

**BOYNE CITY  
ZONING BOARD OF APPEALS**

**APPLICANT INFORMATION**

**APPLICANT:**           **Richard and Marva Cronk  
513 Bay St.  
Boyne City, MI 49712**

**HEARING DATE:**   **October 1, 2013**

**PROPERTY DESCRIPTION**

The property located at 513 Bay St., described as tax identification number 15-051-171-013-00, hereinafter referred to as the property.

**APPLICATION**

**Describe Variance Requests:** A rear yard set back variance of 13.2' to allow for a 6'x12' addition to the existing primary structure. The property is located in the Waterfront Residential Zoning District. The Boyne City Zoning Ordinance requires a 15' rear (road) setback in this district.

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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 October 1, 2013 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 Richard and Marva Cronk.
2. The applicant proposes an expansion on the house encroaching on the required rear yard setback.
3. The property is in the Waterfront Residential Zoning District.
4. The existing structure was built in 1988 and expanded in 1990 on valid permits and was given two variances in 2010 as a result of the unique topography.
5. The property has meandering lake frontage, making the west portion of the property narrower than the east portion.
6. The property has areas of steep slope.
7. The lake frontage greatly reduces the buildable area of the lot.
8. *16,888 square feet is the size of the lot*
9. *The WRD requirements have a 15 ft. rear set back*
10. *Medical necessity and physical limitations of the owners requires a walk in shower on the first floor for safe access*

### 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 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.
  - A. *Affirmative – Medical necessity of owners requires a first floor shower facility*
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
  - A. *Affirmative – Smallest variance necessary*
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.
  - A. *Affirmative*
4. The need for the variance is not self created.
  - A. *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.
  - A. *Affirmative – The steep slopes, contours and meandering lake frontage are unique circumstances of 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.

**MOTION: By Murray, seconded by Carlile** to approve the variance as requested for a rear yard setback variance of 13.2 ft to allow for a 6 ft by 12 ft. addition to their structure, with a stipulation of no encroachment into public access, if there is one.

*Roll Call*

*Aye: Carlile, Kubesh, McClorey, Murray and Reynolds*

*Nay: None*

*Abstain: None*

*Absent: None*

*Motion Carried.*

**DATE: 10/1/13**

Patrick Kubesh, Chair                      Signature on original handwritten copy  
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.