

BOYNE CITY  
ZONING BOARD OF APPEALS MEETING  
Tuesday, December 4, 2012  
5:00 P.M.  
Boyne City Commission Chambers, City Hall



1. CALL TO ORDER AND ROLL CALL  
Excuse Absences
2. APPROVAL OF MINUTES – August 7, 2012
3. HEARING CITIZENS PRESENT (on non-agenda items)
4. CORRESPONDENCE
5. NEW BUSINESS
  - A. Roof Pitch Variance Request for 515 Lewis Street
  - B. 2013 Calendar
6. OLD BUSINESS
  - A.
7. REPORTS OF OFFICERS, BOARDS, AND STANDING COMMITTEES
8. GOOD OF THE ORDER
9. ANNOUNCEMENTS
10. ADJOURNMENT

*Next meeting January 1, 2013*

*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  
August 7, 2012**

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, August 7, 2012 at 5:00 p.m.

**Call To Order**

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

**Roll Call**

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

**MOTION**

**ZBA 2012-08-7-1**

**Motion by McClorey, seconded by Murray PASSED UNANIMOUSLY** a motion to excuse the absence of Kubesh.

**Meeting Attendance**

City Officials/Staff: Assistant Planning Director Shannon McMaster and Recording Secretary Pat Haver

Public Present: None

**Approval of the Minutes**

**MOTION**

**ZBA 2012-08-7-2**

**McClorey moved, Murray seconded** a motion to approve the May 1, 2011 minutes as presented.

**Roll Call:**

Ayes: Carlile, McClorey and Murray

Nays: None

Absent: Kubesh and Reynolds

*Motion carried*

**Hearing Citizens Present**

None

**Correspondence(s)**

None

**New Business**

The terms of John McClorey and Lynn Murray are due to expire on September 1, 2012. Both members have indicated that they are willing to serve another three year term. After board discussion, **motion by Carlile, seconded by McClorey** to recommend to the City Commission the reappointment of John McClorey and Lynn Murray to a three year term on the Zoning Board of Appeals to expire on September 1, 2015

**Member Reappointments**

**MOTION**

**ZBA 2012-8-7-5A**

**Roll Call:**

Ayes: Carlile, McClorey, Murray

Nays: None

Absent: Kubesh and Reynolds

*Motion carried*

Carlile - Are alternates still needed for the board?

McMaster - Yes, the two that were appointed a couple of years ago have been moved into permanent positions due to resignations on the board. The board would be better served if there were alternates.

Staff to follow up with the clerk to have the alternate position vacancies posted to the website and also have an ad placed in the newspaper.

**Old Business**

None

---

**Reports of Officers, Boards  
and Standing Committees  
Good of the Order**

None

---

**Announcements**

This will be the last meeting that Shannon McMaster will be in attendance. His family has moved, and he will be joining them at the end of August. The board wishes him well, and thanked him for his expertise and knowledge that helped serve this board and the city.

---

**Next Meeting**

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for September 4, 2012 at 5:00 p.m.

---

**Adjournment  
MOTION**

**ZBA 2012-8-7-10**

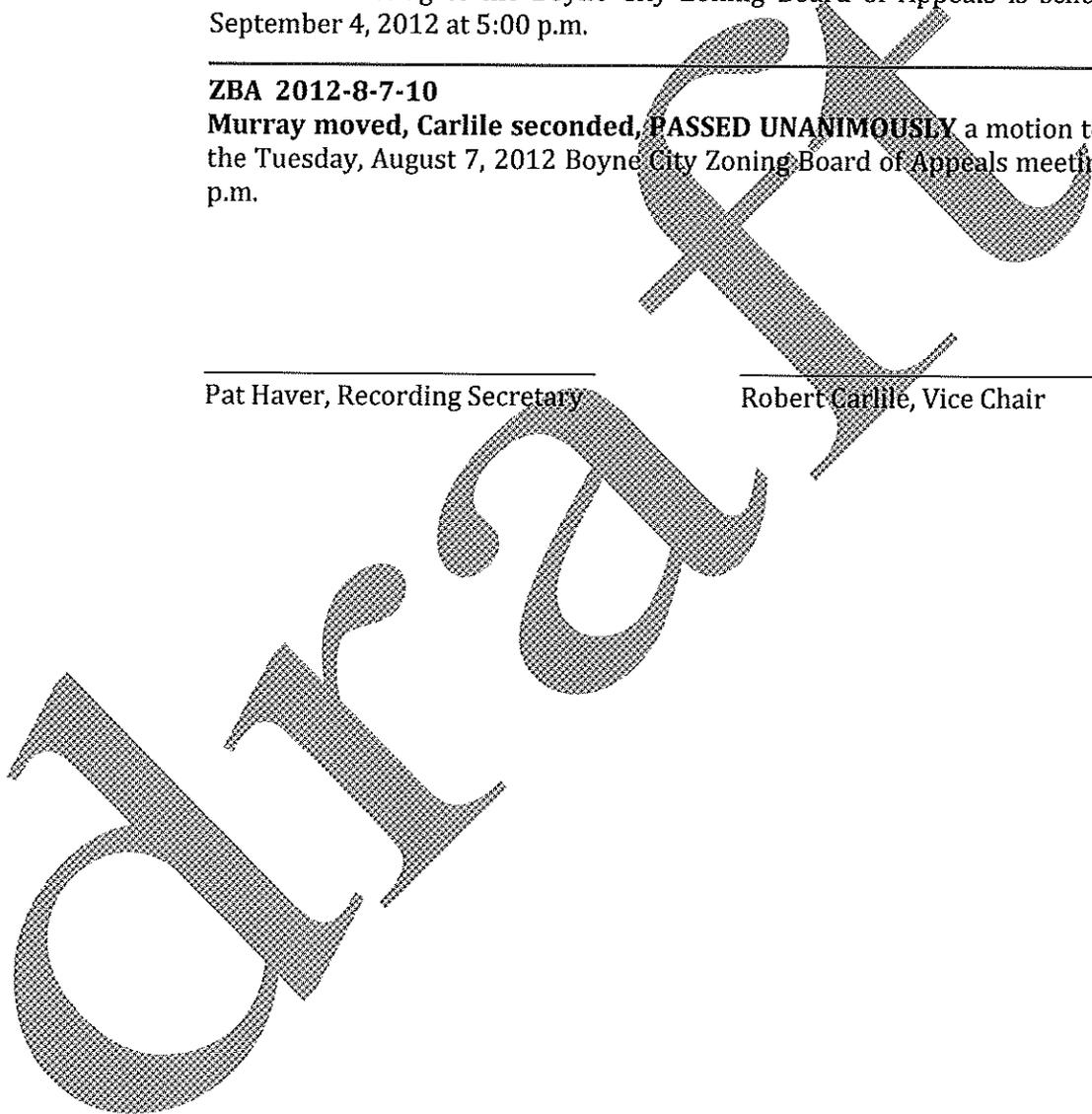
**Murray moved, Carlile seconded, PASSED UNANIMOUSLY** a motion to adjourn the Tuesday, August 7, 2012 Boyne City Zoning Board of Appeals meeting at 5:08 p.m.

---

Pat Haver, Recording Secretary

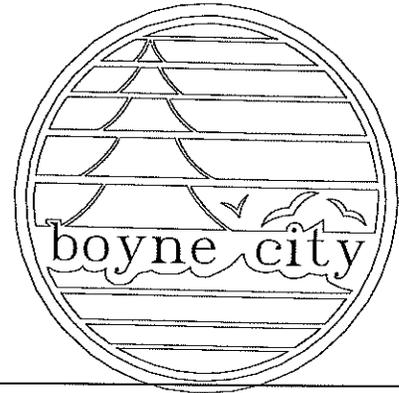
---

Robert Carlile, Vice Chair



## CITY OF BOYNE CITY

**To:** Chair Pat Kubesh and fellow ZBA members  
**From:** Scott McPherson, Planning Director  
**Date:** December 4, 2012  
**Subject:** Variance 515 Lewis Street.



---

### Background

The applicant Alfred Stark owns a lot located at 515 Lewis Street. For many years the lot had a nonconforming dwelling and a detached accessory building on the property. The dwelling was a mobile home that was approximately 16' x 50' and was nonconforming due the fact that the dwelling width was less than 24' and the roof pitch was less than 5/12. Sometime during the summer of 2012 the mobile home as removed and the accessory building was left on the site. As the parcel now has an accessory building on the property without a primary use the use of the lot is now nonconforming.

### Discussion

The applicant is requesting to move an existing dwelling that is currently located at 935 Wilson Street onto the property. The dwelling is 24' x 36' modular home that has a roof pitch of less than 5/12. To move the building onto the parcel would need approval of a variance to allow a dwelling in the TRD district to have a roof pitch less than 5/12. While a plot plan has not been provided, it is assumed that no other relief is being requested and if a variance is approved the building would be placed on the lot in accordance with all other ordinance requirements.

### Summary

The applicant is requesting a variance from the 5/12 roof pitch requirement in the TRD to relocated an existing nonconforming dwelling onto a site that previously had a nonconforming dwelling which was removed.

### Exhibits

- A. Boyne City Zoning Ordinance (by reference)
- B. Application
- C. Pictures provided by applicant
- D. Letter from Alfred Stark.
- E. Letter from Haggard's Plumbing



**City of Boyne City**

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

www.boyne-city.com  
No Faxed Copies/Originals only

**ZONING BOARD OF APPEALS APPLICATION**

Owner Name: Deborah and William Church  
Address: 1025 Wilson St Bill Church 615-1584  
Boyne City, MI 49712  
Phone: 231-330-8797 E-mail: Churchw@charlevoixcounty.org

Describe Variance Request: We are requesting a variance on the roof. We would like a variance so that it may be moved from one city lot to another city lot on Lewis Ave, and would thereby be improving the orderly development of the surrounding neighborhoods.

Property Street Address: 935 Wilson St  
Nearest Intersection: Ann St  
Property Tax ID #: 051-383-123-00 Zoning District: \_\_\_\_\_  
Legal Description of Property (attach separate sheet if necessary): Cty of Boyne City  
Mc Intire's Addition 340 ft of Lot 125

**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 D Church Date 11-13-12

This is to certify the required filing fee was received on 11/13/12 and documented with receipt number 36464. This application is scheduled for public hearing on 12-4-12.  
Staff Initials pm

November 26, 2012

To: Boyne City Zoning Board of Appeals

From: Alfred M. Stark

Re: William Church (Seller of manufactured home) and Michael Dell (Purchaser of  
Manufactured home and land located at 515 Lewis Ave.

I am the property owner of 515 Lewis Ave. (15-051-378-025-15) For years a single wide older mobile home sat on this property. In an effort to improve the neighborhood I had the Mobile home removed and I am in the process of trying to sell this lot to Mr. Dell.

Mr. Dell is in the process of trying to buy a manufacture steel frame titled home that is currently setting on land just a few blocks away. (15-051-383-123-00) The owner of the Manufactured home is William Church.

Evidently when this home was moved into Boyne City a few years ago it met all of its criteria—now they tell me we have a "Roof Pitch" issue with this home.

I would like to request that both Mr. Church and Mr. Dell have the opportunity to speak at this appeal meeting—all three of us have much to lose. It is difficult enough to sell property today let alone having a community over load us with rules and regulations that really make no sense when you look at the total picture here.

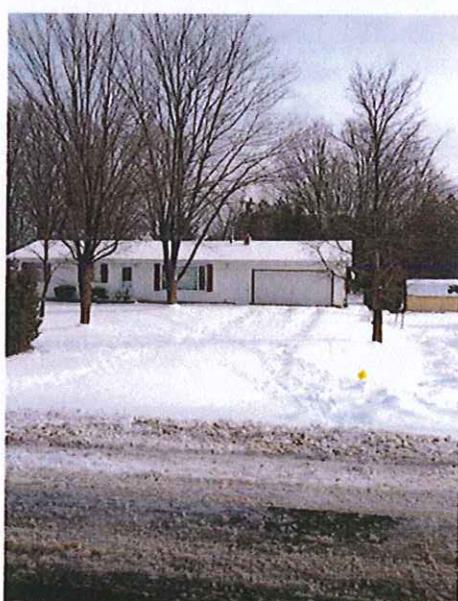
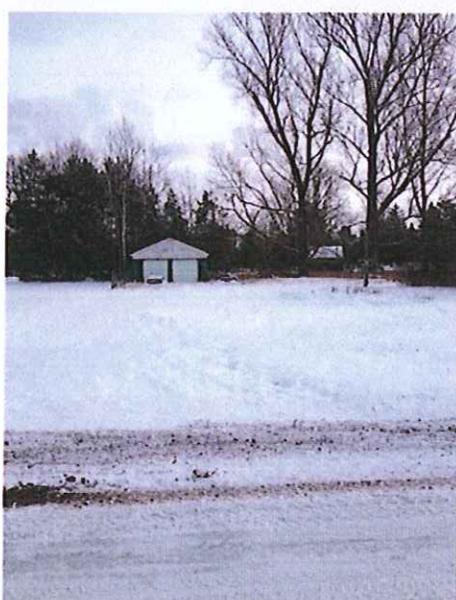
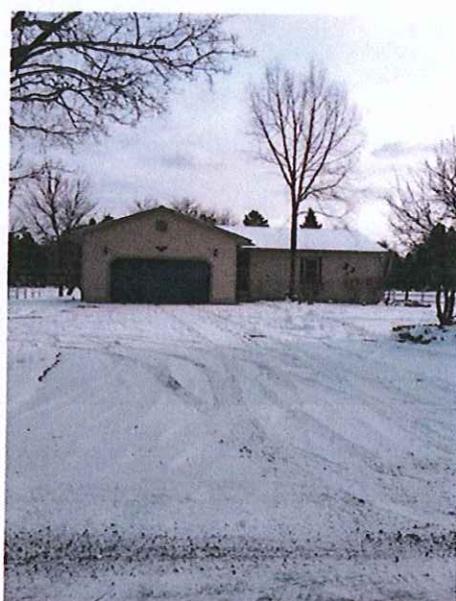
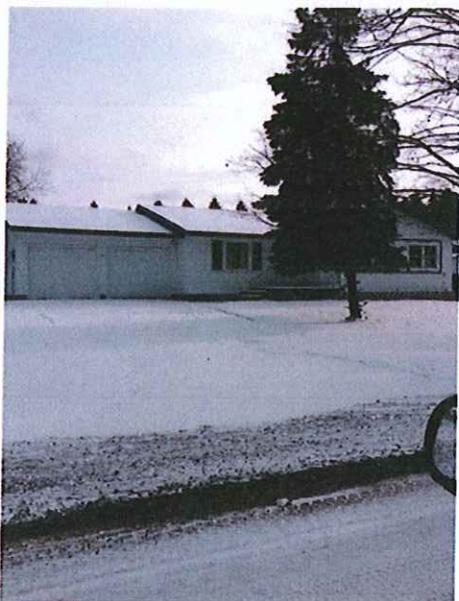
This very same home has the HUD seal of approval—it was cleared to sell when it sold and I am sure a few thousand more just like it—there are several of these homes all around the communities in which we live.

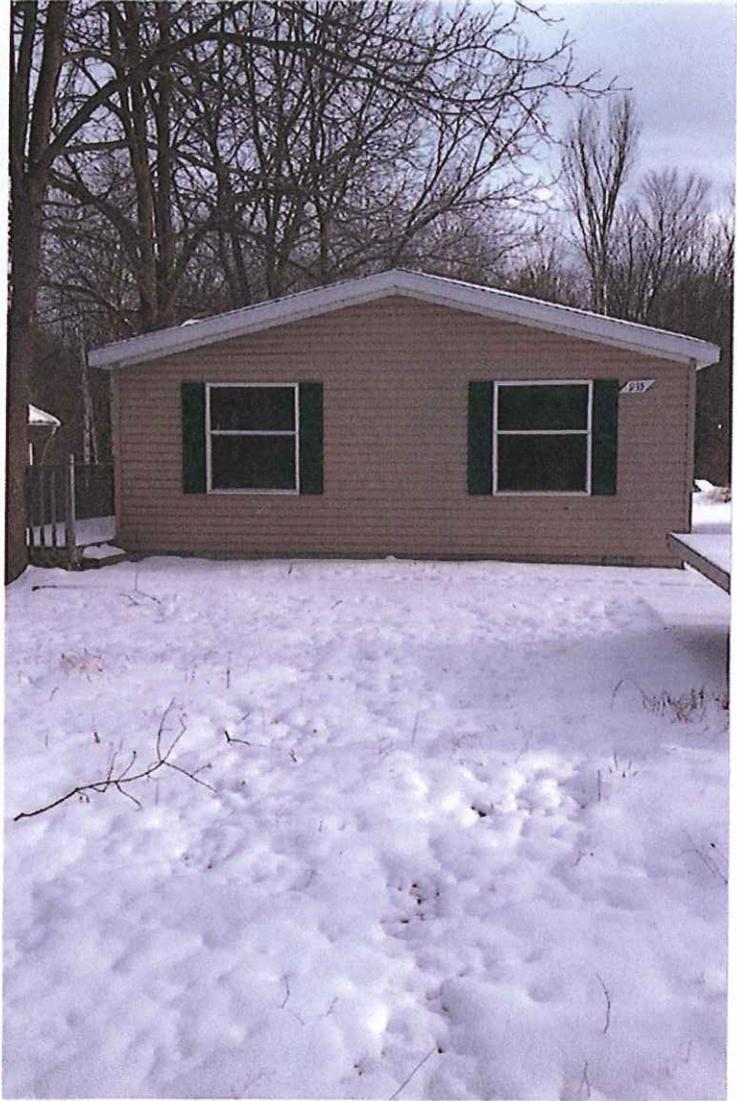
This home was and is approved by the Federal Government. So why can this not be approved by a city municipality?

Sincerely,

Alfred M. Stark

A handwritten signature in black ink, appearing to be 'A. Stark', written over the printed name 'Alfred M. Stark'.





**BOYNE CITY  
ZONING BOARD OF APPEALS**

**APPLICANT INFORMATION**

**APPLICANT:**           **Alfred Stark**  
                              **PO Box 475**  
                              **East Jordan MI 49727**

**HEARING DATE:**     **December 4, 2012**

**PROPERTY DESCRIPTION**

The property located at **515 Lewis Street**, described as tax identification number 15-051-378-025-15, hereinafter referred to as the property.

**APPLICATION**

**Describe Variance Requests:** To move a single family dwelling which has a roof pitch less than 5/12 onto a lot 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 **December 4, 2012** 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 the applicant, Alfred Stark.
2. The property is in the Traditional Residential Zoning District (TRD).
3. The property is located a 515 Lewis Street
4. The property dimensions are 66' x 201' and it has an area 13,266 square feet.
5. The minimum lot width for a lot in the TRD is 50' and the minimum area is 5,445
6. The property had a nonconforming dwelling and a detached accessory building on the property.
7. The nonconforming dwelling was removed in the summer of 2012.
8. Nonconforming structures are regulated by BCZO Section 26.25 which is as follows

### ***Section 26.25 Nonconforming Structures.***

*Where a lawful structure exists on the effective date of this Zoning Ordinance, or on the effective date of any future amendments which may be made to this Zoning Ordinance, which structure could not be built under this Zoning Ordinance by reasons of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following:*

*A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. Should such structure be altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later reestablished or increased.*

*B. If such structure is moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.*

*C. If any such nonconforming structure ceases being used for any reason for a period of more than one (1) year, any subsequent use of such structure shall conform to the regulations specified in this Zoning Ordinance for the district in which such structure is located.*

*D. Should such structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.*

*E. 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 nonconforming 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.*

9. The property is currently nonconforming due to the fact that there is an accessory structure on the property without a primary structure.
10. The applicant desires to relocate a single family dwelling currently located at 935 Wilson Street to the property.
11. The existing dwelling located at 935 Wilson is 24' x 36' and has a ground floor area of 864 square feet.
12. The minimum width for a dwelling in the TRD is 24' and minimum floor area is 672 square feet
13. The roof pitch on the existing dwelling is less than 5/12.
14. The minimum roof pitch for a dwelling in the TRD is 5/12 as per BCZO Section 4.40(A)(6) which is as follows:

*The minimum pitch of the roof of any building shall be five to twelve (5:12) and the maximum pitch of the roof of any building shall be twelve to twelve (12:12), except that additions to existing dwelling units may be constructed with a pitch that matches any roof pitch of the existing dwelling unit. Additionally, the roof pitch of a dormer, turret or similar architectural feature may not exceed twenty-four to twelve (24:12) and the roof pitch of a covered porch may be flat whenever the roof of such a porch is also considered to be the floor of a second story deck.*

15. Several existing dwellings located near 515 Lewis Street have roofs with less 5/12 pitch.
- 16.
- 17.
- 18.

#### **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 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:**

Roll Call  
 Aye:  
 Nay:  
 Abstain:  
 Absent:

Date:

---

Zoning Board of Appeals Chairperson

**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.