BOYNE CITY
ZONING BOARD OF APPEALS MEETING

Tuesday, October 7, 2014
5:00 P.M.
Boyne City Commission Chambers, City Hall

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES – July 1, 2014

3. HEARING CITIZENS PRESENT (on non-agenda items)

4. CORRESPONDENCE

5. NEW BUSINESS
   - A. Variance Request - 351 Collins (Collings) Street
   - B. Variance Request – 710 Lake Park Drive

6. OLD BUSINESS
   - A. None

7. REPORTS OF OFFICERS, BOARDS, AND STANDING COMMITTEES

8. GOOD OF THE ORDER

9. ANNOUNCEMENTS

10. ADJOURNMENT

Individuals with disabilities requiring auxiliary aids or services in order to participate in municipal meetings may contact Boyne City Hall for assistance: Cindy Grice, City Clerk/Treasurer, 319 North Lake Street, Boyne City, MI 49712; phone (231) 582-0334

Approved: _____

Meeting Of July 1, 2014	Record of the proceedings of the regular Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, July 1, 2014 at 5:00 p.m.
Call To Order	Chair Kubesh called the meeting to order at 5:00 p.m.
Roll Call	Present: Bob Carlile, Pat Kubesh, John McClorey, Lynn Murray and Roger Reynolds Absent: None
Meeting Attendance	City Officials/Staff: Assistant Planning Director Annie Doyle and Recording Secretary Pat Haver Public Present: One
Approval of the Minutes **MOTION**	**ZBA 2014-07-01-2** **Carlile moved, Reynolds seconded, PASSED UNANIMOUSLY**, a motion to approve the May 6, 2014 minutes as presented.
Hearing Citizens Present	None
Correspondence(s)	None
New Business	Public Hearing opened by Chair Kubesh at 5:01 pm
Variance Request 520 E. Division St.	Assistant Planning Director Annie Doyle reviewed the staff report that was included in the agenda packet. Jennifer and Frederick Dietz are requesting a variance from Section 21.36 that states *"no garage or portion thereof shall extend into the required front yard area"*. The purpose of the request is to build a 21' 6" x 25' accessory building in the same location as a previously existing non conforming accessory building that was destroyed in a fire in February 2014. The site plans also include a garage roof height of 20' 4", which is 4" too high for the district. The rear of the property has steep contours, the septic tank is right behind the current cement slab, and the drain field is on both sides of the existing concrete slab. **Frederick Dietz: applicant** – We are not looking at changing anything, except the shape of the roof, and a second garage door. The height we are planning on is around 18' 6"; it will be well under the 20' height requirement. **Carlile** – Did the previous building have a second story, or was it a story and a half? **Dietz** – It was a story and a half, you could stand at the rafters and not touch the peak. It will be used for storage, and a man cave for me to get away. The lower portion will have enough room to park both of the cars inside, and get them moved from the front of the house. The back yard is a part of the old Avalanche riverbed, and I need to pump out the water. The slope is 12 to 15 feet up to the back fence line. The height difference from the front to the back is a full 12 feet, we just do not have any other option for location. **Carlile** – Is there anyway to modify the plans, and move the garage back closer to the front of the house? **Dietz** – The hatch for the septic tank is 3 feet from the back of the concrete slab, and the drain field is on both sides of the slab. The current slab is usable, and the

cinder blocks that the old garage was sitting on will be removed, so that will save some height in 9 or 10 inches, so would fall under the 20 ft height requirement. The door on the blueprints will not be built. The height will not be an issue for us; we will build the garage with a gambrel roof that will fall under 20 ft.
Carlile – As I see it, because of the fire you can't move to the back in any way because of the slope and the septic field?
Dietz – Correct, there is literally a berm that does straight up to my neighbor's driveway. The slopes are steep on the back of the property.
McClorey – It looks like there are elevation problems on the smaller lot also.
Dietz – The Avalanche run off is apart of the smaller lot that runs into the yard. As a matter of fact, we use that to water our garden and yard.
McClorey – Will the height go over 20 feet?
Dietz – No, that is not an issue, I will get with the contractor and make sure that it stays within the requirements.
Carlile – Is the proposed roof of the garage, the same pitch of the current house?
Dietz – It is a gambrel roof that will not be taller than the residence.

Public hearing closed at 5:19 pm

Board discussion
Murray – I can see where the roof height can be easily adjusted.

MOTION

After board discussion, **motion by McClorey, seconded by Reynolds** to grant the variance as requested, due to the geography of the property and present location of the existing septic tank and drain field, it is economically unreasonable and burdensome to relocate the structure. The height of the structure must be within the RED district regulations; under 20 feet.

Chair Kubesh facilitated the board through the findings of fact, listed below:

GENERAL FINDINGS OF FACT

1. The property is owned by applicant, Jennifer Dietz.
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 Division Street which is a public road that bounds the front side of the parcel.
5. The east, west and rear sides of the property share a lot line with other privately owned single family dwellings in the Rural Estate District.
6. The property is not irregularly shaped.
7. There are steep slopes in the rear portion of the property behind the primary dwelling.
8. The RED minimum lot area requirement is 5,445 SF.
9. Square footage of the lot is 34,056 SF.
10. The RED requires that no garage or portion thereof shall extend into the required front yard area.
11. The proposed accessory building would be located in the front yard of the property.
12. The proposed accessory building would have an approximately 15 ft front yard setback from the public right-of-way.
13. The proposed accessory building to the primary dwelling would be located on the west side of the property.
14. The proposed accessory building would be setback 115 ft from the rear of

the property.

15. The RED requires a 5 ft side yard setback.
16. The proposed building would have an approximately 15.16 side yard setback on the west side and approximately 115 ft side yard setback on the east side.
17. *There is an existing septic tank directly behind the garage's current location, making it economically unreasonable to move the location along with the established drain field on both sides of the existing concrete slab.*

The board now went through section 27.45 for non-use variances

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, the topography of the parcel, and the existing location of the septic tank and drain fields behind and on either side of the current concrete slab prevent the owner from meeting the required front yard area setback.
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 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, land topography and existing location of the septic tank and the drain fields are limiting.*
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, land topography and, placement of current septic tank and drain field all limit building site availability*

ZBA 2014-07-01 5A
Roll Call
Ayes: Carlile, Kubesh, McClorey, Murray and Reynolds
Nays: None
Absent: None
Motion carries

Addition to the agenda

Recommendation of ZBA reappointment of Bob Carlile

The term of Bob Carlile is due to expire on September 1, 2014. Bob has indicated he is willing to serve another three year term. After board discussion, **motion by McClorey, seconded by Kubesh** to recommend to the City Commission the reappointment of Bob Carlile to a three year term on the Zoning Board of Appeals to expire on September 1, 2017

MOTION

ZBA 2014-07-01 5B
Roll Call
Ayes: Carlile, Kubesh, McClorey, Murray and Reynolds
Nays: None
Absent: None
Motion carries

Old Business
Reports of Officers, Boards and Standing Committees

None

Good of the Order
Announcements

If there is a meeting in August, Pat Kubesh will be unavailable.

Next Meeting

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for August 5, 2014 at 5:00 p.m.

Adjournment
MOTION

ZBA 2014-07-01-10
McClorey moved, Murray seconded, PASSED UNANIMOUSLY a motion to adjourn the Tuesday, July 1, 2014 Boyne City Zoning Board of Appeals meeting at 5:29 p.m.

Patrick Kubesh, Chair

Pat Haver, Recording Secretary

City of Boyne City

To: Members of the Zoning Board of Appeals

From: Annie Doyle, Assistant Planner

Date: October 3, 2014

Subject: Variance Request at 351 Collins (Collings) Street

Background

The applicant, Tammy Siwarga, owns property in the Traditional Residential District (TRD) at 351 Collins Street (also spelled Collings); property ID #: 15-051-026-027-00. The property has one primary dwelling structure that includes an attached garage.

Request

The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 4.40, which states that *"attached garages shall have a front setback that is at least ten (10) feet greater than the front setback of the principal building that is located on the portion of the lot"*. The purpose of this request is to build a 20 ft x 20 ft attached garage in front of the current garage and expand the primary dwelling into the current garage area. *Please see Exhibit B: Zoning Permit Application Sketch Plan.*

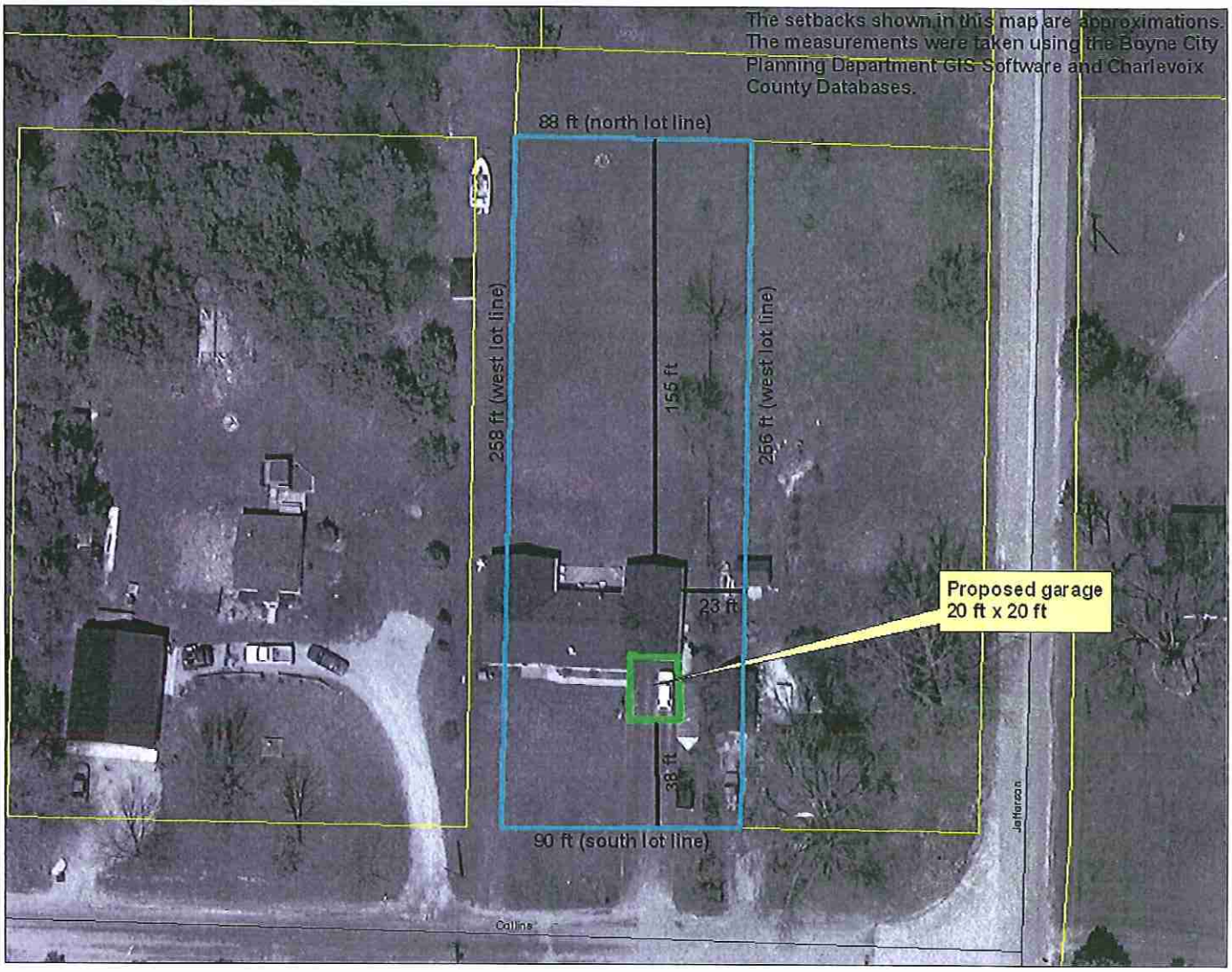
Zoning Ordinance Requirements and the Proposed Construction Project

The following table and visual reference detail the relevant zoning ordinance requirements for accessory buildings/garages in the Traditional Residential District and the comparable information for the proposed attached garage. Setbacks amounts and approximations were made using the GIS Planning Department software. No survey of the property was provided.

	Front Setback	Rear Setback	Side Setbacks	Height	Lot Width	Lot and Building Area Min.
Traditional Residential District (TRD) general requirements	10 ft* No garage or portion thereof shall extend into the required front yard area. (Section 21.36)	15 ft	5 ft (minimum) 15 ft (total)	30 ft (max)	50 ft (minimum)	Lot: 5,445 SF (minimum)
Existing Primary Structure with Proposed Attached Garage	38 ft	155 ft	23 ft (east) 0 ft (west)	unknown	89 ft (average)	Lot: 23, 500 SF Proposed garage: 400 SF Existing Primary Dwelling and attached garage: 2, 700 SF (approx)

*Section 4.40: Accessory buildings and attached garages shall have a front yard setback that is at least ten (10) feet greater than the front setback of the principal building that is located on the front portion of the lot.

The following image provides a visual for the setbacks detailed in the table above. The aerial photo used was provided by Charlevoix County in 2004.



Other factors to Consider

Nonconforming West Side Setback

According to the County database, the primary structure has a 0 ft setback from the western lot line. It also appears the structure is encroaching onto the adjacent western property. This property is a public alley owned by the City of Boyne City.

In regards to the nonconforming structure, Boyne City Zoning Ordinance, Section 26.25, states:

A residential nonconforming structure may be allowed to expand provided the expansion does not increase the size of the established footprint, or the expansion is within a yard which retains compliance with the required setback and height (e.g. a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming). Provided further that the following criteria are met for the subject structure:

1. *The cost of such work shall not exceed fifty percent (50%) of the market value of such residential structure prior to the time such work is started.*

2. *The only conforming situation on the parcel shall be dimensional ones related to the house and/or garage.*
3. *Any other expansion shall be prohibited unless a variance is granted by the Zoning Board of Appeals.*

Topography and Lot Size

The topography is similar to other properties in the Traditional Residential District. The shape of the lot is a narrow rectangle (average of 89 ft wide), but the width meets the minimum requirement in the zoning ordinance (50 ft wide).

The lot size is typical of many within the Traditional Residential District in this area with approximately 23,500 SF. The lot to the east has approximately 23,320 SF, the public alley to the west is 16 ft across and runs the entire length of the eastern lot line. The lot to the west on the other side of the public alley has approximately 44,693 SF. To the north, is a small unbuildable lot of 5,961 SF. The lots to the north, west and south are also in the Traditional Residential District; the east side of Jefferson Street (where Collins Street ends) is in Evangeline Township and is zoned as a Rural Residential/Farm Forest district.

Public Comment

Staff received a phone call from the property owners at at 335 Collins (Collings) Street who advised they had no objection to the requested variance and also a letter from a citizen supporting the request (See Exhibit C: Public Comment Letter).

Photo of property taken September 2014

Summary

The applicant is requesting relief from the Zoning Ordinance regulation, Section 4.40, requiring an attached garage to be setback 10 feet further from the front lot line than the existing nonconforming primary structure. The request is being made in order to remodel the existing garage space and build a 20 ft x 20ft attached garage in front of the existing one.

Application of Standards

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 27.45.

Exhibits

A. Zoning Board of Appeals Application
B. Zoning Permit Application with plan sketch (September 15, 2014)
C. Public Comment Letter
D. Aerial map
E. Template for Findings of Fact

Exhibit A

231-582-0343
www.boynecity.com
No Faxed Copies/Originals only

ZONING BOARD OF APPEALS APPLICATION

Owner Name: Tammy & Ron Siwarga
Address: 351 Collins

Phone: 231-330-3761 E-mail: RMSiwarga@Gmail.com

Describe Variance Request: 20'x20' Garage. Garage to extend past front of House by 15'

Property Street Address: 351 Collins
Nearest Intersection: Jefferson
Property Tax ID #: 051-026-029-00 **Zoning District:**
Legal Description of Property (attach separate sheet if necessary):

Please attach:

- ☐ Proposed building/construction with dimensions and front, side and rear yard setbacks
- ☐ Existing buildings/structures including decks, driveways, storage buildings, etc.
- ☐ Lot lines and dimensions and layout, including parking/loading areas
- ☐ Photos, prints, maps, graphics, or drawings of current site
- ☐ Copy of Soil Erosion permit application or MDNR permit application, if applicable
- ☐ Letter of approval from association's Aesthetic Review Committee, if applicable
- ☐ Well and/or septic permit or copy of approved City sewer/water application, if applicable
- ☐ Pertinent topographic features (steep slopes, trees, water, etc.)
- ☐ Road names, lakeshores, streams, easements, or other dedicated rights-of-way abutting the property
- ☐ Any other information you feel is necessary to present your case

Note: *I understand and agree to abide by all provisions of the Boyne City Zoning Ordinance as well as all procedures and policies of the Boyne City Zoning Board of Appeals as those provisions, procedures, and policies relate to the handling and disposition of this application; that the above information is true and accurate to the best of my knowledge; and that a filing fee is due with this application. I understand that if the requested variance is granted, I am in no way relieved from all other applicable requirements. I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary.*

Owner's Signature Date 9-16-14

This is to certify the required filing fee was received on 9-16-14 and documented with receipt number 58316. This application is scheduled for public hearing on Oct. 7th.
Staff Initials

CITY OF BOYNE CITY
319 N. Lake Street
Boyne City, MI 49712
Phone: (231) 582-6597
Fax: (231) 582-6506
www.boynecity.com

ZONING PERMIT APPLICATION

PERMIT NUMBER

- **Project Address** 351 Collings
- **Property ID Number** *(Tax Code Number)* **15-051-** 026-027.00
- **Property Owner** Tammy Swarga **Phone** 231 330 3761
- **Address** 351 Collings
- **City** Boyne City **State** Mi **Zip** 49712
- **Contractor** Timothy Schroeder Builder **Phone** 231-350-0917
- **Address** 01103 Sunset St.
- **City** East Jordan **State** Mi **Zip** 49727

Proposed Use Garage

Area of Lot (Square feet/Acres) 400 sq FT **Construction Costs** 10,00

Zoning District _____

Has a variance been granted for the proposed work? yes___no___If so, what is file #?_____

Applicant: The information provided is accurate to the best of my knowledge. I certify that all property and corners have been clearly staked and flagged and that all construction will conform with the Boyne City Zoning Ordinance and with the description contained in the application and site plan. All materials included with this application hereby become part of this application. Furthermore, I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary. Applicant/landowner shall be responsible for movement of footing placement when not found in conformance with property zoning and/or required setbacks from the roads and property boundaries.

Signature of Applicant: Timothy Schroeder **Date:** 9-15-14

Signature of Property Owner: Tammy Swarga **Date:** 9-15-14

This is to certify the required permit fee was received on _____

Receipt Number: _____

Approved: ☐ **Yes** ☐ **No**

_____

Signature of Zoning Administrator:

NOTES:

Exhibit C

Haggard's

PLUMBING and HEATING

"Business of Quality and Service"
"Charlevoix-the-Beautiful"
haggards@freeway.net

Date: Sept 24, 2014

To: Boyne City Zoning Board
319 N. Lake St.
Boyne City, MI 49712

Re: Tax Parcel #'s 15-051-026-027-00 and 15-051-498-013-00

To Whom it May Concern,

Upon reviewing the above Notice of Public Hearing of the Zoning Board of Appeals, I would like to express my support with the above cases' requests. Haggard's Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted. It would prove positive for the local, county, state and country to do all we can to improve and promote growth in any way possible.

Sincerely,

Haggard's Plumbing & Heating

P.O. Box 35 06238 U.S. 31 South Charlevoix, Michigan 49720 Ph (231) 547-4046 Fax (231) 547-0364

Exhibit D

Exhibit E

BOYNE CITY
ZONING BOARD OF APPEALS

APPLICANT INFORMATION

APPLICANT: **Tammy Siwarga**
351 Collins (Collings) Street
Boyne City, MI 49712

HEARING DATE: **October 7, 2014**

PROPERTY DESCRIPTION

The property located at 351 Collins Street (also known as Collings Street), described as tax identification number 15-051-026-027-00, hereinafter referred to as "the property".

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 4.40, which states that *"attached garages shall have a front setback that is at least ten (10) feet greater than the front setback of the principal building that is located on the portion of the lot"*. The purpose of this request is to build a 20 ft x 20 ft attached garage in front of the current garage and expand the primary dwelling into the current garage area. 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 **October 7, 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, Tammy Siwarga.
2. The property identification number is 15-051-026-027-00.
3. The property is in the Traditional Residential District (TRD).
4. The property is currently developed with a single family dwelling.
5. Access to the property is provided by Collins (Collings) Street which is a public road that bounds the front side of the parcel.
6. The adjacent properties are also in the Traditional Residential District (TRD).
7. The north and east sides of the property share a lot line with other privately owned properties.
8. To the west, the adjacent property is a public alley owned by the City of Boyne City.
9. To the south, the property is bounded by Collins (Collings) Street.
10. The property is not irregularly shaped.
11. The topography of the property is typical.
12. The TRD minimum lot area requirement is 5,445 SF.
13. Square footage of the lot is approximately 23,500 SF.
14. The TRD requires that attached garages shall have a front yard setback 10 ft greater than that of the primary structure.
15. The proposed attached garage is located in the front yard of the property and would extend approximately 10 ft in front of the primary structure.
16. The proposed attachment would have an approximately 38 ft front yard setback from the public right-of-way.
17. The proposed attachment to the primary dwelling would be located on the south side of the property.
18. The primary structure and proposed attachment have a eastern side yard setback of approximately 23 ft
19. The primary structure has a 0 ft side yard setback to the west.
20. The TRD requires at least a 5 ft side yard setback.
21. The primary structure is nonconforming.
21.
22.
23.
24.
25.
26.
27.

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.

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

2014-7-1-5A

Roll Call:
Aye:
Nay:
Abstain:
Absent:

DATE: 10-7-2014

Patrick Kubesh, Zoning board of Appeals Chairperson 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.

Agenda Item 5a

City of Boyne City

To: Members of the Zoning Board of Appeals

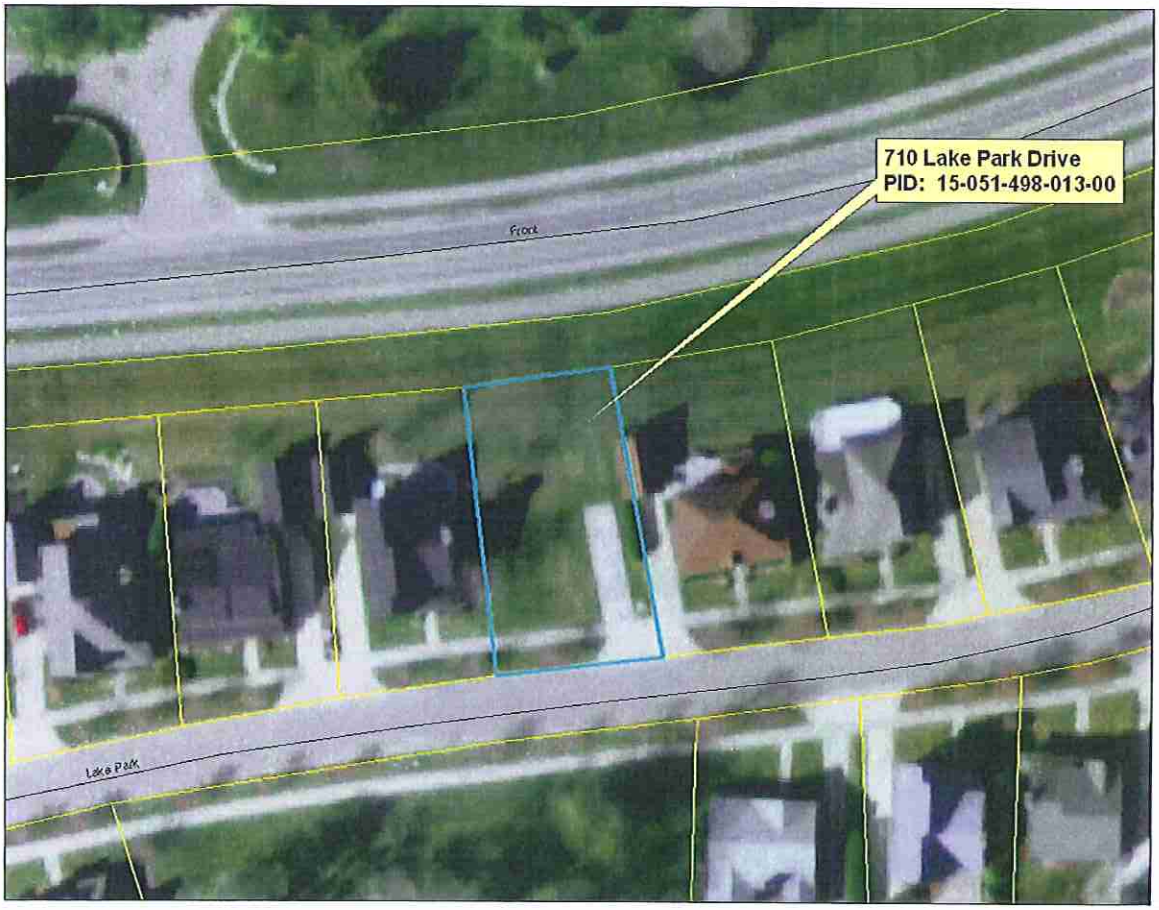
From: Annie Doyle, Assistant Planner

Date: October 3, 2014

Subject: Variance Request for 710 Lake Park Drive

Background

The applicant, Dino Franchino, owns property in the Traditional Residential District (TRD) at 710 Lake Park Drive (Property ID #: 051-498-013-00). The property is located within the Harborage Park Condominium and has one primary structure/dwelling that is currently in the completion stages of construction. The zoning permit for the primary structure was issued on September 15, 2013.



Request

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 13 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.

Zoning Ordinance Requirements and the Proposed Construction Project

The following table and visual reference detail the relevant zoning ordinance requirements for accessory buildings/garages in the Traditional Residential District and the comparable information for the proposed accessory building/garage. Setbacks amounts and approximations were made from a 2002 Land Survey (Exhibit B) and current GIS Planning Department maps.

	Front Setback	Rear Setback	Side Setbacks	Height	Lot Width	Lot and Building Area Min.
Traditional Residential District (TRD) general requirements	10 ft	15 ft	5 ft 15 ft (total)	30 ft (max)	50 ft (minimum)	Lot: 5,445 SF (minimum)
Traditional Residential District (TRD) requirements for accessory buildings and garages	No garage or portion thereof shall extend into the required front yard area. (Section 21.36)	15 ft 3 ft* (if in rear of property)	5 ft (minimum/ 15 ft total of both sides) 3 ft* (if in rear of property)	20 ft (max)	-	Accessory building shall not occupy more area than the ground floor area of the principal building. (Section 21.36)
Proposed Accessory Building/ Garage	55 ft	26.43 ft	3 ft (east) 40 ft (west) (approx)	16 ft	60 ft	Lot: 6,486 SF Proposed building: 286 SF Existing Primary Dwelling: 1,410 SF

* Section 21.36, states:

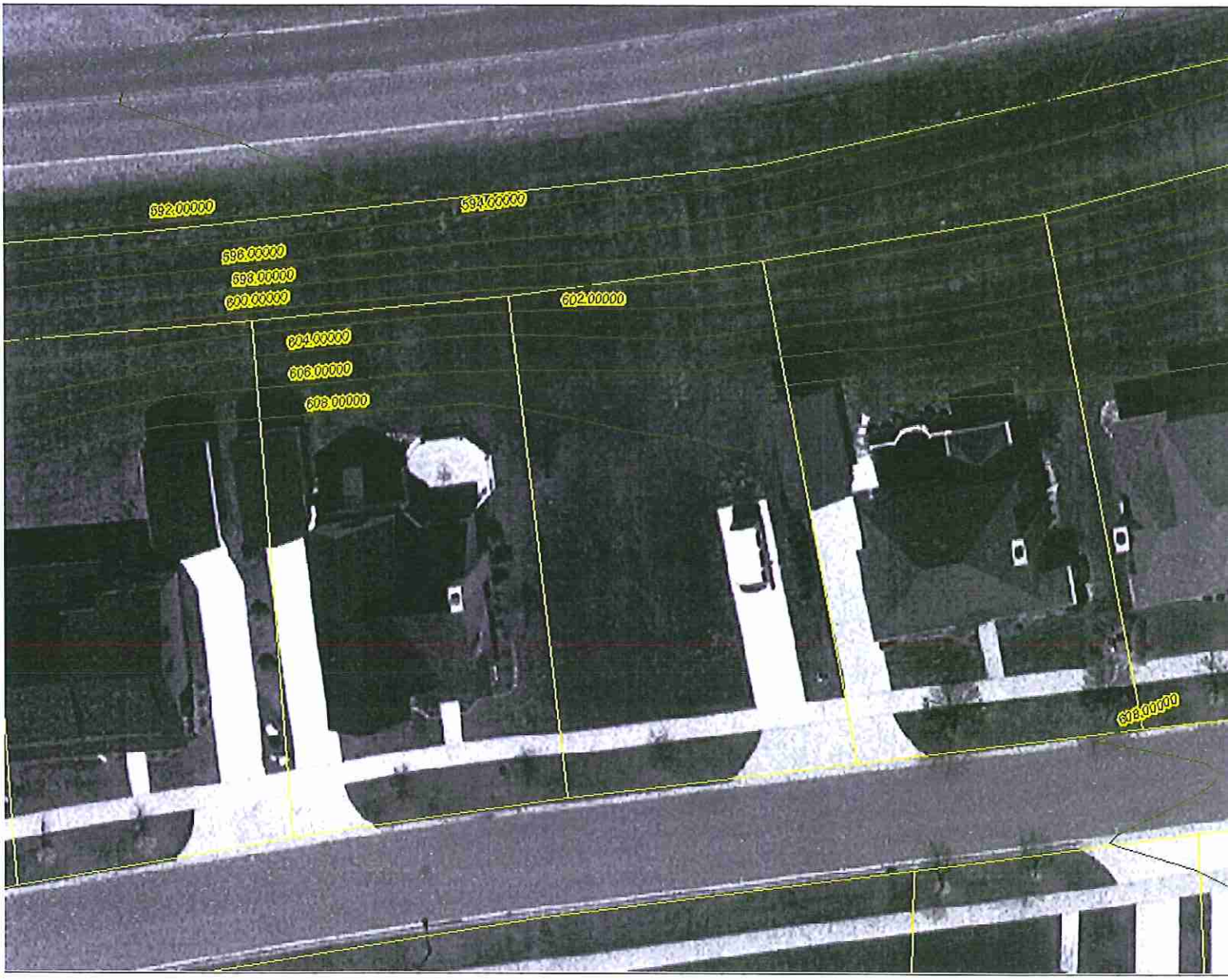
In any residential district, accessory buildings shall not be erected closer to the side lot line than the required setback distance for the dwelling, unless the accessory building is completely to the rear of the dwelling, in which event the accessory building may be erected three (3) feet from any side or rear lot line.

The following image provides a visual for the setbacks detailed in the table above. The aerial photo used was provided by Charlevoix County in 2004 and does not show the recently built primary structure and driveway.

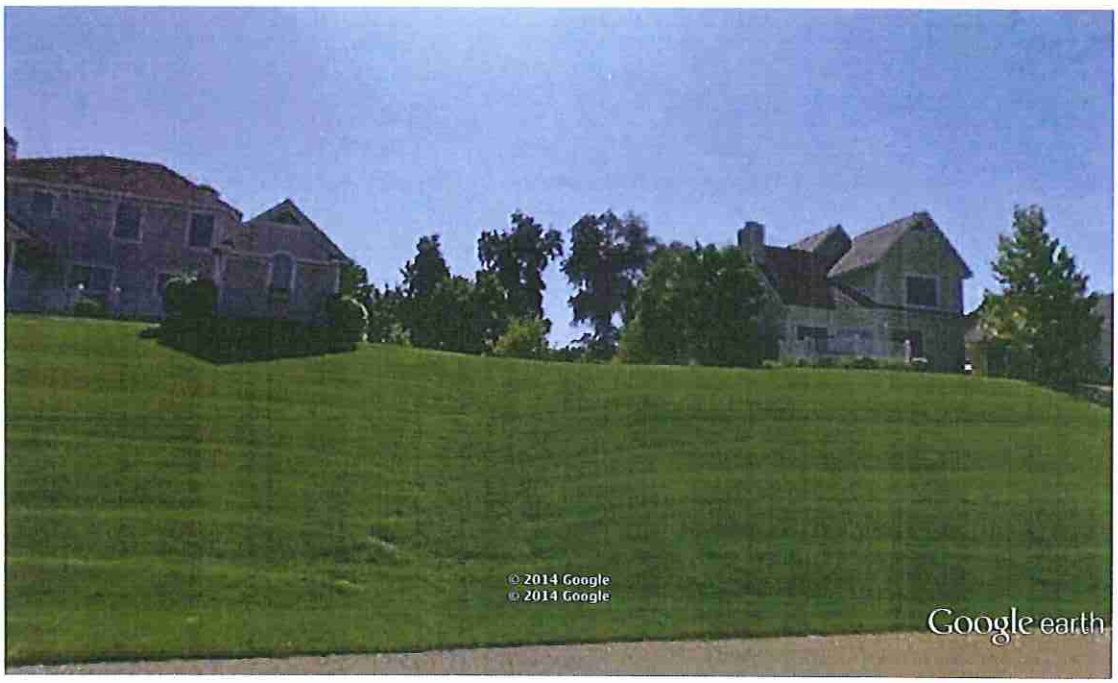
Other Factors to Consider

Topography

The northern lot area behind the primary structure has a steep slope that decreases the buildable area of the lot. The following contour map shows the 8 ft elevation variation that spans this area.



The following images from show the slope in the back (north) portion of the lot as seen from Front Street.



Lot Size

The lot size is typical of the average lot size in the Harborage Park Condominium with approximately 6,486 SF. The lot to the west has approximately 5,092 SF and the lot to the east has approximately 7,125 SF. The lots to the north are in the Multiple Family Residential District.

Public Comment

Staff received three letters from citizens regarding the variance request (See Exhibit D: Public Comment Letters).

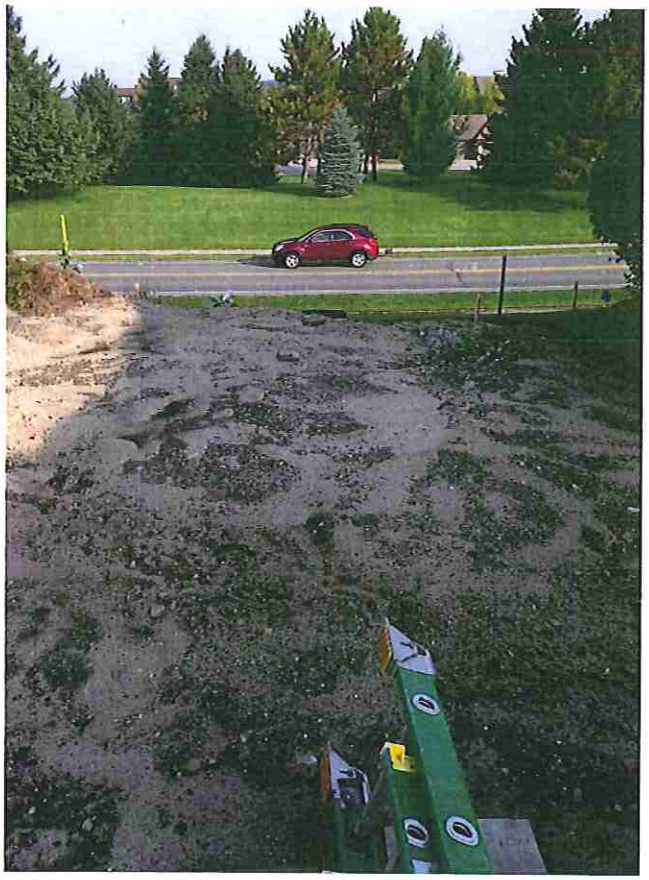
Current Photos of Property

Taken September 2014

1. Current primary structure and driveway.

2. Location of the proposed accessory building (facing the rear/north lot line).

3. Location of the proposed accessory building (facing the rear/north lot line).



Summary

The applicant is requesting relief from the Zoning Ordinance regulation, Section 20.10, requiring a 5 ft side set back for an accessory building that is not completely in the rear of the property. The proposed new development will be used as a garage.

Application of Standards

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 27.45.

Exhibits

A. Zoning Board of Appeals Application with plan sketch (August 27, 2014)
B. Land Survey
C. Public Comment Letters
D. Zoning Permit for Primary Structure (issued September 15, 2014)
E. Template for Findings of Fact

C Exhibit A

Boyne City, MI 49712-1195
231-582-0343
www.boynecity.com
No Faxed Copies/Originals only

ZONING BOARD OF APPEALS APPLICATION

Owner Name: DINO FRANCHINO
Address: ~~710 LAKE~~ 331 FRONT ST.
49712
Phone: 231-675-1832 E-mail: DINOFRANCHINO2@GMAIL.COM

Describe Variance Request: LOOKING FOR A 3' SETBACK ON DETATCHED GARAGE

Property Street Address: 710 LAKE PARK DR.
Nearest Intersection: LAKE PARK & FOREST LN.
Property Tax ID #: 051-498-013-00 **Zoning District:** TRD
Legal Description of Property (attach separate sheet if necessary):

Please attach:

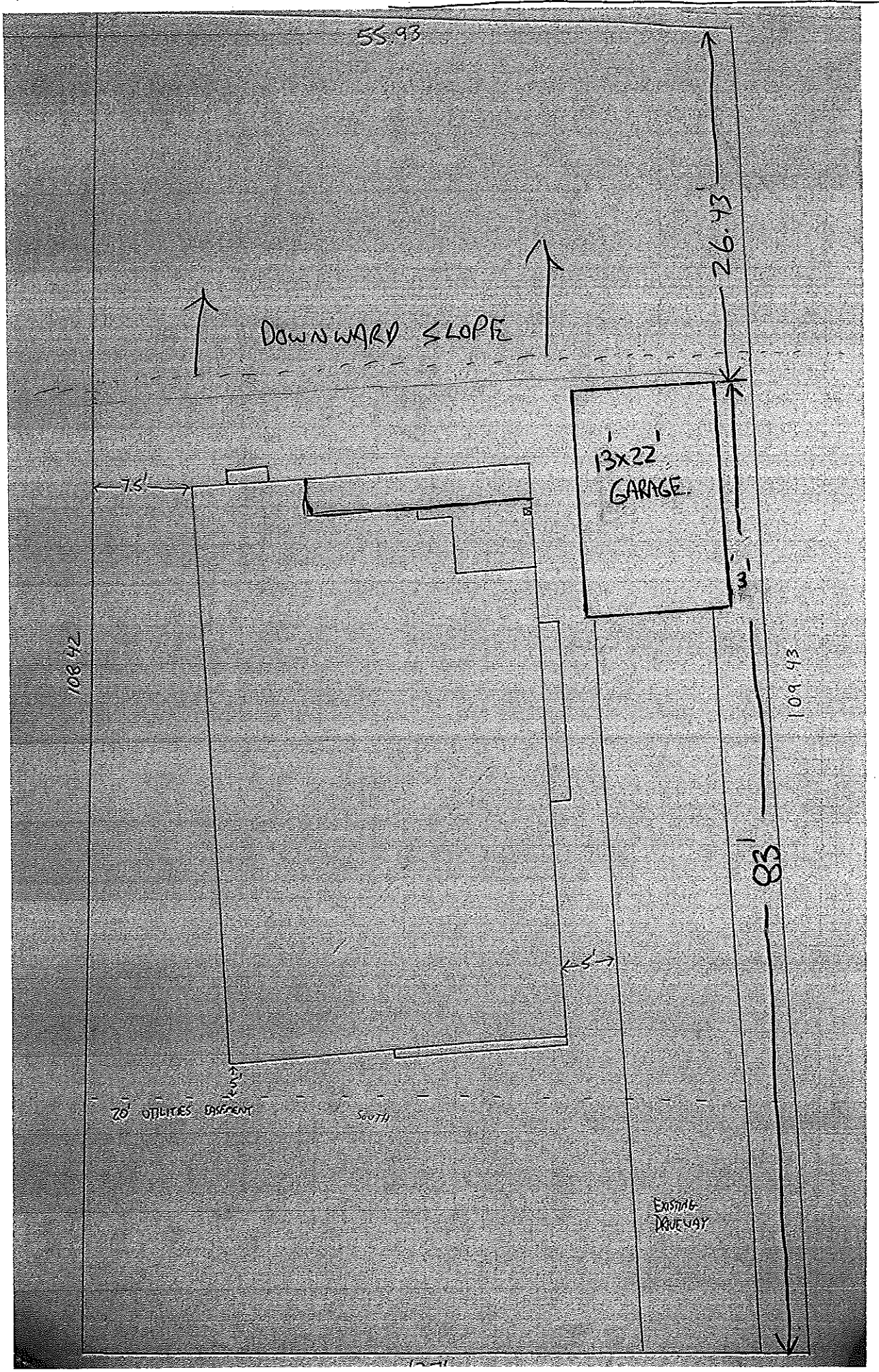
- ☐ Proposed building/construction with dimensions and front, side and rear yard setbacks
- ☐ Existing buildings/structures including decks, driveways, storage buildings, etc.
- ☐ Lot lines and dimensions and layout, including parking/loading areas
- ☐ Photos, prints, maps, graphics, or drawings of current site
- ☐ Copy of Soil Erosion permit application or MDNR permit application, if applicable
- ☐ Letter of approval from association's Aesthetic Review Committee, if applicable
- ☐ Well and/or septic permit or copy of approved City sewer/water application, if applicable
- ☐ Pertinent topographic features (steep slopes, trees, water, etc.)
- ☐ Road names, lakeshores, streams, easements, or other dedicated rights-of-way abutting the property
- ☐ Any other information you feel is necessary to present your case

Note: *I understand and agree to abide by all provisions of the Boyne City Zoning Ordinance as well as all procedures and policies of the Boyne City Zoning Board of Appeals as those provisions, procedures, and policies relate to the handling and disposition of this application; that the above information is true and accurate to the best of my knowledge; and that a filing fee is due with this application. I understand that if the requested variance is granted, I am in no way relieved from all other applicable requirements. I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary.*

Owner's Signature _____ Date 8-27-14

This is to certify the required filing fee was received on 8/27/14 and documented with receipt number 56453. This application is scheduled for public hearing on Oct. 7, 2014.
Staff Initials _____

DINO FRANCHINO 675-1852 FRONT ST



From: **Michael Sheean** m_sheean@yahoo.com
Subject: Fw: Garage Footings and Floor
Date: August 27, 2014, 9:47 AM
To: dinofranchino2@gmail.com

On Wednesday, August 27, 2014 9:17 AM, Michael Sheean <m_sheean@yahoo.com> wrote:

Hello Dino,

The Architecture Review Committee has approved your plan for the garage footings and floor in the location shown if they comply with all City and County Building Code requirements.

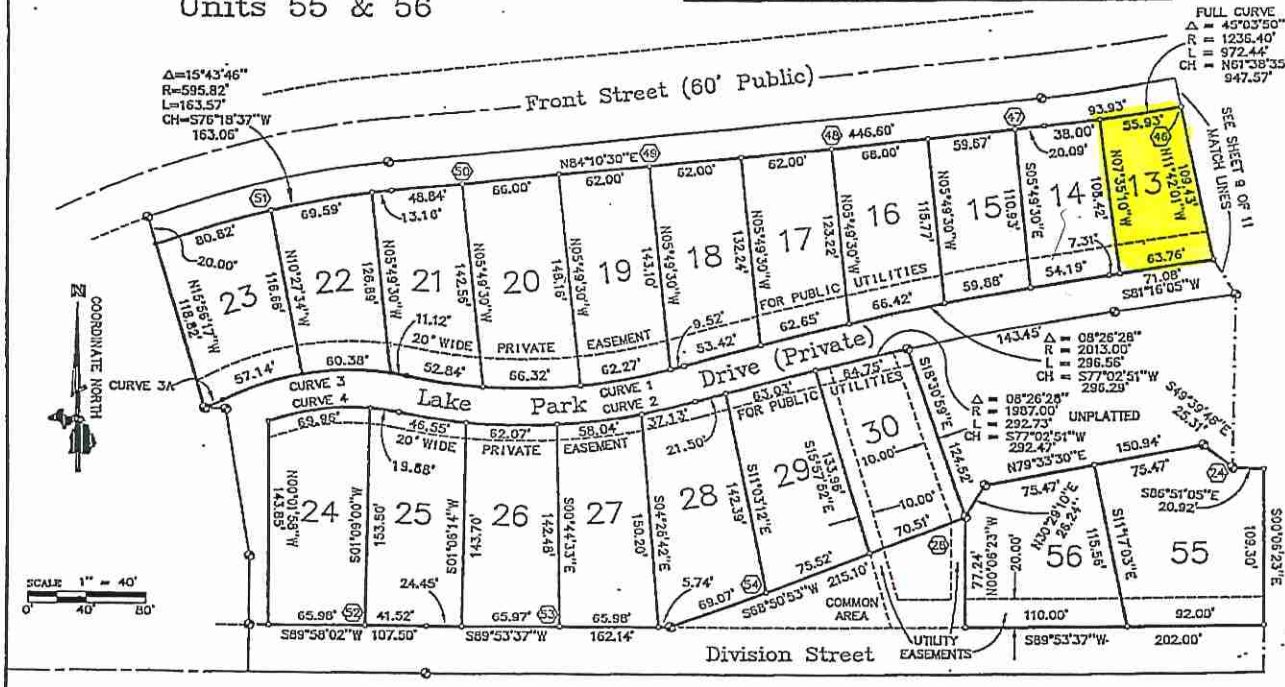
Michael Sheean

Exhibit B

HARBORAGE PARK
Unit Plan A & Section Sheet
Units 13 Thru 30 & Units 55 & 56

CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD BEARING		DELTA
CURVE 1	387.00'	190.95'	S86°57'45"W	189.02'	28°16'16"
CURVE 2	413.00'	203.78'	S86°57'45"W	201.72'	28°16'16"
CURVE 3	185.13'	128.64'	S81°51'07"W	126.07'	39°48'45"
CURVE 3A	100.00'	12.91'	S65°38'37"W	12.90'	07°23'45"
CURVE 4	159.13'	89.84'	S64°55'29"W	88.65'	32°20'49"



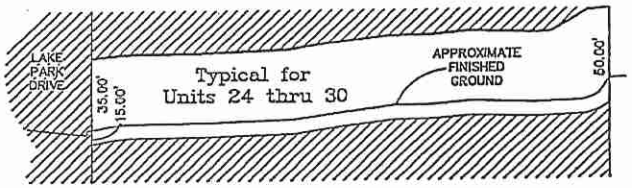
LEGEND

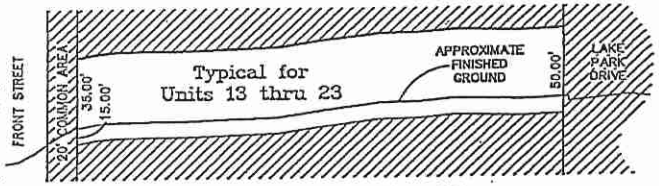
- MAJOR BOUNDARY MONUMENTS
- MINOR BOUNDARY CORNERS
- IRON PIPE SET
- P.O.B. POINT OF BEGINNING
- PROPERTY BOUNDARY
- EASEMENT LINES
- COORDINATE POINT
- GENERAL COMMON ELEMENT

NOTE: SQUARE FEET OF EACH UNIT IS SHOWN ON SHEETS 4 & 5.

FINISHED GROUND AT BUILDING SITE

UNIT	ELEVATION
13	610.3
14	610.5
15	610.1
16	609.2
17	608.5
18	607.6
19	606.9
20	606.8
21	607.0
22	607.4
23	607.5
24	607.5
25	607.1
26	606.9
27	606.8
28	607.2
29	608.1
30	608.8
55	627.5
56	627.5





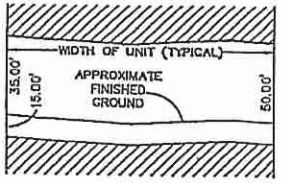
Longitudinal Sections
Not to Scale

NOTE:
THERE IS A 20.00' WIDE PRIVATE EASEMENT FOR PUBLIC UTILITIES OVER THE FRONT OF UNITS 1 THROUGH 53.

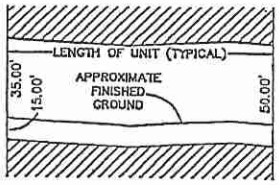
ALL UTILITIES FOR UNITS 54, 55 & 56 ARE NEED NOT BE BUILT

SCHEDULE OF COORDINATE POINTS

COORD. POINT	NORTH	EAST	COORD. POINT	NORTH	EAST
40	N 4518.14	E 4632.04	54	N 3861.74	E 3719.83
41	N 4436.85	E 4536.59	COORDINATE REMOVED		
42	N 4366.87	E 4435.39	56	N 3864.62	E 4099.38
43	N 4305.40	E 4323.84	57	N 3957.80	E 4223.28
44	N 4263.93	E 4228.43	58	N 3926.31	E 4398.41
45	N 4227.67	E 4119.56	59	N 3893.92	E 4574.52
46	N 4200.84	E 4002.18	60	N 3942.25	E 4737.68
47	N 4185.52	E 3889.19	61	N 4016.45	E 4854.84
48	N 4172.77	E 3764.17	62	N 4082.80	E 4959.59
49	N 4160.18	E 3640.81	63	N 4151.30	E 5067.72
50	N 4147.19	E 3513.47	64	N 4214.42	E 5194.27
51	N 4128.16	E 3383.41	65	N 4409.89	E 5226.83
52	N 3836.48	E 3447.59	66	N 4466.75	E 5034.43
53	N 3836.68	E 3580.20	67	N 4362.60	E 4902.79
24	N 3948.01	E 4037.06			
28	N 3914.43	E 3856.01			



Transverse Section
Typical for Units 13 thru 30, 55 & 56
Not to Scale



Longitudinal Section
Typical for Units 55 & 56
Not to Scale

JOHN F. KORR JR.
PROFESSIONAL SURVEYOR
LICENSE NO. 24600
GOSLING CZUBAK ENGINEERING SCIENCES, INC.
1280 BUSINESS PARK DRIVE
TRAVERSE CITY, MICHIGAN 49686-8607

JOB NO. 2002032.70

AS-BUILT DATED: SEPTEMBER 20, 2002

* SHEET 8 OF 11

P:\2002032.70\CADD-Data\Replat No. 2, Harborage Park\dwg\Unit Plan A.dwg 10/29/02 2:10pm wwanderson

Exhibit C

Haggard's

PLUMBING and HEATING

"Business of Quality and Service"
"Charlevoix-the-Beautiful"
haggards@freeway.net

Date: Sept 24, 2014

To: Boyne City Zoning Board
319 N. Lake St.
Boyne City, MI 49712

Re: Tax Parcel #'s 15-051-026-027-00 and 15-051-498-013-00

To Whom it May Concern,

Upon reviewing the above Notice of Public Hearing of the Zoning Board of Appeals, I would like to express my support with the above cases' requests. Haggard's Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted. It would prove positive for the local, county, state and country to do all we can to improve and promote growth in any way possible.

Sincerely,

Haggard's Plumbing & Heating

P.O. Box 35 06238 U.S. 31 South Charlevoix, Michigan 49720 Ph (231) 547-4046 Fax (231) 547-0364

Annie Doyle

From: Annie Doyle
Sent: Friday, October 03, 2014 12:24 PM
To: 'Msundwick'
Subject: RE: Variance at 710 lake Park dr.

Thank you for taking the time to provide your input on this zoning variance request. Your comment will be given to the members of the Zoning Board of Appeals and included in the public hearing regarding this matter on October 7, 2014 at 5:00 p.m. at Boyne City Hall.

Annie Doyle, MPA
Assistant Planner
City of Boyne City
Evangeline and Wilson Townships
231-582-0337 (o)
231-675-0099 (c)

www.cityofboynecity.com
www.facebook.com/boynecity
Twitter @cityboyne

-----Original Message-----
From: Msundwick [mailto:msundwick@yahoo.com]
Sent: Friday, October 03, 2014 11:28 AM
To: Annie Doyle
Subject: Variance at 710 lake Park dr.

I will be out of town during the hearing on this matter. Can I voice an opinion now? I live on Lake Park and would not want this variance pasted. We have done too many of these and the amount they are asking is too much, shows poor planning on their part.

Sent from my iPad

Annie Doyle

From: Annie Doyle
Sent: Friday, October 03, 2014 4:03 PM
To: 'Catherine Holt'
Subject: RE: Variance request for 710 Lake Park Dr.

Thank you for taking the time to provide your input on this zoning variance request. Your comment will be given to the members of the Zoning Board of Appeals and included in the public hearing regarding this matter on October 7, 2014 at 5:00 p.m. at Boyne City Hall.

Annie Doyle, MPA
Assistant Planner
City of Boyne City
Evangeline and Wilson Townships
231-582-0337 (o)
231-675-0099 (c)

www.cityofboynecity.com
www.facebook.com/boynecity
Twitter @cityboyne

-----Original Message-----
From: Catherine Holt [mailto:cjholt52@gmail.com]
Sent: Friday, October 03, 2014 3:56 PM
To: Annie Doyle
Subject: Variance request for 710 Lake Park Dr.

Good afternoon,

Would you please see that the Board of Appeals receives this email?
Thanks,
Catherine

This letter is regarding the garage variance request for 710 Lake Park Dr. Our concern with this variance is fire. The houses and garages in this association are wood sided and fire could spread rapidly.

The Holt/Cook garage measures 12 ft by 21 ft at the slab. It measures an additional 4 inches with the siding on it. We would request the 710 Lake Park garage be the same size to put as much room as possible between the two garages. We would also suggest a firewall be placed on the common side.

The slope, size and topography has not changed since the purchase. This experienced builder was aware of the issues with this lot.

We hope the board will take these concerns into consideration.

I will be out of town on October 7th.

Sincerely,

Catherine Holt
708 Lake Park Dr
8102871591
cjholt52@gmail.com

Exhibit D

CITY OF BOYNE CITY
319 N. Lake Street
Boyne City, MI 49712
www.boynecity.com

ZONING PERMIT APPLICATION

PERMIT NUMBER 2013-24

- Project Address 710 LAKE PARK LOT #13 HARBOR PARK
- Property ID Number (Tax Code Number) 15-051-408-013-00
- Property Owner DINO FRANCHINO Phone 675-1832
- Address 331 FRONT ST
- City BOYNE CITY State MI Zip 49712
- Contractor SELF Phone —
- Address —
- City — State — Zip —

Proposed Use SINGLE FAMILY RESIDENTIAL

Area of Lot (Square feet/Acres) 5,322 # Construction Costs $200,000.00

Zoning District TRD

Has a variance been granted for the proposed work? yes____ no X If so, what is file #?____

Applicant: The information provided is accurate to the best of my knowledge. I certify that all property and corners have been clearly staked and flagged and that all construction will conform with the Boyne City Zoning Ordinance and with the description contained in the application and site plan. All materials included with this application hereby become part of this application. Furthermore, I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary. Applicant/landowner shall be responsible for movement of footing placement when not found in conformance with property zoning and/or required setbacks from the roads and property boundaries.

Signature of Applicant: [signature] Date: 9-15-13

Signature of Property Owner: — Date: —

This is to certify the required permit fee was received on 9-17-13

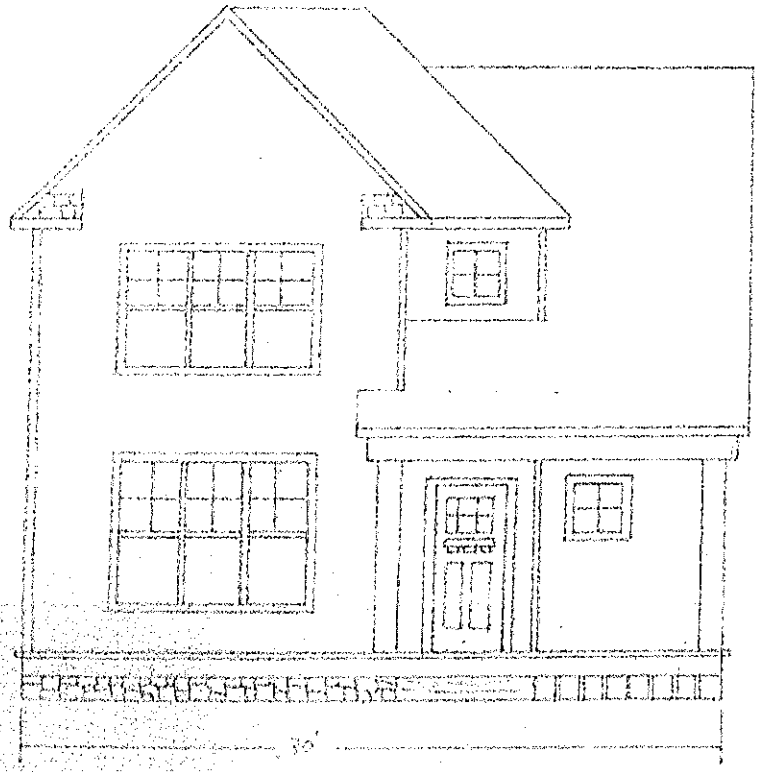
Receipt Number: 46820

Approved: ☒ Yes ☐ No

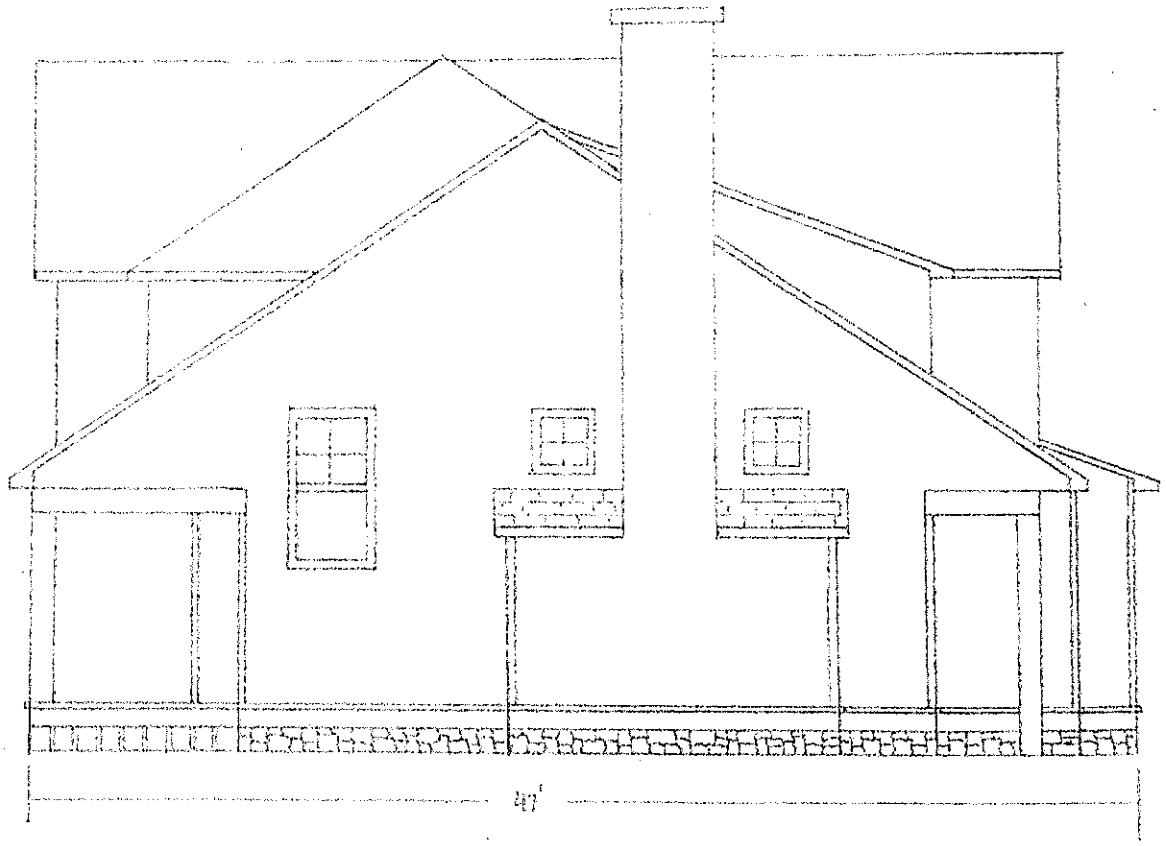
Scott McPherson
Signature of Zoning Administrator

NOTES:

710 LAKE PARK
FRANCHINO RESIDENCE
675-1832

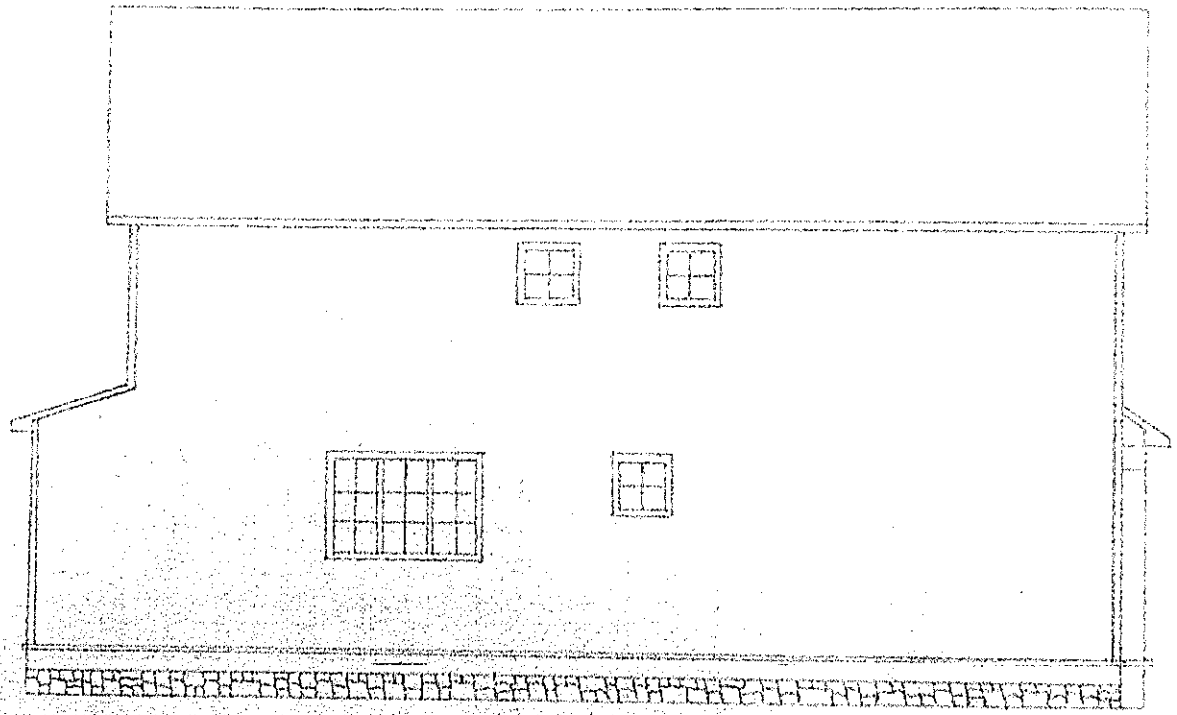


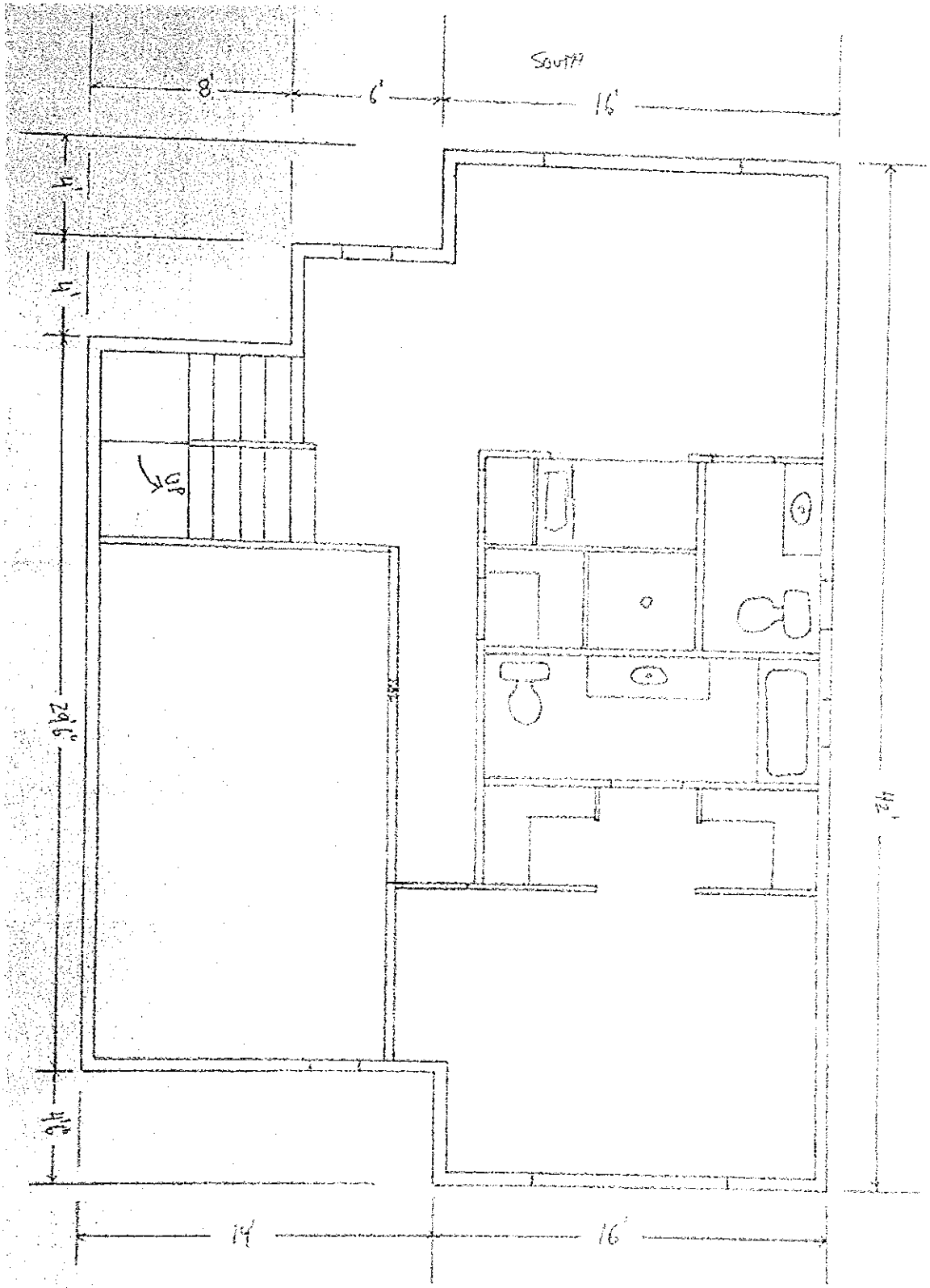
SOUTH



EAST


NORTH


WEST



2ND FLOOR
8' CEILING

BOYNE CITY
ZONING BOARD OF APPEALS

APPLICANT INFORMATION

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

HEARING DATE: **October 7, 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

Describe Variance Requests: 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 13 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).

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 **October 7, 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 Traditional Residential District (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 of the existing primary structure.
16.
17.
18.
19.
20.
21.
22.
23.
24.
25.
26.
27.

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.

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

2014-7-1-5A

Roll Call:
Aye:
Nay:
Abstain:
Absent:

DATE: 10-7-2014

Patrick Kubesh, Zoning board of Appeals Chairperson 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.