

**BOYNE CITY  
ZONING BOARD OF APPEALS**

**APPLICANT INFORMATION**

**APPLICANT:**        **John and Anita Clements  
1213 Nordic Drive  
Boyne City, MI 49712**

**HEARING DATE:**    **December 1, 2015; continued February 2, 2016; continued March 1, 2016**

**PROPERTY DESCRIPTION**

The subject parcel is located at 1213 Nordic Dr., BOYNE HILLS UNIT 32 AS RECD L352 P416-L352 P454 CX CP R/D, (PID: 051-310-032-00). The property is owned by John H. and Anita R. Clements and located in the Rural Estate District (RED).

**APPLICATION**

Section 21.36 – Accessory Buildings and Structures(a)(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.*”

**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 1, 2015; continued February 2, 2016; continued March 1, 2016** 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 John H. and Anita R. Clements.
2. The property identification number is 15-051-310-032-00.
3. The property is in the Rural Estate District (RED).
4. The property currently includes a principal residence and an attached accessory building (garage).
5. Access to the property is provided by Nordic Drive which is a public road that bounds the east and south side of the parcel.
6. All adjacent properties are zoned RED.
7. Properties adjacent to the subject property to the north and west are privately owned, and include existing single family dwellings.
8. To the south and east across Nordic Drive are properties that contain single family dwellings or are vacant.
9. The property is irregularly shaped.
10. The topography of the property is steep to the south and west and generally flat to the north and east.
11. The existing accessory structure (garage) is attached to the principal structure (residence).
12. Section 21.36 – Accessory Buildings and Structures(a)(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.”
13. Section 20.30 – Notes for Schedule of Regulations(k) “In all residential districts, the width of side yards which abut upon a street on the same side or the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard setback for homes which front upon such street.”
14. The property is approximately 12,138 sq. ft. in size.
15. The minimum lot area in the RED is 10,890 sq. ft.
16. The current lot coverage is approximately 25% or 3,074 sq. ft.
17. The proposed addition is approximately 525 sq. ft.
18. The maximum lot coverage allowed in the RED is 30% (3,074+525=3,599 sq. ft. or approximately 29.6% lot coverage.)
19. Zoning permit approved February 2, 1995 for construction of single family residence. Variance was not required in 1995; site plan met required setbacks at time.
- 20.
- 21.
- 22.
- 23.

## **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: The street could have been graded and excavated differently initially to alleviate these difficulties. There is a handicapped individual living in the residence, so going up a steep driveway is burdensome.*

2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.

*No: there were other options that could have been done, and the board also felt that there were visibility issues rounding the corner if the variance were granted.*

***Because the answer to question #2 was not in the affirmative, the board did not go through the remainder of the questions.***

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 by Murray, seconded by Reynolds, based on the findings of fact and that question #2 was not answered in the affirmative, decline the request of John and Anita Clements for approximately 24 foot of relief from the required 30 foot setback from the east lot line of the property and approximately 24 foot relief from the required 30 foot setback from the south lot line of the property, to construct an addition to the existing attached garage and relocate the existing driveway to the east side of the house.***

**2016-03-01-6A**

***Roll Call:***

*Aye:* Carlile, Murray and Reynolds

*Nay:* None

*Abstain:* None

*Absent:* Kubesh and McClorey

***Motion Carried***

**Date:** 3-1-2016

***Original signature on handwritten copy in file***

***3-1-16***

Robert Carlile, Zoning Board of Appeals Vice 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.