

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **Tammy Siwarga**
 351 Collins (Collings) Street
 Boyne City, MI 49712

HEARING DATE: **October 7, 2014**

PROPERTY DESCRIPTION

The property located at 351 Collins Street (also known as Collings Street), described as tax identification number 15-051-026-027-00, hereinafter referred to as “the property”.

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 4.40, which states that “*attached garages shall have a front setback that is at least ten (10) feet greater than the front setback of the principal building that is located on the portion of the lot*”. The purpose of this request is to build a 20 ft x 20 ft attached garage in front of the current garage. ~~and expand the primary dwelling into the current garage area.~~ The property is located in the Traditional Residential District (TRD).

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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 7, 2014** 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 applicant, Tammy Siwarga.
2. The property identification number is 15-051-026-027-00.
3. The property is in the Traditional Residential District (TRD).
4. The property is currently developed with a single family dwelling.
5. Access to the property is provided by Collins (Collings) Street which is a public road that bounds the front side of the parcel.
6. The adjacent properties are also in the Traditional Residential District (TRD).
7. The north and east sides of the property share a lot line with other privately owned properties.
8. To the west, the adjacent property is a public alley owned by the City of Boyne City.
9. To the south, the property is bounded by Collins (Collings) Street.
10. The property is not irregularly shaped.
11. The topography of the property is typical.
12. The TRD minimum lot area requirement is 5,445 SF.
13. Square footage of the lot is approximately 23,500 SF.
14. The TRD requires that attached garages shall have a front yard setback 10 ft greater than that of the primary structure.
15. The proposed attached garage is located in the front yard of the property and would extend approximately 10 ft in front of the primary structure.
16. The proposed attachment would have an approximately 38 ft front yard setback from the public right-of-way.
17. The proposed attachment to the primary dwelling would be located on the south side of the property.
18. The primary structure and proposed attachment have a eastern side yard setback of approximately 23 ft
- ~~19. The primary structure has a 0 ft side yard setback to the west.~~
20. The TRD requires at least a 5 ft side yard setback.
- ~~21. The primary structure is noneonforming.~~
21. *The proposed extension is for garage/storage purposes only*
22. *The existing engineered septic system is located behind the existing garage*

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. *Affirmative 4 Nay 1: Because of the engineered septic system located directly behind the existing garage, it would prevent the owner from using the property for a permitted use.*
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners. *Affirmative 4 Nay 1: In order to store equipment, the size requested is the 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. *Affirmative*
4. The need for the variance is not self created. *Affirmative 4 Nay 1: not self created due to placement of the engineered septic system*
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; unique circumstances due to the placement of the engineered septic system*

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 Carlile, seconded by Reynolds to approve the variance as requested; relief from Zoning Ordinance regulation, Section 4.40 *which states “ attached garages shall have a front setback that is at least ten (10) feet greater than the front setback of the principal building that is located on the portion of the lot”*

2014-10-7-5A

Roll Call:

Aye: Carlile, Murray and Reynolds

Nay: Kubesh and McClorey

Abstain: None

Absent: None

Motion Carries

Date: 10-7-2014

Signature on handwritten copy

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.