

Meeting Of  
May 1, 2018

Record of the proceedings of the Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, May 1, 2018 at 5:00 p.m.

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Call To Order

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

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Roll Call

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

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Meeting Attendance

City Officials/Staff: Assistant Planning and Zoning Administrator Patrick Kilkenny and Recording Secretary Pat Haver  
Public Present: Two

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Approval of the Minutes  
MOTION

**ZBA 2018-5-1-2**  
**Murray moved, Reynolds seconded, PASSED UNANIMOUSLY**, a motion to approve the November 7, 2017 meeting minutes as presented.

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Hearing Citizens Present  
Correspondence(s)

None  

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Public Hearing opened at 5:03 pm

New Business

Variance Request  
515 Lewis Ave.  
515 Lewis Ave, LLC.

Assist Zoning Administrator Patrick Kilkenny reviewed his staff report that was included in the agenda packet. The applicant is re-applying to seek relief from the 5/12 roof pitch requirement in the TRD. Housing availability and affordable options have been a major source of discussion with multiple city boards, commissions and groups over the past few years. Recommendations for zoning ordinance amendments from the Planning Commission to the City Commission to lesson restrictions on housing were approved and adopted earlier this year.

**Mike Dell: applicant** – Gave a brief review and offered additional information to the board. He feels that because the non-conformity was in place prior to the purchase and moving the residence from another city lot to the present one, in the same zoning district is rare, he thought that by doing so, would take care of non-conformities on both city lots. He has been given a quote of almost 35,000 to upgrade the roof pitch, because an engineering study is required per Charlevoix County; making the cost astronomical to bear and still keep the affordability of rent to a senior citizen low. By moving this house, it has taken care of an unsightly lot on Lewis Street by removing a dilapidated garage, cleaning up the yard, installing lawn and trees, making an unusable lot into a low income residence and also taking care of a non-conforming issue on Wilson Street where the house was moved from. The City is trying to provide affordable housing, and we are asking that you consider the burden of the additional engineering costs and what would need to occur for increased rents to cover those costs.

Public Hearing closed at 5:10 pm

Board Discussion

**Bob Carlile** – Neighborhood rooflines are much more in accordance or similar to yours. **Dell** – Yes, there are around 24 houses on this street with 18 or 19 that have roof pitches of 3/12 or 4/12.

**Murray** – Were you made aware of the roof line requirement when you were looking at this house 6 years ago, did your realtor tell you this? In reviewing our previous decision, nothing has changed.

**Dell** – Yes we were told, the cost for the engineered study and roof replacement is exorbitant, and we had difficulty even finding a contractor to take on the project.

**Murray** – I understand that we need affordable housing, the ordinance is set to protect against heavy snow load and the safety for the public. By moving a residence for any reason, must be brought into alignment with zoning. A 3/12 pitch holds about 20 lbs. of snow load, a 5/12 pitch 40 lbs. of snow load.

**Mrs. Dell** – The variance procedure lends to the possibility of unique circumstances with presented information for the board's consideration in granting the variances so that we can move forward to continue to offer and provide affordable housing. The house has gone through 17+ winters without any problems. It is aesthetically the same as many of the other houses on the street, and if you are not an architect, you can't tell the slight difference in the roof pitch.

With no further discussion, Kubesh facilitated the discussion on the General Findings of Fact specifically looking at Section 26.25 Nonconforming Structures and then moved onto the Findings of Fact under Section 24.80

#### **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*
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners. *Affirmative 1.5 ft. roof pitch request is the smallest 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, when the structure was originally placed on another lot within the city limits, it met the ordinance requirements, which subsequently changed, making it a non-conforming structure in the TRD zoning district.*
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, by moving the structure to its current location, the owners cleaned up a blighted lot prior to setting the house, and made the lot that it was originally setting on conforming. When the structure was originally placed on the first lot within the city limits, it*

*met the ordinance requirements, which subsequently changed, making it a non-conforming structure in the TRD zoning district.*

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**

**Motion by Carlile, seconded by Kubesh** to recommend approval of the requested variance as presented.

**2018-5-01-5A.**

Roll Call

Ayes: Carlile, Kubesh and Reynolds

Nays: McClorey and Murray

Abstain: None

Absent: None

*Motion Carries*

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**McClorey and Murray Term Expirations September 2018**

**ZBA 2018-5-01 5B**

The term of John McClorey and Lynn Murray are due to expire in September 2018. Both members have indicated they are willing to serve another three year term. After board discussion, **motion by Kubesh, seconded by Reynolds, PASSED UNANIMOUSLY**, to recommend to the City Commission the reappointment of John McClorey and Lynn Murray to a three year term on the Zoning Board of Appeals to expire on September 1, 2021.

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**MOTION**

**Election of Officers**  
**MOTION**

**ZBA 2018-5-01-5C**

**Motion by Carlile, seconded by Murray, PASSED UNANIMOUSLY**, to leave the slate of officers as they currently are, with Pat Kubesh as Chair and Bob Carlile as Vice Chair of the Zoning Board of Appeals

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**Adoption of the 2018 Meeting Calendar**  
**MOTION**

**ZBA 2018-5-01-5D**

Included in the agenda packet is the 2018 meeting calendar for your review and consideration. **Motion by Murray, seconded by Kubesh, PASSED UNANIMOUSLY**, to adopt the 2018 calendar as presented with the meetings to be held the 1<sup>st</sup> Tuesday of each month at 5:00 pm. With moving the July 3<sup>rd</sup> meeting to July 10<sup>th</sup> and the September 4<sup>th</sup> meeting to September 11, 2018 due to their proximity to the holidays

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

None

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**Good of the Order**

- Lynn Murray had attended the Citizen Planner series of classes and has never received his certification. Patrick Kilkenny will look into this for him. Murray also advised the board that he was looking to put his house on the market in the near future and that it may become necessary for the board to find a new member if the house is sold.
  - Pat Kubesh will not be available for the July or August meetings if one needed to be called.
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**Announcements**

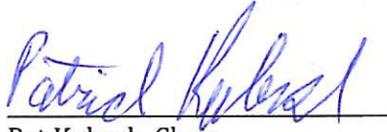
The next meeting of the Boyne City Zoning Board of Appeals is scheduled for June 5, 2018 at 5:00 p.m.

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**Adjournment  
MOTION**

**ZBA 2018-5-01-10**

**Murray moved, McClorey seconded, PASSED UNANIMOUSLY** a motion to adjourn the Tuesday, May 1, 2018 Boyne City Zoning Board of Appeals meeting at 6:22 p.m.

  
Pat Kubesh, Chair

  
Pat Haver, Recording Secretary