

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **John McCafferty**
 27890 Barney's Lake Road
 Beaver Island, MI 49782

HEARING DATE: **June 2, 2015**

PROPERTY DESCRIPTION

The property located at 600 Jefferson Street (vacant lot) described as tax identification number 15-051-026-005-00, hereinafter referred to as "the property". The property is owned by Donna Viveen of Destin, Florida and is currently listed for sale.

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 24.80, which states that "*For any development in the residential districts, the parking surface on the property and access driveways shall be covered with pavement or hard surface material*". The purpose of this request is to avoid having to install a "hard surface" driveway due to the overall length may be up to 1,000 feet. The property is located in the Rural Estate District (RED).

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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 **June 2, 2015** 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 Donna Viveen of Destin, Florida.
2. The property identification number is 15-051-026-005-00.
3. The property is in the Rural Estate District (RED).
4. The property is currently vacant.
5. Access to the property is provided by Jefferson Street which is a public road.
6. The adjacent properties are in the Rural Estate District (RED) to the south, and east and Evangeline Township to the north.
7. The adjacent properties across Jefferson Street to the west are zoned Traditional Residential District (TRD).
8. The north, south, and east sides of the property share a lot line with other privately owned properties.
9. To the west, the property is bounded by Jefferson Street.
10. The property is not irregularly shaped.
11. The topography of the property is generally rolling terrain and the property is forested.
12. Section 24.80 of the City of Boyne City Zoning Ordinance states “*For any development in the residential districts, the parking surface on the property and access driveways shall be covered with pavement or hard surface material*”
13. The property is approximately 20 acres in size (1,291’ x 642’).
14. The Boyne City Street Department requires the new driveway to match the material (asphalt) of Jefferson St.
15. The Boyne City Street Department requires the driveway approach to be at least 10’ wide.
16. The Boyne City Street Department requires a minimum of 3” of asphalt over a minimum of 6” compacted 22AA base.
17. The Boyne City Street Department requires a 12” culvert to be installed with the driveway.
18. *North boundary delineation is between City and Evangeline Township*
- 19.
- 20.
- 21.
- 22.

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:

1. 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.
Affirmative – Due to the length required to get to the desired building site; 1,000 foot driveway would be burdensome financially.
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
Affirmative

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.
Affirmative
4. The need for the variance is not self created.
Affirmative – Topography of property and ordinance requirement causes need; 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.
Affirmative – Topography and wetness of property are unique to this 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 Carlile, seconded by Murray that the driveway paved portion to be no less than 55 feet, with the condition that no gravel portion is to be seen from Jefferson Street.

2015-06-02-5A

Roll Call:

Aye: Carlile, Kubesh, Murray and Reynolds

Nay: None

Abstain: None

Absent: McClorey

Motion Carries

Date: 6-2-2015

Original signature on handwritten copy in files

Patrick Kubesh, Zoning Board of Appeals Chairperson

6-2-2015

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.