



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, June 2, 2015
5:00 P.M.
Boyne City Commission Chambers, City Hall

1. CALL TO ORDER AND ROLL CALL
Excuse Absences
2. APPROVAL OF MINUTES – May 5, 2015
3. HEARING CITIZENS PRESENT (on non-agenda items)
4. CORRESPONDENCE
5. NEW BUSINESS
 - A. Adoption of 2015 Calendar
 - B. Variance Request – 600 Jefferson Street
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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agenda packets & minutes for each board

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Approved: _____

**Meeting Of
May 5, 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, May 5, 2015 at 5:00 p.m.

Call To Order

Chair Kubesh called the meeting to order at 5:00 p.m.

Roll Call

Present: Pat Kubesh, John McClorey, Lynn Murray and Roger Reynolds
Absent: Bob Carlile

MOTION

ZBA 2015-05-05-1

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

Meeting Attendance

City Officials/Staff: Planning Director Scott McPherson and Recording Secretary Pat Haver
Public Present: None

**Approval of the Minutes
MOTION**

ZBA 2015-05-05-2

McClorey moved, Reynolds seconded, PASSED UNANIMOUSLY, a motion to approve the November 4, 2014 minutes as presented.

Hearing Citizens Present

None

Correspondence(s)

None

New Business

Motion by Murray, seconded by McClorey to leave the slate of officers as they currently are, with Pat Kubesh as Chair and Bob Carlile as Vice Chair of the Zoning Board of Appeals.

Election of Officers

MOTION

ZBA 2015-05-05-5A

Roll Call

Ayes: Kubesh, McClorey, Murray and Reynolds

Nays: None

Absent: Carlile

Motion carries

Old Business

None

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

Planning Director McPherson announced the new Assistant Planning Director has been chosen; his name is Patrick Kilkenny and he will be starting on Tuesday, May 26th. He will be staff liaison for the ZBA and Evangeline Township. He comes to the office with a lot of planning experience and environmental knowledge.

**Good of the Order
Announcements**

Pat Kubesh will be unavailable for any July or August meetings that may be held
John McClorey will be unavailable for a June meeting that may be held.

Next Meeting

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for June 2, 2015 at 5:00 p.m.

Adjournment
MOTION

ZBA 2015-05-05-10

Kubesh moved, Reynolds seconded, PASSED UNANIMOUSLY a motion to adjourn the Tuesday, May 5, 2015 Boyne City Zoning Board of Appeals meeting at 5:04 p.m.

Patrick Kubesh, Chair

Pat Haver, Recording Secretary

DRAFT

2015

Zoning Board of Appeals

January

SUN	MON	TUE	WED	THU	FRI	SAT
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February

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April

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May

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June

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July

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August

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September

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October

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November

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December

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CITY OF BOYNE CITY

To: Chair Pat Kubesh and fellow ZBA members
From: Patrick Kilkenny, Assistant Planner
Date: June 2, 2015
Subject: Variance Request at 600 Jefferson Street



Background

The subject parcel is located at 600 Jefferson Street. (PID: 051-026-005-00). This parcel is immediately adjacent to the east of Jefferson Street in the Rural Estate District (RED). The property is owned by Donna Viveen of Destin, Florida and is currently listed for sale.

The parcel is approximately 20 acres (1,291' x 642') in size and currently vacant. Adjacent properties to the south and east are zoned Rural Estate District. Adjacent properties to the north are located in Evangeline Township and Jefferson Street borders the property to the west. The property shares lot lines with other privately owned properties.

Discussion

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 purpose of this request is to avoid having to install a "hard surface" driveway due to the overall length may be up to 1,000 feet. The property is located in the Rural Estate District (RED).

Other factors

The City of Boyne City Street Department requires that the proposed driveway match the existing material (asphalt) on Jefferson St., be at least 10' wide, be at least 3" thick asphalt with at least a 6" of 22AA stone base, and at least a 12" culvert be installed at the road edge.

Summary

The applicant is requesting a variance to avoid having to install a "hard surface" driveway due to the overall length may be up to 1,000 feet.

Multiple attempts to contact the applicant via phone and email to discuss variance request to gather additional information have been made by the staff. The applicant has not responded to the contact requests and no additional information is available at this time.

The applicant's realtor has indicated that the applicant is willing to pave portions of the proposed driveway but is requesting a variance to avoid having to pave the entire length of the proposed driveway.

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 28.40.

Public Comment:

Staff received a telephone call from Martin Novack on May 20, 2015 opposing the variance request.

Please find enclosed in this packet the following exhibits:

- A. ZBA Application
- B. Aerial photo of property
- C. Site photos of property
- D. Template for Findings of Fact



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ZONING BOARD OF APPEALS APPLICATION

Owner Name: John McCafferty
Address: 27890 Booney's Lake Rd. N.
Beaver Island MI 49782
Phone: 231-448-2639 E-mail: mccafferty.construction@yahoo.com

Describe Variance Request: Asking for Variance to not have a hard
surface driveway because length of drive may be
1000 ft.

Property Street Address: 600 Jefferson Street, Boyne City MI 49712
Nearest Intersection: Jefferson + Vogel
Property Tax ID #: 051-026-005-00 Zoning District: _____

Legal Description of Property (attach separate sheet if necessary):
City of Boyne City N 1/2 of SW 1/4 of Sec. 26 T33N R6W 20A

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 John McCafferty Date 5-13-15
Dina W. Uller 5/19/15

This is to certify the required filing fee was received on 5/14/15 and documented with receipt number 64952. This application is scheduled for public hearing on 6-2-15.
Staff Initials DAM





View of the western portion of the property from Jefferson Street looking south.



View of the western portion of the property from Jefferson Street looking east.



View of the southeast corner of the property looking north from Vogel Street.

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **John McCafferty**
 27890 Barney’s Lake Road
 Beaver Island, MI 49782

HEARING DATE: **June 2, 2015**

PROPERTY DESCRIPTION

The property located at 600 Jefferson Street (vacant lot) described as tax identification number 15-051-026-005-00, hereinafter referred to as “the property”. The property is owned by Donna Viveen of Destin, Florida and is currently listed for sale.

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 24.80, which states that “*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 purpose of this request is to avoid having to install a “hard surface” driveway due to the overall length may be up to 1,000 feet. The property is located in the Rural Estate District (RED).

**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 **June 2, 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 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.
- 19.
- 20.
- 21.
- 22.

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.
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.

<p>Motion</p> <p><i>2015-06-02-5A</i></p> <p>Roll Call: <i>Aye:</i> <i>Nay:</i> <i>Abstain:</i> <i>Absent:</i></p> <p style="text-align: right;">Date: 6-2-2015</p>

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.