether they interpreted the ordinance correctly.

Ward asked if the Planning Commission did the sightline drawings. He was told that David Wardin of the Planning Commission created the drawings. Meisel stated that the officers of the Planning Commission submitted to the ZBA a basis for the decision, so any questions related to how the decision was determined is contained therein. Ward asked Meisel if these decisions come into play if someone else is building a house that is hindering someone's view. Meisel referred to 20.02.X which was referenced by the attorneys, and he said he thinks that the ordinance speaks for itself & he would defer to the basis of the decision that was submitted to the ZBA on behalf of the Planning Commission officers. Ward asked if this sightline determination process was the same process used for lot 3 when they built their home. Mr. Rizik stated that that

case was a ZBA variance, not a Planning Commission decision. Mr. Anderson stated that it was not a sightline variance, it was a sightline average that he worked with his neighbors to develop; it was a variance for the distance to the road. Ward said that looking at Google Earth it appears that the house on lot 3 was built and had impacts on the sightline of lot 4. Mr. Anderson said that it did not impact lot 4. Mr. Betley argued that it did impact his sightlines.

Carnes asks that he either get a motion or they table it. He said the building envelope is clear to him; it's (*inaudible – unable to transcribe*) building envelope. It's the northeast corner of the Anderson house to the southeast corner of the non-conforming garage on the Lander's property. That's the lakeside building envelope. He said if he can't get a motion, then they can table it and they can all discuss all their interpretations of the ordinance.

Ward stated that he would like some answers to his questions before making a motion. He asked Carnes if the proper method to determine the sightline is to draw a line from one neighbor's house to the other neighbor's house. Carnes said that was how he interprets the ordinance. Ward asked if that was the same method used to determine the sightline when lot 3 was built. Mr. Anderson stated that the sightline determination is in the documents that Mr. Betley submitted with his application and it *was* the same method. Mr. Rizik stated that it was *not* the method used, that all you had to do was look at the GIS map and draw the line from corner to corner and you'll see that the Anderson house is over that line. Back then, they didn't even consider sightline because he was exempt from sightline, just as lot 4 is exempt from sightlines. What the Planning Commission did with the "agreement" of the neighbors was to establish a line that the neighbors agreed to. Mr. Betley's position is "does that mean if the neighbors agree to something, the Planning Commission agrees with it and if the neighbors don't agree with it, the Planning Commission doesn't agree"? Neighbors agreed to the house location on lot 3 without any reference to sightlines. Mr. Betley feels that if that's all it takes is an agreement, then what good is the ordinance.

Ward asked to share his screen and showed a Google Earth view of the lots in question. He drew a line from the corner of the accessory structure on lot 5 to the corner of the house on lot 3 and asked if that was how the Planning Commission determined the setbacks for lot 4. He asked if the ordinance states it should be from primary structure to primary structure, not primary structure to accessory structure. Rizik confirmed that the ordinance reads primary to primary structure. Ward then showed a line drawn from the house on lot 4 to the house on lot 2 and showed that the house on lot 3 blocks the view of lot 4 currently. He asked why that was ok, why it was just decided by the neighbors, and now the same rules aren't being applied to this situation. Meisel stated that from a historical point of view, when the Planning Commission talked to the applicant at the time, who was Mr. Anderson, you have to go back to the conditions that were present at that time and the determination that was made at that time to try to establish an average setback. Fast forward to today, you're back to applying a setback average based on current conditions. With the building of the Anderson home, the conditions have changed somewhat from the historic conditions that were present. Mr. Anderson worked to establish a setback that was agreeable with the adjacent neighbors relative to sightline impacts and sought a variance for a front yard setback.

Jamie Stewart explained that what Mr. Anderson was trying to say was that if you were to draw a line from the exterior of Mr. Anderson's structure to the Lander's primary structure, you'd be looking at far more significant setback from the water, somewhere around 180-feet. The Planning Commission was generous when using the accessory structure. The accessory on lot 5 is at a much lower elevation than the primary structure. It doesn't even affect the sightlines, yet the Planning Commission still elected to use that accessory structure to give Mr. Betley more space and he is closer to the water than both of his neighbors as a result of that decision. It's more than a compromise. Ward asked whether if they'd used the correct interpretation with the primary structures, the sightline would have been further back. He wanted to know if the correct way to do it is to draw from house to house, why wasn't that done with the house on lot 3. He pointed out that the house on lot 3 currently blocks the view of the house on lot 4. He asked why it was okay. Mr. Anderson said that it did not bother the previous owner at the time. Ward said that was his point, and asked whether it is up to the neighbors to make a sightline determination or are if they are looking at the zoning ordinance. Ward said he is trying to figure out if the Planning Commission made the right decision.

CONSIDERATION OF ACTION

Commissioner Don LoVasco moved to accept the Planning Commission's sightline determination regarding their proposed single-family home located at 10466 Runyan Lake Road, Fenton, Michigan 48430, Parcel ID: 4704-09-202-004.

(Seconded by Commissioner Don Bunka). Roll call vote: Bunka, yes. LoVasco, yes. Carnes, yes, Trollman, no. Ward, no. The motion carried.

APPEAL NO. 2: A request by David & Peggy Galka for a 1' 6" side yard setback variance in order to add a landing & steps to the south side of their home, and a request to replace & extend their existing deck along a nonconforming setback as permitted in Section 26.04.A.3.a-e, located at 6240 Bullard Rd, Fenton, Michigan 48430, Parcel ID: 4704-34-401-029. The property is zoned LK-1, Lake Front Residential. Reference requirements set forth in Tyrone Township Zoning Ordinance No. 36, Article 7 – LK-1 Zoning, Article 20 - Schedule of Regulations, inclusive of building setbacks, height, and sightlines, and Section 26.04.A - Enlargement, Extension or Alteration of a Nonconforming Structure.

Meisel requested to be reseated at the table consistent with statutory representation to the ZBA; Bunka was excused from the meeting.

Mrs. Galka explained that they are adding onto the house and attaching the house to the garage, and this will require them to receive a 1.6' variance because there will be a door there that will encroach into the setbacks. On the other side, there is an existing deck that is nonconforming and they would like to extend it to be closer to the road. It will not be closer to the neighbor.

Meisel clarified that they would like to repair/replace the existing deck in the same footprint and they need a variance because the stairs they need to add encroach into the 10' setback. Mrs. Galka confirmed that was correct. Carnes asked if it was just the steps that encroached, and Mrs.

Galka said it would be the steps and the landing. Meisel said that they are allowed to repair and replace an existing non-conforming. The Galkas have verbal approval from the neighbors. Planning & Zoning Assistant Karie Carter pointed out that the drawing shows that there is an extension along the existing nonconforming line. That would set in motion the criteria for extending a nonconforming existing structure. *(inaudible – unable to transcribe)*

There were no questions or comments from the board.

CONSIDERATION OF ACTION

Board members discussed the request and the approval of the variance request.

Commissioner LoVasco moved to grant the variance request based upon the following findings of fact:

Unreasonable Burden: The steps and landing proposed by the applicant offer ingress and egress to the existing structure and are necessary due to the historic 5-foot side yard setback, which is currently 10 feet in the current zoning ordinance. The presence of these steps provides a necessary safety improvement to the existing structure. The proposed deck extension will be built along the existing nonconforming side yard setback consistent with the requirements set forth in Section 26.04.A.

Substantial Justice: The appellant has obtained verbal support from the adjacent neighbors. The proposed deck addition will not alter the character of the immediate area and will be constructed to match the home's current deck side yard setback. No objections from neighbors were received.

Minimum Variance Required: It is the opinion of the ZBA the variance being granted represents the minimum variance required to result in reasonable coexistence with the adjacent neighbors, and to reasonably match existing development.

Extraordinary Circumstances: The steps and landing proposed by the applicant offer ingress and egress to the existing structure and are necessary due to the historic 5-foot side yard setback, which is currently 10 feet in the current zoning ordinance. The presence of these steps provides a necessary safety improvement to the existing structure. The proposed deck extension will be built along the existing nonconforming side yard setback consistent with the requirements set forth in Section 26.04.A.

Health and Safety: Granting this variance arguably improves the existing health and safety of the immediate area by adding an egress to the existing home.

(Seconded by commissioner Joe Trollman Ward) Roll call vote: Ward, yes. Trollman, yes. LoVasco, yes. Meisel, yes. Carnes, yes. The motion carried.

APPEAL NO. 3: A request by Eric & Katie Skalski for a yard location variance and a 110-foot front yard setback variance in order to build a 28' x 32' accessory building in their front yard located at 13233 Holtforth Road, Fenton, Michigan, Parcel ID: 4704-36-300-027. The property is

zoned FR – Farming Residential. Reference requirements set forth in Tyrone Township Zoning Ordinance No. 36, Article 4 – FR/RE Zoning, Article 20 - Schedule of Regulations, inclusive of building setbacks, height, and sightlines, and Section 21.02 – Accessory Buildings and Structures.

COMMENTS BY APPLICANT

Mr. Skalski explained his request. He purchased a 5-acre parcel and is building a new house on it. He would like to build an accessory building in the front yard. He said the property was 336’ wide by 670’ deep. Meisel showed the property GIS on the screen. Mr. Skalski said there is significant topography in the rear yard; there is a 30’ elevation difference between where you enter the property to the south, to the valley in the middle of the property. They want to retain as much natural screening between their home and the adjacent properties. The property doesn’t have any direct frontage on Holtforth Road, so the front yard/back yard requirements seem a little more gray. The other reason they picked the location they did for the accessory building is there is a nice clump of evergreen trees that would screen his building from the neighbors. The neighbor to his west is angled in such a way that if he were to put the accessory building in his rear yard the neighbors will be significantly impacted because they would be looking right at it.

BOARD QUESTIONS AND COMMENTS

Carnes recapped that the proposed location provides the best screening from the adjacent properties & has topography reasoning. He stated that the appellant would like to preserve the existing woodlands, and he would have to remove trees if he placed the structure in the back yard. He also said that no real road frontage exists because the appellant is on an access driveway with properties all around him.

Trollman asked where the driveway was on the GIS, and Meisel showed it on Google Earth. Ward asked what determines the front or rear yard in this situation where it’s not adjacent to the road. Meisel said the way to determine the front yard is the driveway entrance to the garage.

PUBLIC COMMENTS

No comments were received.

Mr. Skalski indicated that neighbors have not objected to his building an accessory structure in the front yard.

CONSIDERATION OF ACTION

Board members discussed the request and the approval of the variance request.

Commissioner Trollman moved to grant the variance request based upon the following findings of fact:

Unreasonable Burden: The home is setback from Holtforth Road significantly and accessed by an easement. Holtforth Road traffic has no view of the home and proposed accessory structure, and significant screening exists from mature trees around the property. The proposed location offers what appears to be the best screening of the accessory structure from adjacent neighbors. Topography to the north also prohibits placement of the accessory structure in that area.

Substantial Justice: The appellant has received verbal support from the neighbor to the west. No objections from neighbors were received. The appellant will retain the existing woodlands.

Minimum Variance Required: It is the opinion of the ZBA the variance being granted represents the minimum variance required to result in reasonable coexistence with the adjacent neighbors, and to screen the proposed accessory structure from the adjacent neighbors.

Extraordinary Circumstances: The home is setback from Holtforth Road significantly and accessed by an easement. Holtforth Road traffic has no view of the home and proposed accessory structure, and significant screening exists from mature trees around the property. The proposed location offers what appears to be the best screening of the accessory structure from adjacent neighbors.

Health and Safety: Granting this variance does not alter or negatively impact the satisfactory health and safety of the immediate area.

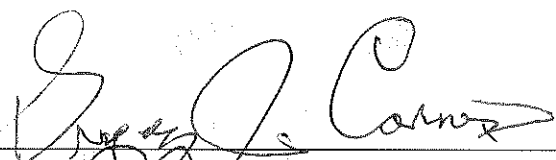
(Seconded by Commissioner LoVasco) Roll call vote: Ward – yes, Trollman – yes, LoVasco – yes, Meisel – yes, Carnes – yes. The motion carried.

MISCELLANEOUS BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 9:15 p.m.



Greg Carnes, ZBA Chairman
Tyrone Township Zoning Board of Appeals

cc File

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