

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **David & Marcella Hill**
 419 E. Lincoln St.
 Boyne City, MI 49712

HEARING DATE: **September 3, 2019 (continued December 3, 2019)**

PROPERTY DESCRIPTION

Property Description: 15-051-368-335-00

CITY OF BOYNE CITY, NICHOLLS & MORGANS THIRD ADDITION TO SOUTH BOYNE LOT 335 BLK 21.

The subject parcel is located at 419 E. Lincoln St. Boyne City, MI 49712. The property is owned by David & Marcella Hill and located in the Traditional Residential District.

APPLICATION

Describe Variance Requests: The application shows a request for a two inch (2”) side yard setback, or four feet ten inches (4’10”) of relief from the required minimum five foot (5’) setback from the side lot line.

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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 **December 3, 2019** 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 David & Marcella Hill.
2. The property identification number is 15-051-368-335-00.
3. The property is in the Traditional Residential District (TRD).
4. Access to the property is provided by E. Lincoln St. which is a public road that bounds the south side of the parcel.
5. The adjacent properties to the north, south, east and west are zoned TRD.
6. David & Marcella Hill own the property adjacent to the subject property at 409 E. Lincoln St.
7. The property is not irregularly shaped.
8. The topography of the property is gradually sloping from south to north on most of the property, then steeper on the far northern portion.
9. The property is approximately 11,434 sq. ft. in size.
10. The minimum lot area in the TRD is 5,445 sq. ft.

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. ***Negative continued use of the property as is; 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 Carlile, seconded by Kubesh to recommend denying the request because of the inability of the board to take positive action due to the applicant not providing the requested additional information; and the result of the answers to the Findings of Fact, Section 24.80 Non Use Variances

ZBA 2019-12-3-5A

Roll Call:

Aye: Carlile, Kubesh, Reynolds and Ross

Nay: None

Abstain: None

Absent: McClorey

Vacancy: None

Motion Carries

Date: 12-03-2019

Patrick Kubesh hand signed original is in the planning file

12-3-19

Zoning Board of Appeals

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.