

**Meeting Of  
December 3, 2019**

Record of the proceedings of the Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, December 3, 2019 at 5:00 p.m.

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**Call To Order**

Chair Kubesh called the meeting to order at 5:01 p.m.

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**Roll Call**

Present: Bob Carlile, Pat Kubesh, Roger Reynolds and Monica Ross  
Absent: John McClorey

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**Excused Absences**

**ZBA 2019-12-3-1**  
**Kubesh moved, Carlile seconded, PASSED UNANIMOUSLY**, a motion to approve the absence of McClorey

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**Meeting Attendance**

City Officials/Staff: Assistant Planning and Zoning Administrator Patrick Kilkenny and Recording Secretary Pat Haver  
Public Present: None

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**Approval of the Minutes  
MOTION**

**ZBA 2019-12-3-2**  
**Reynolds moved, Carlile seconded, PASSED UNANIMOUSLY**, a motion to approve the October 1, 2019 meeting minutes as presented.

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**Hearing Citizens Present  
Correspondence(s)**

None

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**New Business**

**Variance Request  
419 E. Lincoln St.  
David & Marcella Hill**

Assist Zoning Administrator Patrick Kilkenny reviewed his staff report that was included in the agenda packet along with previous meeting discussions on the application. The matter before you tonight is a continuation of the variance request by Marcella Hill from 419 E. Lincoln Street. Previously the board asked for additional information from the applicant in the form of a property survey or evidence of the corner stakes from a neighboring property that was surveyed after the alley was vacated; or consider the possibility of a lot reconfiguration with the neighboring property that they also own adjacent to the vacated alley at 409 E. Lincoln St. After several conversations between staff and the applicant, no additional information was provided for the board's consideration. Without the applicant in attendance at the meeting, the board has no additional information in order to make any sort of determination. They proceeded with the Findings of Fact, Section 24.80 Non use Variances

**GENERAL FINDINGS OF FACT**

1. The property is owned by David & Marcella Hill.
2. The property identification number is 15-051-368-335-00.
3. The property is in the Traditional Residential District (TRD).
4. Access to the property is provided by E. Lincoln St. which is a public road that bounds the south side of the parcel.
5. The adjacent properties to the north, south, east and west are zoned TRD.
6. David & Marcella Hill own the property adjacent to the subject property at 409 E. Lincoln St.
7. The property is not irregularly shaped.

8. The topography of the property is gradually sloping from south to north on most of the property, then steeper on the far northern portion.
9. The property is approximately 11,434 sq. ft. in size.
10. The minimum lot area in the TRD is 5,445 sq. ft.

**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. *Negative continued use of the property as is; is not unnecessarily burdensome.*

*Because the answer to question #1 was not in the affirmative, the board did not go through the remainder of the questions, as all 5 answers must be in the affirmative.*

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.

With no further board discussion, **motion by Carlile, seconded by Kubesh** to recommend denying the request because of the inability of the board to take positive action due to the applicant not providing the requested additional information, and the result of the answers to the Finding of Facts, Section 24.80 Non Use Variance.

**MOTION**

**2019-12-3-5A**

Roll Call

Aye: Carlile, Kubesh, Reynolds and Ross

Nay: None

Abstain: None

Absent: McClorey

Vacancy: None

*Motion Carries*

**Zoning Map Correction**

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Assist Zoning Administrator Patrick Kilkenny reviewed his report in the agenda packet. The Planning Commission, at their October 21, 2019 meeting, reviewed the possible mapping error and moved to recommend the matter to the Zoning Board of Appeals as to the correctness of the zoning district map adopted in 2001. Given the facts that the boundary lines drawn in 2001 for the zoning districts in the area of the subject parcels were not consistent with existing land use and previous zoning designations; the parcels were created and used for residential purposes prior to the adoption of the 2001 map; the parcels have been classified and taxed as residential parcels since created; the topography and access to the parcels make any commercial development economically and physically

impractical; it is clearly evident that the map erroneously included parcels 15-051-302-001-60 and 15-051-302-001-65 within the commercial/industrial district. Based on board discussion, the lack of documentation for the reasoning for the inclusion into the RC/IND District, and the recommendation of the Planning Commission, **motion by Ross, seconded by Kubesh**, to correct the zoning map inconsistencies for parcels 15-051-302-001-60 and 15-051-302-001-65 which were erroneously mapped into the RC/IND and change the designation to Rural Estate District, and consider low density residential.

**2019-12-3-5B**

Roll Call

Aye: Carlile, Kubesh, Reynolds and Ross

Nay: None

Absent: McClorey

*Motion Carries*

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

None

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None

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**Good of the Order**

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**Announcements**

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for January 7, 2020 at 5:00 p.m.

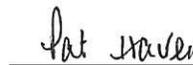
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**Adjournment  
MOTION**

**ZBA 2019-12-3-10**

**Carlile moved, Ross seconded, PASSED UNANIMOUSLY** a motion to adjourn the Tuesday, December 3, 2019 Boyne City Zoning Board of Appeals meeting at 5:31 p.m.

  
Pat Kubesh, Chair

  
Pat Haver, Recording Secretary

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