

**BOYNE CITY  
ZONING BOARD OF APPEALS**

**APPLICANT INFORMATION**

**APPLICANT:**       **Goran M. & Mandy S. Jurkovic**  
                          **2210 Cawdor St.**  
                          **Lansing, MI 48712**

**HEARING DATE:**   **November 7, 2017**

**PROPERTY DESCRIPTION**

15-051-459-002-00 UNIT 2 HARBORAGE SHORES AS RECD L363P136 THRU P190 CX CO R/D

The subject parcel is located at 854 Front St. Boyne City, MI 49712. The property is owned by Goran M. & Mandy S. Jurkovic and located in the Waterfront Residential District (WRD).

**APPLICATION**

**Describe Variance Requests:** The applicant is proposing an addition to an existing nonconforming single-family residence on parcel in the Waterfront Residential District, and requesting a twelve foot (12') variance from the required thirty-five foot (35') waterfront 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 **November 7, 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 Goran M & Mandy S Jurkovic.
2. The property identification number is 15-051-459-002-00.
3. The property is in the Waterfront Residential District (WRD).
4. The WRD requires a 35' waterfront setback, upland from the high water elevation.
5. The high water elevation is defined in the Boyne City Zoning Ordinance as 582.4'.
6. The property currently contains an existing nonconforming single family residence.
7. Access to the property is provided by Front St. which is a public road that bounds the south side of the parcel.
8. The adjacent properties to the east and west are zoned WRD.
9. The adjacent properties to the south across Front St are zoned TRD.
10. The property is not irregularly shaped.
11. The topography of the property is moderately sloping from the street toward the water.
12. The property is approximately 10,500 sq. ft. in size.
13. The minimum lot area in the WRD is 5,445 sq. ft.
14. *DEQ authorized/approved permit arrived today (received and filed in project file)*
15. *With work on the shoreline as approved, the distance from the proposed deck and water will not change.*

## 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. *Looking at practical difficulties; affirmative vote taken; passes 3 - 2*
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners. *Affirmative, 2 ft. request is very small*
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. *No*
4. The need for the variance is not self created. *No*
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 MURRAY TO DENY THE APPLICATION UNDER THE NON-USE VARIANCE AS PRESENTED AS NOT MEETING ITEMS 1, 3, AND 4 UNDER THE FINDINGS OF FACT UNDER SECTION 24.80*

**Roll Call:**

*Aye: Carlile, McClorey and Murray*

*Nay: Kubesh and Reynolds*

*Abstain: None*

*Absent: None*

**Motion Carries**

**Date: 11-7-17**

Original Signature on the copy that is in the project file

11-7-17

Pat Kubesh, Zoning Board of Appeals Chairperson

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.