

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: Dino Franchino
 710 Lake Park Drive
 Boyne City, MI 49712

HEARING DATE: November 4, 2014

PROPERTY DESCRIPTION

The property located at 710 Lake Park Drive, described as tax identification number 15-051-498-013-00, hereinafter referred to as "the property".

APPLICATION

The applicant is requesting a 2 ft variance from the Boyne City Zoning Ordinance, Section 20.10, Schedule of Regulations, requiring a 5 ft side setback for the proposed accessory structure. The purpose of this request is to build a 12 ft x 22 ft accessory building on the east side of the property with a 3 ft side setback. The proposed building will be used as a garage. The property is located in the Traditional Residential District (TRD).

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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 applicant, Dino Franchino.
2. The property identification number is 15-051-498-013-00.
3. The property is in the Traditional Residential District (TRD).
4. The property is currently developed with a single family dwelling in the Harborage Park Condominium.
5. Access to the property is provided by Lake Park Drive that bounds the front/south side of the parcel.
6. The property is bounded to the north by Front Street, a public road.
7. The adjacent properties to the west and east are also single family dwellings in the Harborage Park Condominium and in the TRD.
8. The property is not irregularly shaped.
9. There is a steep slope along the rear/northern portion of the property behind the primary structure.
10. The TRD minimum lot area requirement is 5,445 SF.
11. Square footage of the lot is approximately 6,486 SF.
12. The TRD requires that accessory buildings shall have a 5 ft side yard setback if not completely to the rear of the property.
13. The proposed accessory building is not completely to the rear of the property.
14. The proposed accessory building would have a 3 ft east side setback.
15. The proposed attachment to the ~~primary dwelling~~ would be located on the eastern side of the existing primary structure. *accessory building*
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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 - Previous precedence in this community for side yard setback variances have been granted by this board*
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 Spirit is being maintained and no concerns have been expressed by the Fire Chief.*
4. The need for the variance is not self created. *Affirmative 3 - Nay 1 Precedence has been set in this development with setback variances previously granted*
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: Precedence has been set for variances in the development*

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 Murray, seconded by Carlile, to approve the variance as requested as long as fire rated materials are used for the building, a 2 ft variance from the Boyne City Zoning Ordinance regulation, Section 20.10, requiring a 5 ft. side setback for the proposed accessory structure. The purpose of this request is to build a 12 ft x 25 ft

Roll Call:

Aye: Carlile, Kubesh, Murray

Nay: McClary

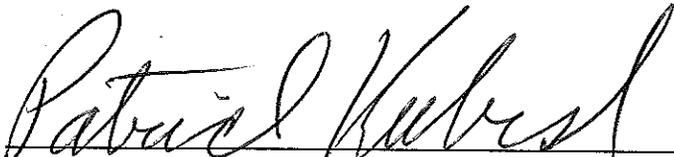
Abstain: Reynolds

Absent:

Accessory building on the east side of the property with a 3 ft. side setback. The proposed building will be used as a garage. The property is located in the Traditional Residential District (TRD)

DATE: 11-4-2014

Motion carries


Patrick Kubesh, Zoning Board of Appeals Chairperson

11/4/14
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.