



City of Boyne City

Founded 1856

319 N. Lake Street

Boyne City, Michigan 49712
www.boynecity.com

Phone 231-582-6597
Fax 231-582-6506

BOYNE CITY
ZONING BOARD OF APPEALS MEETING
Tuesday, November 3, 2015
5:00 P.M.
Boyne City Commission Chambers, City Hall

1. CALL TO ORDER AND ROLL CALL
Excuse Absences
2. APPROVAL OF MINUTES – June 2, 2015
3. HEARING CITIZENS PRESENT (on non-agenda items)
4. CORRESPONDENCE
5. NEW BUSINESS
 - A. Variance Request – 628 W. Michigan Avenue
 - B. Variance Request – 629 S. East Street
 - C. Recommendation of Zoning Board of Appeals Appointments
 - D. Approval of 2016 Zoning Board of Appeals Meeting Calendar
6. OLD BUSINESS
 - A. None
7. REPORTS OF OFFICERS, BOARDS, AND STANDING COMMITTEES
8. GOOD OF THE ORDER
9. ANNOUNCEMENTS
10. ADJOURNMENT



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click on Boards & Commissions for complete
agenda packets & minutes for each board

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**Meeting Of
June 2, 2015**

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, June 2, 2015 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, Lynn Murray and Roger Reynolds
Absent: John McClorey

MOTION

ZBA 2015-06-02-1

Carlile moved, Kubesh seconded, PASSED UNANIMOUSLY a motion to excuse the absence of McClorey.

Meeting Attendance

City Officials/Staff: Planning Director Scott McPherson, Assistant Planning Director Patrick Kilkenny and Recording Secretary Pat Haver
Public Present: Two

Approval of the Minutes

MOTION

ZBA 2015-06-02-2

Murray moved, Reynolds seconded, PASSED UNANIMOUSLY, a motion to approve the May 5, 2015 minutes as presented.

Roll Call

Ayes: Kubesh, Murray and Reynolds
Nays: None
Absent: McClorey
Abstain: Carlile
Motion carries

Hearing Citizens Present

None

Correspondence(s)

None

**New Business
Adoption of 2015 Calendar**

MOTION

Included in the agenda packet is the 2015 meeting calendar, for your review and consideration. **Motion by Kubesh, seconded by Murray, PASSED UNANIMOUSLY**, to adopt the 2015 calendar as presented.

Public hearing opened at 5:02 pm

**Variance Request 600
Jefferson Street**

Assistant Planning Director Patrick Kilkenny reviewed his staff report that was included in the agenda packet. The current owner is Donna Viveen, and the 20 acre parcel is vacant, forested and currently for sale. One of the original applicants, John McCafferty, at this time, is no longer interested in pursuing the purchase of the property; however, the representatives will be moving forward for the current owner Mrs. Viveen. The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 24.80, which states "For any development in the residential districts, the parking surface on the property and access driveways shall be covered with pavement or hard surface material". The planning department did receive one phone call from a neighbor who is opposed to granting the variance.

Chris Christensen from Lynda's Real Estate – representing potential buyers: We wanted to go ahead with the hearing, due to the posting of the hearing and notices to the neighbors; we feel that we would be able to secure a buyer with the variance. The property in this area is wet to the front; the desired building sites are closer to the rear of the property. The client that was interested in purchasing the property was willing to pave a portion of the drive back to the desired building site; but not the total length of almost 1,000 feet. They also did not have a problem with paving an apron from the road or placing a culvert as required, just did not want to have to pave the entire length of a driveway. Due to the average size of lots within the city, average driveways are close to 40 feet.

Dick Fish from Lynda's Real Estate – representing the current owner: The plan is for a single family estate within the city limits, no plans for a multi family development due to the wetness.

There is city water and sewer available down Jefferson Street. There is no access to this property other than coming off of Jefferson Street. The board had concerns about granting a variance without an active purchaser; and the possibility of having to come before the board again after 6 months if no construction started on the driveway. This variance stays with the parcel, even if the property is sold. The property does not have an official wetland delineation that anyone is aware of.

Public hearing closed at 5:43 pm

Board Deliberation and Finding of Fact.

GENERAL FINDINGS OF FACT

1. The property is owned by Donna Viveen of Destin, Florida.
2. The property identification number is 15-051-026-005-00.
3. The property is in the Rural Estate District (RED).
4. The property is currently vacant.
5. Access to the property is provided by Jefferson Street which is a public road.
6. The adjacent properties are in the Rural Estate District (RED) to the south, and east and Evangeline Township to the north.
7. The adjacent properties across Jefferson Street to the west are zoned Traditional Residential District (TRD).
8. The north, south, and east sides of the property share a lot line with other privately owned properties.
9. To the west, the property is bounded by Jefferson Street.
10. The property is not irregularly shaped.
11. The topography of the property is generally rolling terrain and the property is forested.
12. Section 24.80 of the City of Boyne City Zoning Ordinance states “*For any development in the residential districts, the parking surface on the property and access driveways shall be covered with pavement or hard surface material*”
13. The property is approximately 20 acres in size (1,291' x 642').
14. The Boyne City Street Department requires the new driveway to match the material (asphalt) of Jefferson St.
15. The Boyne City Street Department requires the driveway approach to be at least 10' wide.
16. The Boyne City Street Department requires a minimum of 3" of asphalt over a minimum of 6" compacted 22AA base.
17. The Boyne City Street Department requires a 12" culvert to be installed with the driveway.
18. *North boundary delineation is between City and Evangeline Township*

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.
Affirmative – Due to the length required to get to the desired building site; 1,000 foot driveway would be burdensome financially.
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
4. The need for the variance is not self created.
Affirmative – Topography of property and ordinance requirement causes need; 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.
Affirmative – Topography and wetness of property are unique to this 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.

ZBA 2015-06-02-5B

Carlile moved, Murray seconded that the driveway paved portion to be no less than 55 feet, with the condition that no gravel portion is to be seen from Jefferson Street.

MOTION

Roll Call

Ayes: Carlile, Kubesh, Murray and Reynolds

Nays: None

Absent: McClorey

Abstain: None

Motion carries

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

None

Good of the Order

Pat Kubesh will be unavailable for any July or August meetings that may be held

Announcements

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for July 7, 2015 at 5:00 p.m.

Next Meeting

**Adjournment
MOTION**

ZBA 2015-06-02-10

Murray moved, Carlile seconded, PASSED UNANIMOUSLY a motion to adjourn the Tuesday, June 2, 2015 Boyne City Zoning Board of Appeals meeting at 6:01 p.m.

Patrick Kubesh, Chair

Pat Haver, Recording Secretary

DRAFT

CITY OF BOYNE CITY

To: Chair Pat Kubesh and fellow ZBA members
From: Patrick Kilkenny, Assistant Planner
Date: November 3, 2015
Subject: Variance Request at 628 W. Michigan Ave.



Background

The subject parcel is located at 628 W. Michigan Ave., Lot 5 & W1/2 of Lot 6 Davis, (PID: 051-185-005-10). The property is owned by David K. Austin and located in the Traditional Residential District (TRD).

The parcel is approximately 0.9 acres (200'x200') in size and includes a principal residence and two small outbuildings. Adjacent properties to the north, east and west are zoned TRD and properties to the south across W. Michigan Ave. are zoned Waterfront Residential District (WRD). All properties adjacent to the subject property are privately owned with existing residential dwellings.

Discussion

The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 4.40 – Development Requirements, A. Building Design, 3. *“Accessory buildings and attached garages shall have a front yard setback that is at least ten feet greater than the front setback of the principal building that is located on the front portion of the lot.”*

The purpose of this request is to move and reconstruct an existing garage immediately west of the residence. The variance request is for approximately 5' of relief from the required 10' setback from the front of the principal building.

Other factors

The topography of the property is such that requiring the 10' setback will result in the need for extensive excavation due to the existing contour of the land. Additionally, the 10' setback placement will not allow for the ADA designed entrance as shown on the application. The applicant is requesting the minimum relief necessary to locate the garage in the preferred location while providing a 5' setback.

Summary

The applicant is requesting a variance of 5' from the required 10' setback due to topographic and design limitations.

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 4.40.

Public Comment:

Monday, October 14, 2015: letter of support received from Haggard's Plumbing and Heating.

Please find enclosed in this packet the following exhibits:

- A. Zoning Board of Appeals Application with site photos
- B. Area Map of Subject Property
- C. Contour Map of Subject Property
- D. Findings of Fact



City of Boyne City

319 N. Lake Street
Boyne City, MI 49712-1188
231-582-0343

www.boynecity.com

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ZONING BOARD OF APPEALS APPLICATION

Owner Name: David K. Austin
Address: 628 W. Michigan Ave., Boyne City, MI 49712
Phone: 231.330.7993 **E-mail:** david@muddypaw.net

Describe Variance Request: We are moving a garage onto our property from down the street. We are requesting a 5' set back verses a 10' set back from the furthest point of the house. This is to accommodate a future planned ADA access into our house next year. See attached info. Thank you.

Property Street Address: 628 W. Michigan Ave., Boyne City, MI 49712
Nearest Intersection: Boyne City Charlevoix Rd and W. Michigan Ave.
Property Tax ID #: 051-185 - 005 - 10 **Zoning District:** Residential
Legal Description of Property (attach separate sheet if necessary): LOT 5 & W1/2 of LOT 6 DAVIS PLAT 93SP/COMB1192 185-006-00/185-005-00

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** Oct. 5, 2015

This is to certify the required filing fee was received on 10/5/15 and documented with receipt number 70037. This application is scheduled for public hearing on 11/3/15.
Staff Initials pk

Section 27.45 Standards for Non-use Variances. (effective 4-28-2010)

- A. The Zoning Board of Appeals may authorize, upon an appeal, a non-use variance from the strict application of any provision of this Zoning Ordinance where, by reason of exceptional irregularity, narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of this Zoning Ordinance would result in peculiar or exceptional practical difficulties upon the owner of such property.
- B. In hearing and deciding appeals for non-use variances, the Board shall adhere to the following criteria in determining whether or not practical difficulties 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 Ordinance 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 non-use variance if it finds an application does not meet all of the above listed criteria for determining whether or not a practical difficulty exists.

Section 27.50 Standards for Use Variances. (effective 4-28-2010)

In consideration of variances from the allowed uses as prescribed by this Ordinance, the Zoning Board of Appeals shall, first determine that the proposed variation from use affirmatively meets all of the following general standards for unnecessary hardship:

- A. The proposed variation involves exceptional circumstances not found in other areas of the same zoning district.
- B. The proposed variation will be in harmony with the general purposes and intent of this Zoning Ordinance, and the Comprehensive Plan.
- C. The proposed variation will not in any respect impair the public health, safety, comfort or welfare of the inhabitants of the City.
- D. The proposed use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.
- E. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contact in residentially zoned districts.
- F. The location, size, intensity, site layout and periods of operation of such proposed use will be designed to eliminate any possible nuisance emanating therefrom, which nuisance might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
- G. The location and height of buildings or structures and the location, nature and height of walls and fences will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

SCALE: 1" = 60'

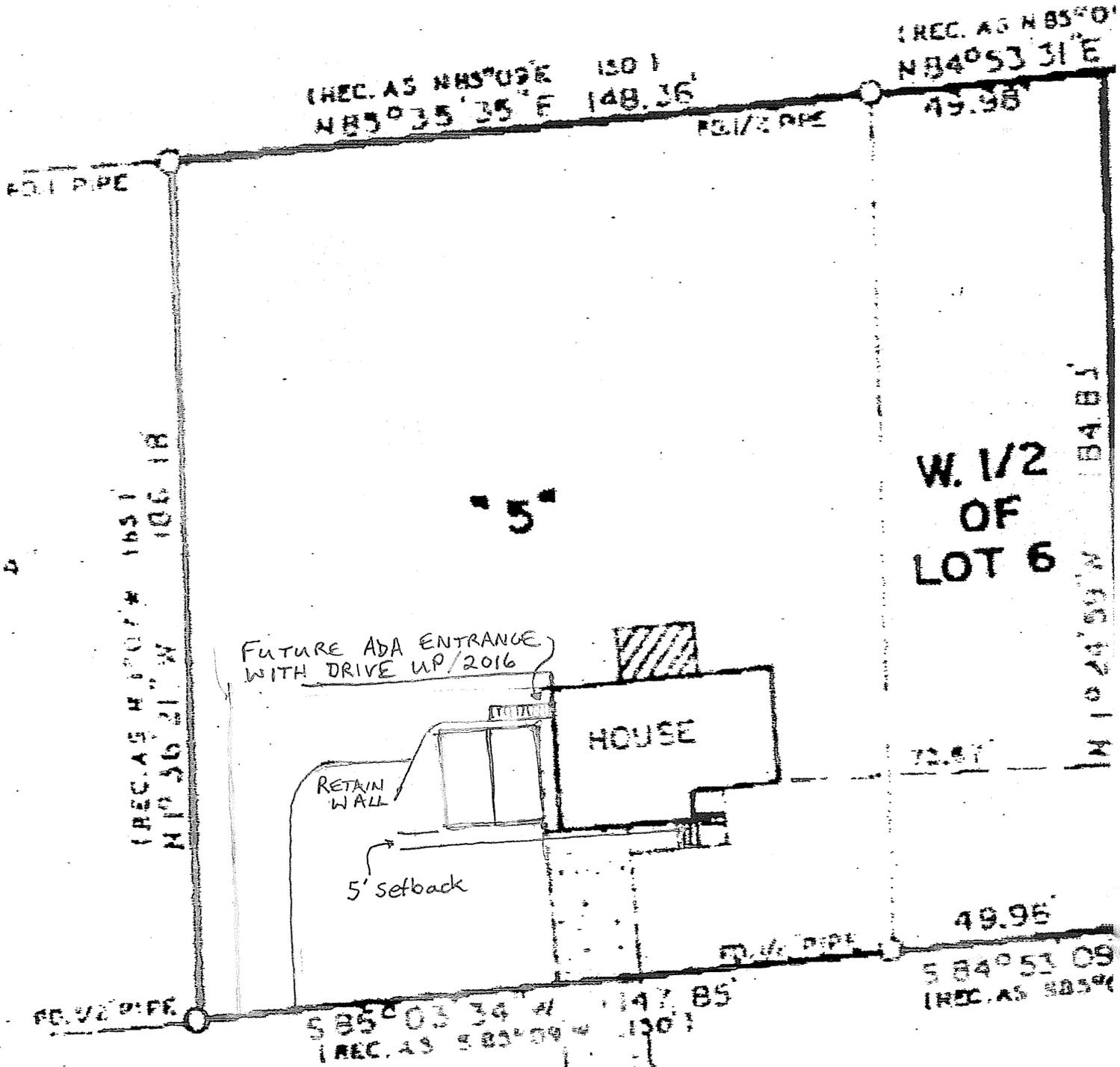
DATE: October 12, 19

PROPOSED GARAGE LOCATION

AUSTIN

* NOT TO SCALE

DAVIS



WEST MICHIGAN AVE

Addendum Notes for Zoning Board of Appeals for Garage Location Variance for David K. Austin, Located at 628 W. Michigan Ave., Boyne City, MI 49712

Dear Zoning Board of Appeals,

We are moving an existing 20 w. x 22 d. x14 t. garage from down the street on W. Michigan Ave. to our property. We are respectively requesting a 5' set back variance for our garage location to accommodate a future ADA wheel chair access to the main level of our house from the side into the kitchen area. Our parents are aging and having increasing ambulatory difficulties and we anticipate needing to care for them in the future. By preemptively accommodating for the entrance now we are creating a more accessible environment for them.

The easiest way to gain access will be from the side of the house after back filling for a drive up and installing a door where a window currently exists. Please note the attached pictures of the locations. If we locate the garage within the existing parameters of the code we will not have the access point for wheel chairs. With the garage located as indicated at 5' set back as opposed to the 10' set back we will be able to drive around to the side entrance when needed for our parents. Due to the geographic conditions of our property and locations of existing structures we feel this is the best solution.

Thank you very much for your consideration.

Sincerely,

David K. Austin



AUSTIN GARAGE LOCATION



Austin Side Yard

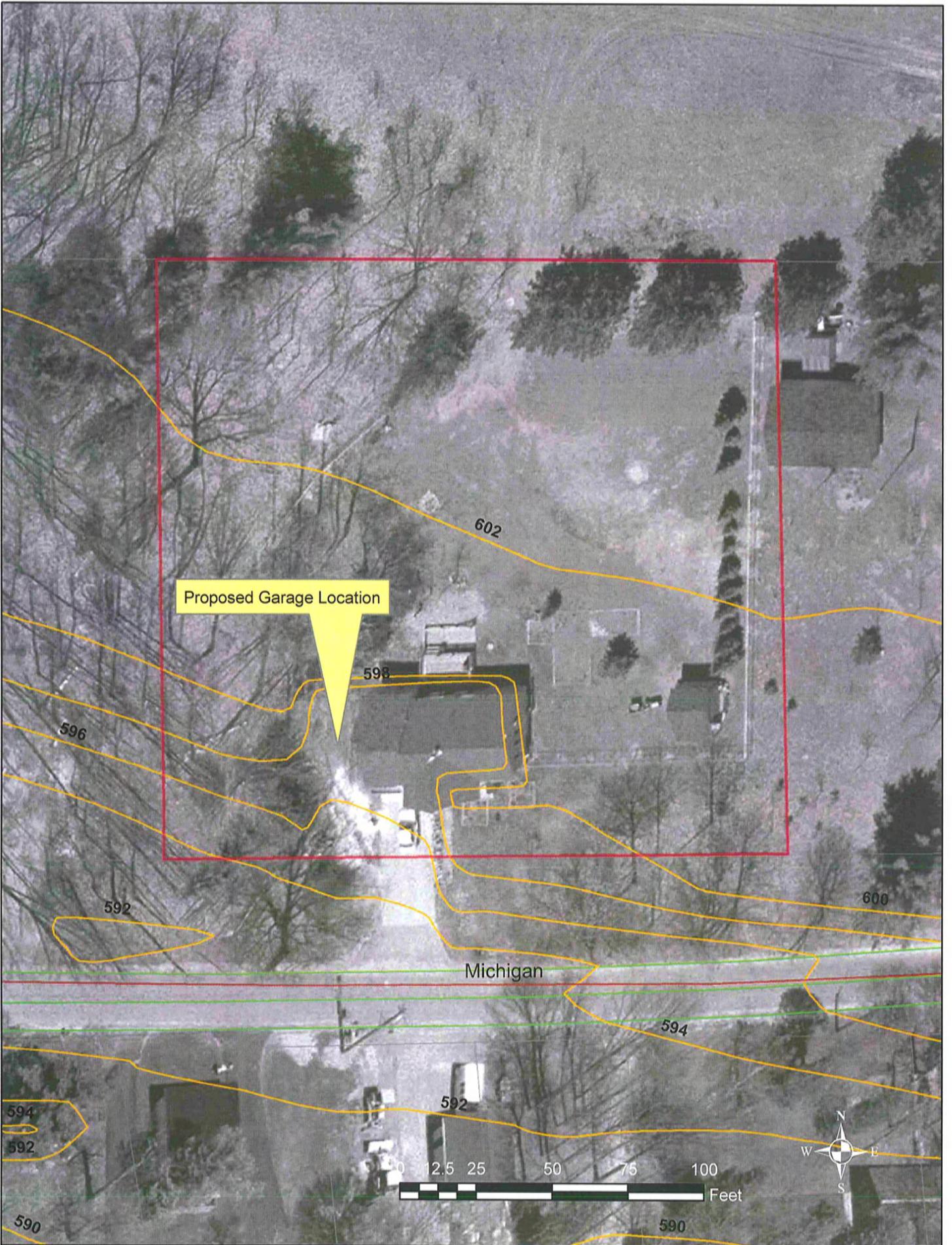


AUSTIN GARAGE TO BE MOVED ONTO PROPERTY - 22'D. X 20'W. X 14'T.



Subject Property
628 W. Michigan Ave.





Haggard's

PLUMBING and HEATING

"Business of Quality and Service"

"Charlevoix-the-Beautiful"

haggardsinc@hotmail.com

Date: Wednesday, October 14, 2015

To: City Planners Office
319 N. Lake St.
Boyne City, MI 49712

RE: Parcel#15-051-185-005-10 Request from David Austin at 628 W. Michigan Avenue, Boyne City, MI 49712

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 case's 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

CITY OF BOYNE CITY
ZONING BOARD OF APPEALS

PUBLIC NOTICE

Notice is hereby given that, pursuant to rules and regulations as outlined in the Boyne City Zoning Ordinance Section 27.20, a public hearing will be held by the Boyne City Zoning Board of Appeals on Tuesday, November 3, 2015 at 5:00 p.m. in the City Commission Chambers at 319 N. Lake Street, Boyne City, MI, to review and consider the following:

A variance request from David Austin for parcel numbers 15-051-185-005-10 at 628 W. Michigan Avenue, Boyne City, MI 49712. The applicant is requesting a variance from Section 4.40 Building Design that accessory buildings and attached garages shall have a front yard setback that is at least ten feet greater than the front setback of the principal building that is located on the front portion of the lot.

More details on this variance request are available for review at the Boyne City Planning Department, Monday through Friday, 8:00 a.m. through 5:00 p.m. All interested persons are encouraged to attend the public hearing and participate in the discussion. Any written input in regards to the request may be submitted to the City Planner's office until 5:00 p.m. on the day of the public hearing or at the public hearing. For further information visit the City Planner's office at 319 N. Lake Street, Boyne City, MI 49712, or call (231)7582-0337 or e-mail pkilkenny@boynecity.com

(L-10/13)

2095 PUBLIC NOTICES

CITY OF BOYNE CITY
ZONING BOARD OF APPEALS

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More details on this variance request are available for review at the Boyne City Planning Department, Monday through Friday, 8:00 a.m. through 5:00 p.m. All interested persons are encouraged to attend the public hearing and participate in the discussion. Any written input in regards to the request may be submitted to the City Planner's office until 5:00 p.m. on the day of the public hearing or at the public hearing. For further information visit the City Planner's office at 319 N. Lake Street, Boyne City, MI 49712, or call (231)7582-0337 or e-mail pkilkenny@boynecity.com

(L-10/13)

*10/13/15
Review
Petoskey News*

051-027-028-00
MILLER THOMAS A & BARBARA R
643 W MICHIGAN AVE
BOYNE CITY MI 49712

051-185-005-10
TAYLOR KRISTIN S
628 W MICHIGAN AVE
BOYNE CITY MI 49712

051-185-004-00
CAREY LEANNE E & PATRICK TTES
CAREY LEANNE E TRUST
8701 CAMELOT DR
ROCKFORD MI 49341

051-185-003-00
DAVIS THOMAS & LUBA
DAVIS CRISTY J LE
8222 RUBLE NE
LOUISVILLE OH 44641

051-185-002-00
O BRIEN MICHAEL & CRISTINE
DAVIS CRISTY J LE
1224 WICKFORD LANDING
VIRGINIA BEACH VA 23464

051-027-036-00
STANLEY WILLIAM H TRUST
STANLEY SANDRA R TRUST
501 HANNAH ST
BOYNE CITY MI 49712

051-027-037-00
MARTIN MARIAN F TRUST AGMT
623 GLENWOOD BEACH
BOYNE CITY MI 49712

051-027-032-00
WOLLSCHLAGER DANIEL J &
CONNIE
4532 LEBLANC CT
BRIGHTON MI 48116

051-027-031-00
ELLWANGER GEORGE R &
BARBARA J
627 W MICHIGAN AVE
BOYNE CITY MI 49712

051-027-030-00
RUGGERI KERRY A & DEBIANN P
240 TOURAINE
GROSSE POINTE FARMS MI 48236

051-185-009-10
LOEWEN JASON
616 MICHIGAN AVE W
BOYNE CITY MI 49712

051-185-007-10
CUNNINGHAM RICHARD E & NANCY
J
622 W MICHIGAN AVE
BOYNE CITY MI 49712

051-027-025-00
HERZOG JOHN B & RUTH ANN
362 EDGEMERE WAY N
NAPLES FL 34105

051-027-029-10
SHIOTELIS GEORGE E JR & JUDY L
635 W MICHIGAN AVE
BOYNE CITY MI 49712

051-027-029-00
COYLE WALTER D & SUSAN LEE
631 W MICHIGAN AVE
BOYNE CITY MI 49712

051-027-027-00
SHIOTELIS GEORGE E JR & JUDITH
635 W MICHIGAN AVE
BOYNE CITY MI 49712

051-027-026-00
BRINKMAN MARJORIE E
SNELL FRED A, ROBT E & DOR.
RIMAWI
2524 RIDGEFIELD RD
PORTAGE MI 49024-3238

051-027-018-00
DAVIS CRISTY & LOUANNE
DORNE L DAVIS
616 N KINNEY AVE
MOUNT PLEASANT MI 48858-1755

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **David K. Austin**
 628 W. Michigan Ave.
 Boyne City, MI 49712

HEARING DATE: **November 3, 2015**

PROPERTY DESCRIPTION

The subject parcel is located at 628 W. Michigan Ave., Lot 5 & W1/2 of Lot 6 Davis, (PID: 051-185-005-10). The property is owned by David K. Austin and located in the Traditional Residential District (TRD).

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 4.40 – Development Requirements, A. Building Design, 3. “*Accessory buildings and attached garages shall have a front yard setback that is at least ten feet greater than the front setback of the principal building that is located on the front portion of the lot.*” The purpose of this request is to move and reconstruct an existing garage immediately west of the residence. The variance request is for approximately 5’ of relief from the required 10’ setback from the front of the principal building. 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 3, 2015** 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 David K. Austin.
2. The property identification number is 15-051-185-005-10.
3. The property is in the Traditional Residential District (TRD).
4. The property is currently includes a principal residence and accessory buildings.
5. Access to the property is provided by W. Michigan Ave. which is a public road that bounds the south side of the parcel.
6. The adjacent properties to the north, east and west are zoned TRD.
7. Properties to the south across W. Michigan Ave. are zoned Waterfront Residential District (WRD).
8. Properties adjacent to the subject property are privately owned, and include existing single family dwellings.
9. To the south the property is bounded by W. Michigan Ave.
10. The property is not irregularly shaped.
11. The topography of the property is steep and wooded in the south west, steep and open in the south east, and generally flat and wooded to the north.
12. Section 4.40(A)(3) of the City of Boyne City Zoning Ordinance states: *“Accessory buildings and attached garages shall have a front yard setback that is at least ten feet greater than the front setback of the principal building that is located on the front portion of the lot.”*
13. The property is approximately 0.9 acres in size (200' x 200').
14. The minimum lot area in the TRD is 5,445SF.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.

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.
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.

CITY OF BOYNE CITY

To: Chair Pat Kubesh and fellow ZBA members
From: Patrick Kilkenny, Assistant Planner
Date: November 3, 2015
Subject: Variance Request at 629 S. East St.



Background

The subject parcel is located at 629 S. East St., W 85 FT OF LOT 314 & THE S 1/2 OF W 85 FT OF LOT 313, BLK 19, NICHOLLS & MORGANS 3RD ADD TO S BOYNE, (PID: 051-366-313-00). The property is owned by David B. Sandin and located in the Traditional Residential District (TRD).

The parcel is approximately 8,415 sq. ft. (99'x85') in size and includes a single family residence and a detached garage. The property is bounded by S. East St (public road) to the west, and Morgan St. (public road) to the south. Adjacent properties to the north and east are zoned TRD and properties to the south and west across public roads are zoned TRD. Parcels adjacent to the subject property to the north, east, and west are privately owned with existing residential dwellings. The parcel immediately south of the subject property is approximately 8.3 acres, vacant, and owned by the Boyne City Housing Commission.

Discussion

The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 21.36 – Accessory Buildings and Structures, A. General Standards (3). *“Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main or principal buildings.”*

The purpose of this request is to structurally attach the garage to the residence. The variance request is for approximately 10.8' of relief from the required 15' setback from the rear lot line of the property.

Other factors

The existing detached garage was built in the current location by a former owner of the property. The applicant states that the existing layout of the garage and residence causes excessive snow to drop from both roofs into the open space between the structures resulting in a safety hazard. The applicant is requesting the minimum relief necessary to structurally attach the garage to the residence. The attachment of the two structures will not increase the existing nonconformity of the rear yard setback requirement.

Zoning Permit #2015-44 was approved and issued on October 1, 2015 for the construction of a 7.5' x 23' roof over the existing deck as shown on the attached survey.

Summary

The applicant is requesting a variance of 10.8' from the required 15' setback due to limitations caused by the original construction and location of the existing garage.

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 21.36.

Public Comment:

Monday, October 19, 2015: letter of support for the variance request received from Haggard's Plumbing and Heating.

Please find enclosed in this packet the following exhibits:

- A. Zoning Board of Appeals Application with site photos
- B. Area Map of Subject Property
- C. Layout Map of Subject Property
- D. Findings of Fact



City of Boyne City

319 N. Lake Street
Boyne City, MI 49712-1188
231-582-0343

www.boynecity.com

No Faxed Copies/Originals only

ZONING BOARD OF APPEALS APPLICATION

Owner Name: David B. Sandin

Address: 629 East St. South

Phone: 520-548-2036 E-mail: _____

Describe Variance Request: Change in Roof line Making House on Garage
One Unit - Existing Garage is 4'2" from East Property Line.

Property Street Address: 629 East St. South

Nearest Intersection: Morgan & East St. South

Property Tax ID #: 051-366313-00 Zoning District: TRD

Legal Description of Property (attach separate sheet if necessary): _____

Section 35 Township 33 Range 6

W-85 Ft. of lot 314 - The S 1/2 of W85 Ft of
Lot 313 Block 19. Nicholls and Morgans

Please attach:

- Proposed building/construction with dimensions and front, side and rear yard setbacks
- Existing buildings/structures including decks, driveways, storage buildings, etc. 3rd Add. to S. Boyne
- 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 [Signature] Date 10-14-15

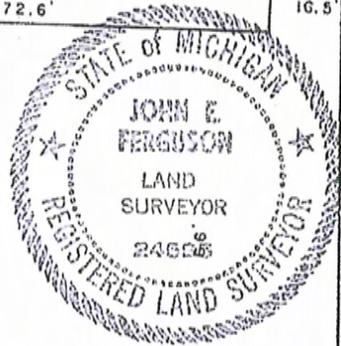
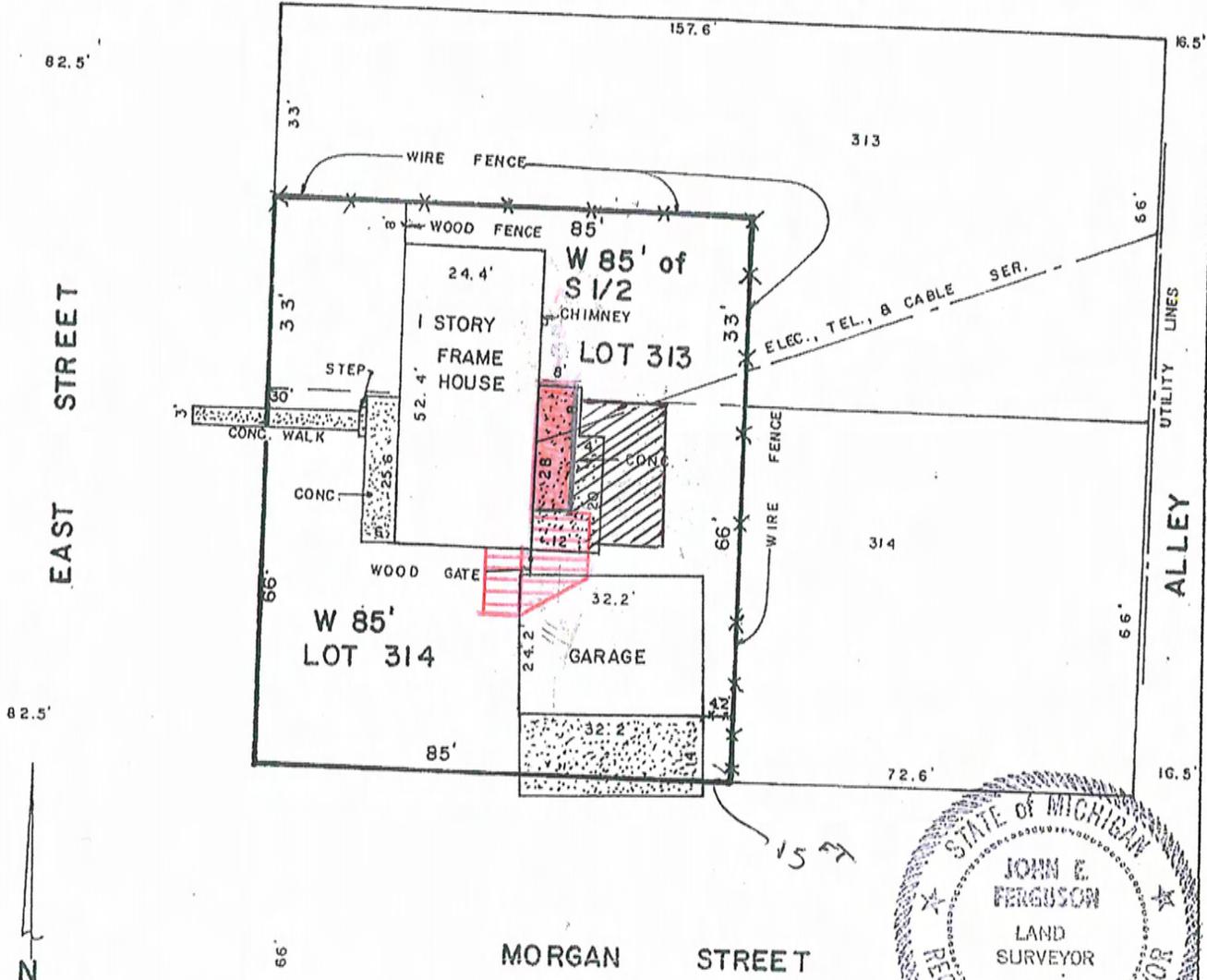
This is to certify the required filing fee was received on 10-14-15 and documented with receipt number 70160. This application is scheduled for public hearing on 11/3/15.
Staff Initials PK

(BEHLING) NM-21689-M NM-22881-PMA
(WILSON) (Morrow)
GL-10227-C (LEON CAREY)

CERTIFICATE OF MORTGAGE INSPECTION

CERTIFIED TO: HOMESTEAD USA, INC.
900 E. Front Street, Suite 125
Traverse City, Michigan 49686, and
GREAT LAKES TITLE CO.
1004 S. Bridge Street
Charlevoix, Michigan 49720
DATE: January 6, 1999

"NICHOLL'S & MORGAN'S 3RD. ADDITION to South Boyne"



SCALE: 1" = 30'

ALL LOT DIMENSIONS ARE DEPICTED AS ORIGINALLY PLATTED.
SIDELINE DIMENSIONS ARE SHOWN TO EXISTING FENCES.

DESCRIPTION: In the City of Boyne City, Charlevoix County, Michigan. The West 85 feet of Lot 314 and the West 85 feet of the South Half of Lot 313, Block 19 of NICHOLLS AND MORGAN'S THIRD ADDITION to South Boyne, (now City of Boyne City), according to the recorded plat thereof as recorded in the Office of the Register of Deeds, Charlevoix County Records.

John E. Ferguson, P.S. No. 24595
I HEREBY CERTIFY that I have inspected the property described hereon; and that there are no visible encroachments except as noted.

SM-15580c-99(R)
SM-1066c82 SM-4212c-88(R) SM-4564c-89(R)

JOHN E. FERGUSON ASSOCIATES, INC.
— LAND SURVEYING —
PINE RIVER BUILDING
CHARLEVOIX, MICHIGAN 49720
(616) 547-6882

Proposed Building Changes. &

Existing Building Noted on Land Survey
Done in 1999.



Solid Red. - Approved Attached Cover off
Back of house. $7\frac{1}{2}' \times 23'$.



Proposed Covers and Roof Line adding
house and Garage Together.



Existing Deck not showing on Survey
Set Back to East property line $11'6''$
North property line $31'$



Proposed Location View from Back Yard.

View from East Street. Proposed Cover off
House and Garage to Back yard.



Below
View from Morgan Str.
Roof line will show same pitch as house



The issue here is not the proposed
Patio cover and Roof line change between
the house and garage. It is that by doing
so makes this one unit. The Garage
Location is 4'2" from Property line
on Morgan St. to the East.



Morgan Str. View

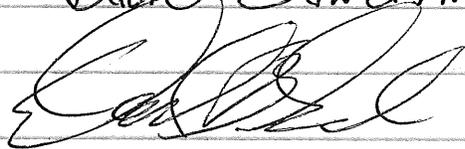
View of my Garage from Nexted Door.



Morgan Str.

My Building Permitt was Approved. by
Charlevoix Co. The Patio Cover and roof line
change are an attempt to correct a poor design
and location of the Garage. To enhance The
appearane and make a Safe. Winter Envirement
for My Wife, children and Grand children
Snow on both roofs dropping into space between
house and Garage. With Metal Roofs on both
building snow slides off Causing what I
feel is a Safety issue.

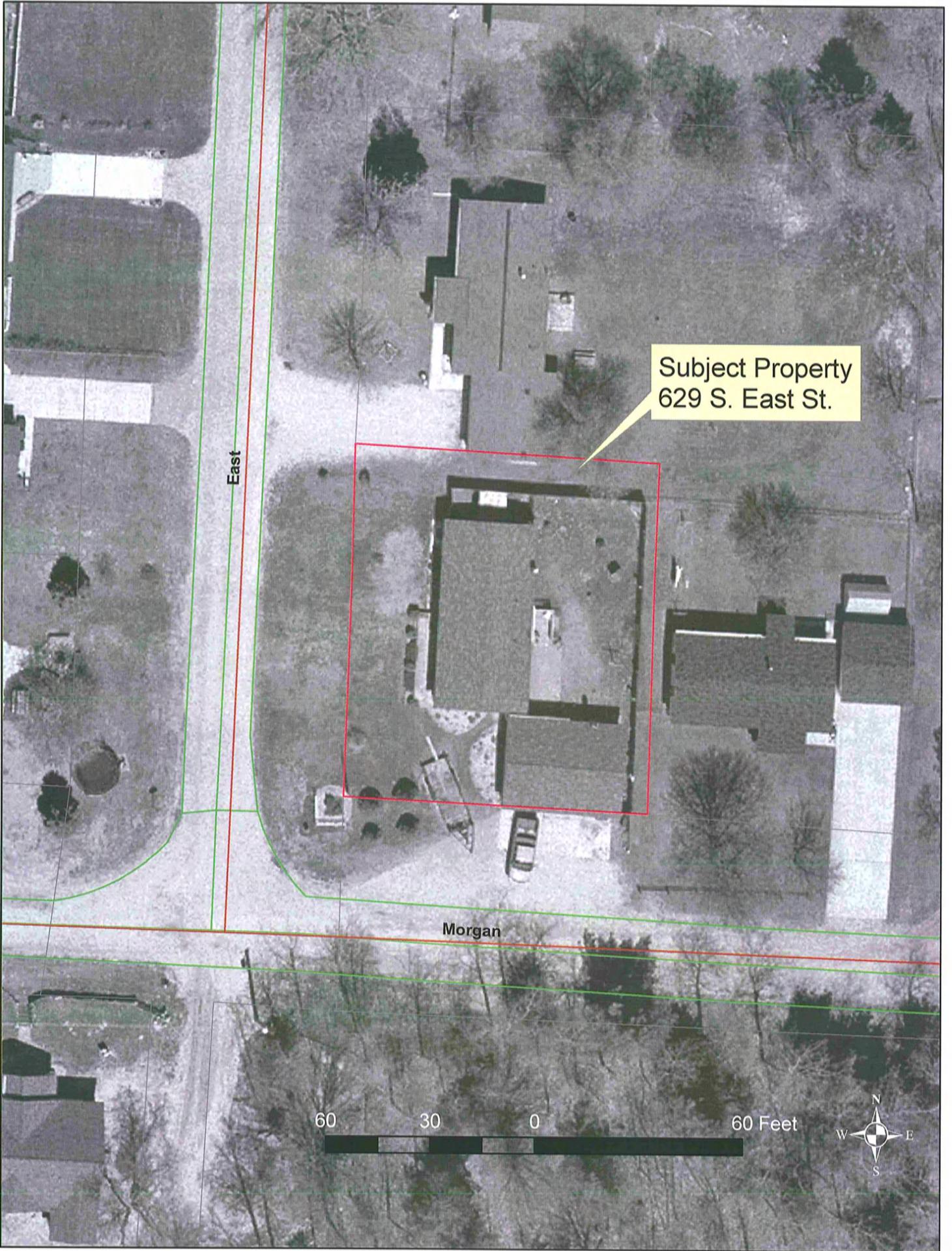
I would appreciate your help to rectify
this problem.

David Sandin




Subject Property
629 S. East St.





Subject Property
629 S. East St.

East

Morgan

60 30 0 60 Feet



Haggard's

PLUMBING and HEATING

"Business of Quality and Service"

"Charlevoix-the-Beautiful"

haggardsinc@hotmail.com

Date: Monday, October 19, 2015

To: City Planner's Office
319 N. Lake St.
Boyne City, MI 49712

RE: Parcel #15-051-366-313-00 Variance Request from David Sandin

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 case's 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

CITY OF BOYNE CITY
ZONING BOARD OF APPEALS

PUBLIC NOTICE

Notice is hereby given that, pursuant to rules and regulations as outlined in the Boyne City Zoning Ordinance Section 27.20, a public hearing will be held by the Boyne City Zoning Board of Appeals on Tuesday, November 3, 2015 at 5:00 p.m. in the City Commission Chambers at 319 N. Lake Street, Boyne City, MI, to review and consider the following:

A variance request from David Sandin for parcel numbers 15-051-366-313-00 at 629 S. East Street, Boyne City, MI 49712. The applicant is requesting a variance from Section 21.36 – Accessory buildings and structures that where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main buildings.

More details on this variance request are available for review at the Boyne City Planning Department, Monday through Friday, 8:00 a.m. through 5:00 p.m. All interested persons are encouraged to attend the public hearing and participate in the discussion. Any written input in regards to the request may be submitted to the City Planner's office until 5:00 p.m. on the day of the public hearing or at the public hearing. For further information visit the City Planner's office at 319 N. Lake Street, Boyne City, MI 49712, or call (231)7582-0337 or e-mail pkilkenny@boynecity.com

(L-10/16)

CITY OF BOYNE CITY
ZONING BOARD OF APPEALS

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(L-10/16)

Patoskey News 10/16/15

A new group of people

051-365-308-00
RUGE GREGORY W & SHARON
RUGE
218 E LINCOLN ST
BOYNE CITY MI 49712

051-335-084-40
BOYNE CITY HOUSING
COMMISSION
829 S PARK ST
BOYNE CITY MI 49712

051-366-312-00
WILLIAMS JESSE L & LILY M
617 S EAST ST
BOYNE CITY MI 49712

051-366-313-00
CAREY LEON A & LISA M
629 S EAST ST
BOYNE CITY MI 49712

051-365-306-00
HENNESSY THOMAS V & MARY K
618 S EAST ST
BOYNE CITY MI 49712

051-364-298-10
ROUSE LAVERNE C & LINDA J
220 E MORGAN ST
BOYNE CITY MI 49712

051-365-301-00
SANSOM LAURA G
212 E LINCOLN ST
BOYNE CITY MI 49712-1523

051-365-309-00
CHEADLE CALVIN B & MARSHA L
600 S EAST ST
BOYNE CITY MI 49712

051-366-314-00
PRICE HAL
325 E MORGAN ST
BOYNE CITY MI 49712

051-365-304-00
MC NUTT JACQUELINE M
623 S PARK ST
BOYNE CITY MI 49712

051-366-315-00
CAREY PATRICK L & SUE E
375 WARNER CREEK TR
BOYNE CITY MI 49712

051-366-317-00
DE SCHRYVER DENNIS J & DIANE M
CO-TRUSTEES OF TRUST
610 GRANT ST
BOYNE CITY MI 49712

051-366-318-00
CRUM MARK D & GRETCHEN M
330 E LINCOLN ST
BOYNE CITY MI 49712

051-365-305-00
BROOKS BRUCE W
231 E MORGAN ST
BOYNE CITY MI 49712

051-365-302-00
THOMPSON DEBORAH E
613 S PARK ST
BOYNE CITY MI 49712

051-365-303-00
SEILER ELLEN J
706 MAPLE ST
BOYNE CITY MI 49712

051-364-295-50
AMESBURY JEFFREY T
213 FRANKLIN ST
BOYNE CITY MI 49712

051-366-319-00
DUNNETTE ROBT W & WF
604 GRANT ST
BOYNE CITY MI 49712

051-367-324-00
BASHAW JAMES & ROBIN
523 S EAST ST
BOYNE CITY MI 49712

051-365-307-00
STINCHCOMB ROBERT & DEBRA
614 S EAST ST
BOYNE CITY MI 49712

051-364-291-00
SIMON RICHARD J & RITA L
709 S PARK ST
BOYNE CITY MI 49712

051-364-290-00
MC MILLIAN WILLIAM A & TAMMY C
701 S PARK ST
BOYNE CITY MI 49712

051-366-310-00
LOVAY JUSTIN & JOHNSON JESSICA
302 E LINCOLN ST
BOYNE CITY MI 49712

051-366-311-00
DAUBENSPECK PAULA
420 TRENT
BOYNE CITY MI 49712

051-364-299-00
PHEGLEY JEFFREY R & PATSY M
3184 PONEMAH DR
FENTON MI 48430

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **David B. Sandin**
 629 S. East St.
 Boyne City, MI 49712

HEARING DATE: **November 3, 2015**

PROPERTY DESCRIPTION

The subject parcel is located at 629 S. East St., W 85 FT OF LOT 314 & THE S 1/2 OF W 85 FT OF LOT 313, BLK 19, NICHOLLS & MORGANS 3RD ADD TO S BOYNE, (PID: 051-366-313-00). The property is owned by David B. Sandin and located in the Traditional Residential District (TRD).

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 21.36 – Accessory Buildings and Structures, A. General Standards (3). “Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main or principal buildings.” The purpose of this request is to structurally attach the garage to the residence. The variance request is for approximately 10.8’ of relief from the required 15’ setback from the rear lot line of the property.

**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 3, 2015** 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 David B. Sandin.
2. The property identification number is 15-051-366-313-00.
3. The property is in the Traditional Residential District (TRD).
4. The property is currently includes a principal residence and an accessory building (garage).
5. Access to the property is provided by both S. East St. and Morgan St. which are public roads that bound the west south side of the parcel respectively.
6. The adjacent properties to the north, south, east and west are zoned TRD.
7. Properties adjacent to the subject property to the north, west, and east are privately owned, and include existing single family dwellings.
8. To the south across Morgan St. is a parcel approximately 8.3 acres, vacant, and owned by the Boyne City Housing Commission
9. The property is not irregularly shaped.
10. The topography of the property generally flat and open.
11. Section 21.36 – Accessory Buildings and Structures, A. General Standards (3) states: “*Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to main or principal buildings.*”
12. The property is approximately 8,415 sq. ft. in size (99’ x 85’).
13. The minimum lot area in the TRD is 5,445 sq. ft.
14. The existing accessory structure (garage) is detached from the principal structure (residence).
15. The existing garage is nonconforming due to a 10.8’ rear yard setback encroachment.
- 16.
- 17.
- 18.
- 19.

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.
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.

Zoning Board of Appeals

2016 Calendar

January 2016

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2016

Su	Mo	Tu	We	Th	Fr	Sa
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March 2016

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April 2016

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May 2016

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June 2016

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July 2016

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31						

August 2016

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28	29	30	31			

September 2016

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October 2016

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November 2016

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20	21	22	23	24	25	26
27	28	29	30			

December 2016

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