

**BOYNE CITY  
ZONING BOARD OF APPEALS**

**APPLICANT INFORMATION**

**APPLICANT:**        **Sharon A. Kemp  
816 Lower Lake Dr.  
Boyne City, MI 49712**

**HEARING DATE:**    **September 5, 2017**

**PROPERTY DESCRIPTION**

816 LOWER LAKE DR . CITY OF BOYNE CITY MILLERS ADDITION TO SPRING HARBOR  
SWLY 1/2 OF LOT 3 BLK D

The subject parcel is located at 816 Lower Lake Dr. Boyne City, MI 49712. The property is owned by Sharon A. Kemp and located in the Waterfront Residential District (WRD).

**APPLICATION**

**Describe Variance Requests:** The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 21.36 – Accessory Buildings and Structures, A. General Standards (3). *“Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main or principal buildings.”*

The variance request is for the addition of an attached 15’x16’ car port on the front of the home, and the removal of an existing 5.3’x20.5’ covered porch and replacement with a 8’x20.5’ covered porch also on the front of the home.

- The existing home encroaches into the 35’ front yard setback approximately 17.3’.
- The proposed carport addition will require 27.2’ of relief from the 35’ front yard setback.
- The proposed covered porch will require 19.2’ of relief from the 35’ front yard setback.

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***An affirmative vote of a majority of members shall be required to reverse any order, requirement, decision or determination of the City Manager, an administrative official of the City, or the Planning Director except that a two-thirds (2/3) majority of members shall be necessary to grant any variances from uses of land which may be permitted by this Ordinance.***

## BOARD DECISION AND ORDER

The Board having considered the Application, a public hearing having been held on **September 5, 2017** after giving due notice as required by law, the Board having heard the statements of the Applicant/Applicant's attorney and agents, the Board having considered letters submitted by members of the public and several comments by members of the public, the Board having considered the following Findings of Fact and Exhibits as part of the record, and the Board having reached a decision on this matter, states as follows:

### GENERAL FINDINGS OF FACT

1. The property is owned by Sharon A. Kemp.
2. The property identification number is 15-051-144-003-00.
3. The property is in the Waterfront Residential District (WRD).
4. The property currently includes a principal residence.
5. Access to the property is provided by Lower Lake Dr. which is a public road that bounds the southwest side of the parcel.
6. The adjacent properties to the north, east and west are zoned WRD.
7. The property is not irregularly shaped.
8. The topography of the property is steep on the northeastern and northwestern portion sloping from east to west, and generally flat on the southeastern and southwestern portion.
9. Section 21.36 – Accessory Buildings and Structures, A. General Standards (3) states: “*Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main or principal buildings.*”
10. The property is approximately 5,445 sq. ft. in size.
11. The minimum lot area in the WRD is 5,445 sq. ft.
12. The existing single family residence encroaches into the 35' front yard setback approximately 17.3'
13. The existing deck encroaches into the required 35' front yard setback approximately 16.5'.
14. The variance request will also require removal of the existing driveway and installation of a new hard surface driveway with access to the carport.

### FINDINGS OF FACT UNDER SECTION 24.80. – NON-USE VARIANCES

In hearing and deciding appeals for variances, the Board shall adhere to the following criteria in determining whether or not practical difficulties and/or unnecessary hardships exist:

- I. Requiring the owner to comply with the regulations governing area, setbacks, frontage, height, bulk, density or other non-use requirements would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such regulations unnecessarily burdensome. **Negative – the applicant indicated that there was usage with the current nonconformity, however, wanted additional space on the front porch and to put up a carport; so is not unnecessarily burdensome.***

Because the answer to question #1 was not in the affirmative, the board did not go through the remainder of the questions, as all 5 answers must be in the affirmative.

2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
3. The variance can be granted in such a fashion that the spirit of the Ordinance will be observed and public safety and welfare secured.
4. The need for the variance is not self created.
5. The need for the variance is due to unique circumstances of the property itself, and not due to general conditions in the area or to circumstances related to the owner personally or to others residing on the property.

The Board shall grant no variance if it finds an application does not meet all of the above listed criteria for determining whether or not a practical difficulty and/or unnecessary hardship exists.

***Motion by McClorey, seconded by Carlile to adopt the General Findings of Fact reaching a conclusion that the Findings of Fact under Section 24.80 has not met the requirements.***

***Roll Call:***

*Aye: Carlile, Kubesh, McClorey, Murray and Reynolds*

*Nay: None*

*Abstain: None*

*Absent: None*

***Motion Carries***

**Date: 9-5-17**

***Original signature on handwritten copy in file***

Patrick Kubesh, Zoning Board of Appeals Chairperson

***9-5-17***

Date

**TIME PERIOD FOR JUDICIAL REVIEW**

- MCLA 125.3607 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Pursuant to MCLA 125.3606 any shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision.