

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: Darryl and Donna Parish
1113 Marshall Road
Boyne City, MI 49712

HEARING DATE: November 4, 2014

PROPERTY DESCRIPTION

The property located at 1113 Marshall Road, described as tax identification number 15-051-403-010-45, hereinafter referred to as "the property".

APPLICATION

The applicant is requesting a 6 ft 6 in variance from the Boyne City Zoning Ordinance regulation, Section 20.10, requiring a 30 ft rear yard setback in the Rural Estate District. The purpose of this request is to build an 18 ft x 30 ft attached garage on the south/rear side of the property.

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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 4, 2014** 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 applicants, Darryl and Donna Parish.
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 Marshall Road which is a public road that bounds the north side of the parcel.
5. The east and south sides of the property share a lot line with other privately owned single family dwellings in the Rural Estate District.
6. To the west, the property is abutted by a private road easement known as Marshall Field.
7. The property is not irregularly shaped.
8. There are steep slopes in the rear/south portion of the property behind the primary dwelling.
9. The RED minimum lot area requirement is 5,445 SF.
10. Square footage of the property is approximately 15, 0000 SF.
11. The RED requires a 30 ft rear yard setback.
12. The proposed development would have a 23 ft 6 in rear yard setback.
13. The proposed development is 18 ft x 30 ft, on the south side of the primary structure and will be used as a garage.
14. The proposed development is intended to allow the applicants access to their vehicles on the main floor of their residence and eliminate the need for stairs.
15. The RED requires a 10 ft side yard setback.
16. The proposed development would have a 25.1 ft setback from the eastern side yard.
- 17.
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- 23.

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 3: Due to physical limitations and health conditions, it would make it unnecessarily burdensome to comply with the regulations of the ordinance. Nay: 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: It is the smallest variance required.*
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 - There are no public safety or welfare issues; no one could predict the medical necessity or circumstances.*
4. The need for the variance is not self created. *Affirmative: 3 The predecessor in title created the situation with the building location of the residence, however, the current owners purchased the property with zoning in effect. The current and future health conditions of the owners could not have been anticipated. Nay: 2*
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 - 2 Property is located on a slope with steep topography, experiencing tremendous burdens to get in and out of their home each time utilizing the existing stairs. Nay: 3*

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 Caville seconded by Reynolds to recommend approval of the variance as requested; a lot bin variance from the Boyne City zoning Ordinance regulation Section 20.10, requiring a 30ft. rear yard attached in the Rural Estate District. The purpose of the request is to build a 18ft x 30ft attached garage on the south/near side of the property.

Roll Call:

Aye: Caville, Reynolds

Nay: Kubesh, McCluskey, Murray

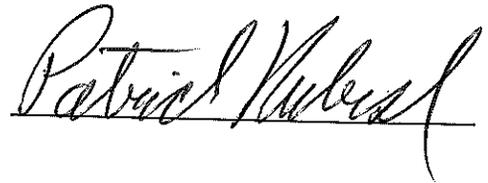
Abstain: none

Absent: none

Motion denied

DATE: 11-4-14

Patrick Kubesh, Zoning board of Appeals Chairperson:



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.