

**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.

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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.

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 – pre existing non-conformity is 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.

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 – public safety and welfare will be enhanced by granting this variance.

4. The need for the variance is not self created.

Affirmative

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 – the pre existing circumstances are unique circumstances of the property.

The Board shall grant no variance if it finds an application does not meet all of the above listed criteria for determining whether or not a practical difficulty and/or unnecessary hardship exists.

Motion by Murray, seconded by Reynolds to grant the variance as presented. This variance request is for approximately 10.8 feet of relief from the required 15 foot setback from the rear lot line of the property.

Roll Call:

Aye: Kubesh, Murray and Reynolds

Nay: McClorey

Abstain: None

Absent: Carlile

Motion Carries

Date: 11-3-2015

Original signature on handwritten copy in file

Patrick Kubesh, Zoning Board of Appeals Chairperson

11-3-15

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.