

**Meeting Of
September 11, 2018**

Record of the proceedings of the Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, September 11, 2018 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 and Lynn Murray
Absent: John McClorey and Roger Reynolds

Meeting Attendance

City Officials/Staff: Assistant Planning and Zoning Administrator Patrick Kilkenny
and Recording Secretary Pat Haver
Public Present: One

Excused Absences

MOTION

ZBA 2018-9-11-1

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

Approval of the Minutes

MOTION

ZBA 2018-9-11-2

Murray moved, Carlile seconded, PASSED UNANIMOUSLY, a motion to approve the May 1, 2018 meeting minutes as presented.

**Hearing Citizens Present
Correspondence(s)**

None

New Business

Variance Request

409 Bay St.

David and Denise Wade

Assist Zoning Administrator Patrick Kilkenny reviewed his staff report that was included in the agenda packet. The applicant is seeking relief from the 15 foot rear yard setback; due to the steep slopes and smaller building envelope, in the amount of fourteen feet, nine inches (14'9"). In reviewing ZBA records in the vicinity, three relevant cases on Bay Street have been before the ZBA also requesting relief from the rear yard setback.

Eric Render: Contractor for the applicant. – The topography is very limiting for a building envelope. As evidenced in the past, this issue has come up with other lots in the area.

Carlile – How do the homeowners in the area handle the amount of drainage and run off? Are there special things to be done?

Render – With the steep slopes, water runoff will be handled by bringing in a lot of clean sand, drain tiles will be placed all around the house and we will be using a driveway spillway. We hope by moving the house closer to the road we will get the first floor level with Bay Street and we will be able to eliminate a very steep driveway and the challenges that winter snow and ice will cause.

Kubesh – What is the square footage of the home including the garage?

Render - This will be a modest sized house only 1400 sq. ft. and the garage will be about 500 sq. ft.

Public Hearing closed at 5:08 pm

Board Discussion

Carlile – Is this request, not like the others that have been before this board from Bay Street?

Kilkenny – Yes, the others were also asking for relief because of similar reasoning due to steep slopes with this one having a smaller building envelope than the others to the west.

With no further discussion, *Kubesh facilitated the discussion on the General Findings of Fact and wanted one point added; Bay Street has limitations as the right of way is pushed to the North due to existing topography and narrowness of the road*, and then moved onto the Findings of Fact under Section 24.80

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:

MOTION

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 looking at the practical difficulties, smaller building envelope and the steep slopes*
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; other previous variance requests have been granted in the vicinity due to the topography. Concerned about safety with the winter snow and ice pack on a steep driveway*
4. The need for the variance is not self-created. *Affirmative, due to the topography of the area*
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, due to the steep topography of this lot.*

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

Motion by Carlile, seconded by Murray to recommend approval of the requested variance as presented; fourteen feet nine inches (14'9") of relief from the fifteen foot (15') rear yard setback.

2018-9-11-5A.

Roll Call

Ayes: Carlile, Kubesh and ~~Reynolds~~ Murray

Nays: None

Abstain: None

Absent: McClorey and Reynolds

Motion Carries

**April 2018 Local Government
Law Bulletin**

This was originally distributed at the May meeting, and Chair Kubesh wanted to discuss the content in further detail. The board has struggled with the language for the Findings of Fact Under Section 24.80 specifically items 1 & 4. The content of this bulletin has some good ideas on how to reconstruct some of the language so that it is easy to understand for the Zoning Board and the public. Staff has been tasked with putting together proposed language changes for this board and the Planning Commission to review and begin the process of setting up a public hearing.

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

None

Good of the Order

- Bob Carlile has asked for an updated list of the board members, staff will email to the board members
 - Lynn Murray advised that this will be his last ZBA meeting, his house has sold and he will be moving to Southern Florida. The entire board wished him well in his future endeavors.
-

Announcements

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for October 2, 2018 at 5:00 p.m.

**Adjournment
MOTION**

ZBA 2018-9-11-10

Carlile moved, Murray seconded, PASSED UNANIMOUSLY a motion to adjourn the Tuesday, September 11, 2018 Boyne City Zoning Board of Appeals meeting at 5:35 p.m.



Pat Kubesh, Chair



Pat Haver, Recording Secretary

