

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **Chris and Lisa Montague
709 Lake Park Drive
Boyne City, MI 49712**

HEARING DATE: **November 5, 2013**

PROPERTY DESCRIPTION

The property located at 709 Lake Park Drive, described as tax identification number 15-051-498-031-00, hereinafter referred to as “the property”.

APPLICATION

Describe Variance Requests: The applicant is requesting a one (1) foot variance from the minimum five (5) foot side yard setback requirement to allow for the eave on an addition to the property’s primary residential structure. The property is located in the Traditional Residential District (TRD).

**BOYNE CITY
ZONING BOARD OF APPEALS**

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 5, 2013** 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, Chris and Lisa Montague.
2. The property is in the Traditional Residential District (TRD).
3. The property is currently developed with a single family dwelling in The Harborage condominium.
4. Access to the property is provided by Lake Park Drive which is a ~~public~~ *private association* road that bounds the front side of the parcel.
5. The east side of the property shares a lot line with another privately owned single family dwelling in the condominium.
6. The west side of the property is a park serving as one of the condominium's dedicated open spaces.
7. The rear side of the property is bounded by another common area for the condominium.
8. The property is not irregularly shaped.
9. The TRD minimum lot area requirement is 5,445 SF.
10. Square footage of the lot is approximately 8,655 SF.
11. The TRD requires a side yard setback of no less than 5 feet.
12. The TRD requires a combined side yard setback to be no less than 15 feet.
13. The side yard setbacks for the existing primary dwelling are 5 feet and 14.8 feet, for a combined total of 19.8 feet.
14. The proposed addition to the primary dwelling would be located on the west side of the property.

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.

A. No Motion by McClorey, seconded by Murray, PASSED UNANIMOUSLY, that requiring the owner to comply with the regulations would not be unreasonably or unnecessarily burdensome for the owner to use the property for a permitted use.

Because the answer to question #1 was not in the affirmative, the board did not go through the remainder of the questions.

2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
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.
4. The need for the variance is not self created.

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.

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 Carlile, seconded by McClorey to deny the request for a side yard setback variance of 3.5 inches.

Roll Call:

Aye: Carlile, Kubesh, McClorey, Murray and Reynolds

Nay: None

Abstain: None

Absent: None

Motion Carried

DATE: 11/05/13

Patrick Kubesh, Chair

Zoning Board of Appeals Chairperson

Signature on original handwritten copy

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.