

**Meeting Of
July 1, 2014**

Record of the proceedings of the regular Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, July 1, 2014 at 5:00 p.m.

Call To Order

Chair Kubesh called the meeting to order at 5:00 p.m.

Roll Call

Present: Bob Carlile, Pat Kubesh, John McClorey, Lynn Murray and Roger Reynolds
Absent: None

Meeting Attendance

City Officials/Staff: Assistant Planning Director Annie Doyle and Recording Secretary Pat Haver
Public Present: One

**Approval of the Minutes
MOTION**

ZBA 2014-07-01-2
Carlile moved, Reynolds seconded, PASSED UNANIMOUSLY, a motion to approve the May 6, 2014 minutes as presented.

Hearing Citizens Present

None

Correspondence(s)

None

New Business

Public Hearing opened by Chair Kubesh at 5:01 pm

**Variance Request 520 E.
Division St.**

Assistant Planning Director Annie Doyle reviewed the staff report that was included in the agenda packet. Jennifer and Frederick Dietz are requesting a variance from Section 21.36 that states *“no garage or portion thereof shall extend into the required front yard area”*. The purpose of the request is to build a 21’ 6” x 25’ accessory building in the same location as a previously existing non conforming accessory building that was destroyed in a fire in February 2014. The site plans also include a garage roof height of 20’ 4”, which is 4” too high for the district. The rear of the property has steep contours, the septic tank is right behind the current cement slab, and the drain field is on both sides of the existing concrete slab.

Frederick Dietz: applicant – We are not looking at changing anything, except the shape of the roof, and a second garage door. The height we are planning on is around 18’ 6”; it will be well under the 20’ height requirement.

Carlile – Did the previous building have a second story, or was it a story and a half?

Dietz – It was a story and a half, you could stand at the rafters and not touch the peak. It will be used for storage, and a man cave for me to get away. The lower portion will have enough room to park both of the cars inside, and get them moved from the front of the house. The back yard is a part of the old Avalanche riverbed, and I need to pump out the water. The slope is 12 to 15 feet up to the back fence line. The height difference from the front to the back is a full 12 feet, we just do not have any other option for location.

Carlile – Is there anyway to modify the plans, and move the garage back closer to the front of the house?

Dietz – The hatch for the septic tank is 3 feet from the back of the concrete slab, and the drain field is on both sides of the slab. The current slab is usable, and the

cinder blocks that the old garage was sitting on will be removed, so that will save some height in 9 or 10 inches, so would fall under the 20 ft height requirement. The door on the blueprints will not be built. The height will not be an issue for us; we will build the garage with a gambrel roof that will fall under 20 ft.

Carlile – As I see it, because of the fire you can't move to the back in any way because of the slope and the septic field?

Dietz – Correct, there is literally a berm that does straight up to my neighbor's driveway. The slopes are steep on the back of the property.

McCloy – It looks like there are elevation problems on the smaller lot also.

Dietz – The Avalanche run off is apart of the smaller lot that runs into the yard. As a matter of fact, we use that to water our garden and yard.

McCloy – Will the height go over 20 feet?

Dietz – No, that is not an issue, I will get with the contractor and make sure that it stays within the requirements.

Carlile – Is the proposed roof of the garage, the same pitch of the current house?

Dietz – It is a gambrel roof that will not be taller than the residence.

Public hearing closed at 5:19 pm

Board discussion

Murray – I can see where the roof height can be easily adjusted.

MOTION

After board discussion, **motion by McCloy, seconded by Reynolds** to grant the variance as requested, due to the geography of the property and present location of the existing septic tank and drain field, it is economically unreasonable and burdensome to relocate the structure. The height of the structure must be within the RED district regulations; under 20 feet.

Chair Kubesh facilitated the board through the findings of fact, listed below:

GENERAL FINDINGS OF FACT

1. The property is owned by applicant, Jennifer Dietz.
2. The property is in the Rural Estate District (RED).
3. The property is currently developed with a single family dwelling.
4. Access to the property is provided by Division Street which is a public road that bounds the front side of the parcel.
5. The east, west and rear sides of the property share a lot line with other privately owned single family dwellings in the Rural Estate District.
6. The property is not irregularly shaped.
7. There are steep slopes in the rear portion of the property behind the primary dwelling.
8. The RED minimum lot area requirement is 5,445 SF.
9. Square footage of the lot is 34,056 SF.
10. The RED requires that no garage or portion thereof shall extend into the required front yard area.
11. The proposed accessory building would be located in the front yard of the property.
12. The proposed accessory building would have an approximately 15 ft front yard setback from the public right-of-way.
13. The proposed accessory building to the primary dwelling would be located on the west side of the property.
14. The proposed accessory building would be setback 115 ft from the rear of

- the property.
15. The RED requires a 5 ft side yard setback.
 16. The proposed building would have an approximately 15.16 side yard setback on the west side and approximately 115 ft side yard setback on the east side.
 17. *There is an existing septic tank directly behind the garage's current location, making it economically unreasonable to move the location along with the established drain field on both sides of the existing concrete slab.*

The board now went through section 27.45 for non-use variances

FINDINGS OF FACT UNDER SECTION 27.45. – 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, the topography of the parcel, and the existing location of the septic tank and drain fields behind and on either side of the current concrete slab prevent the owner from meeting the required front yard area setback.
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners. *Affirmative, it is the smallest variance necessary*
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, land topography and existing location of the septic tank and the drain fields are limiting.*
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, land topography and, placement of current septic tank and drain field all limit building site availability*

ZBA 2014-07-01 5A

Roll Call

Ayes: Carlile, Kubesh, McClorey, Murray and Reynolds

Nays: None

Absent: None

Motion carries

Addition to the agenda

The term of Bob Carlile is due to expire on September 1, 2014. Bob has indicated he is willing to serve another three year term. After board discussion, **motion by McClorey, seconded by Kubesh** to recommend to the City Commission the reappointment of Bob Carlile to a three year term on the Zoning Board of Appeals to expire on September 1, 2017

Recommendation of ZBA reappointment of Bob Carlile

MOTION

ZBA 2014-07-01 5B

Roll Call

Ayes: Carlile, Kubesh, McClorey, Murray and Reynolds

Nays: None

Absent: None

Motion carries

**Old Business
Reports of Officers, Boards
and Standing Committees**

None

**Good of the Order
Announcements**

If there is a meeting in August, Pat Kubesh will be unavailable.

Next Meeting

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for August 5, 2014 at 5:00 p.m.

Adjournment

MOTION

ZBA 2014-07-01-10

McClorey moved, Murray seconded, PASSED UNANIMOUSLY a motion to adjourn the Tuesday, July 1, 2014 Boyne City Zoning Board of Appeals meeting at 5:29 p.m.

Patrick Kubesh, Chair

Pat Haver, Recording Secretary