

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **David & Darlene Wade**
 721 N. Shady Hollow Circle
 Bloomfield Hills, MI 48304

HEARING DATE: **September 11, 2018**

PROPERTY DESCRIPTION

A PARCEL OF LAND WITHIN BLK 1 WILLIAM T ADDIS ADD TO SPRING HARBOR DESC AS
BEG AT NW COR OF E 66 FT OF SD BLK 1 TH S03DEG02'34"E 50.80 FT TO INTER
TRAV LI AT SH LK CHX TH AL SD LI S87DEG41'32"W 122.79 FT TH N03DEG16'18"W
67.19 FT TO N LI OF SD BLK 1 TH S84DEG25'13"E 24.58 FT AL SD LI TH
S84DEG48'43"E 99.77 FT TO POB 0.23A 11/2/2017 PROPERTY LINE ADJ 051-171-
002-00 & 051-171-003-00 INTO 051-171-002-10 & 051-171-003-10

The subject parcel is located at 409 Bay St. Boyne City, MI 49712. The property is owned by David & Darlene Wade and located in the Waterfront Residential District (WRD).

APPLICATION

Describe Variance Requests: The applicant is requesting a 14 foot 9 inch variance from the Boyne City Zoning Ordinance, Section 20.10, requirement of a minimum 15 foot rear 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 11, 2018** 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 & Darlene Wade.
2. The property identification number is 15-051-171-002-10.
3. The property is in the Waterfront Residential District (WRD).
4. The property currently includes an existing waterfront deck and concrete boat launch.
5. Access to the property is provided by Bay St. which is a public road that bounds the north side of the parcel.
6. The adjacent properties to the north, east and west are zoned WRD.
7. Lake Charlevoix bounds the parcel to the south.
8. The property is not irregularly shaped.
9. The topography of the property is steep on the northern half of the property sloping from north to south, and gradually sloping on the southern half toward the lakeshore.
10. The property is approximately 9,869 sq. ft. in size.
11. The minimum lot area in the WRD is 5,445 sq. ft.
12. *Bay Street has limitations as the right of way is pushed to the north due to existing topography and narrowness of the road*

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 Looking at the practical difficulties, smaller building envelope and the steep slopes.*
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, other previous variance requests have been granted in the vicinity due to the topography. Concerned about safety with winter snow and ice pack on a steep driveway.*
4. The need for the variance is not self created. *affirmative, due to the topography of the area.*
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, due to the steep topography of this lot.*

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 Carlite Decided by Murray to recommend approval of the requested variance as presented; fourteen feet nine inches (14'9") of relief from the fifteen (15') rear yard setback

Roll Call:
Aye: Carlite, Kubush and Murray
Nay: none
Abstain: none
Absent: M. Cloney and Reynolds
Motion carries

Date: 09-11-2018

Patricia Kubush
Zoning Board of Appeals

September 11, 2018
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.

