

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **Mark Yallup**
 711 Boyne Ave.
 Boyne City, MI 49712

HEARING DATE: **December 6, 2022**

PROPERTY DESCRIPTION

Tax identification parcel number **15-051-373-003-00**

Described as: CITY OF BOYNE CITY, N MORGAN’S ADDITION TO VILLAGE OF SOUTH BOYNE LOT 3 BLK D, hereinafter referred to as the property. The property is located at **711 Boyne Ave.**, owned by Mark & Tracey Yallup and is located within the Traditional Residential District.

APPLICATION

Describe Variance Requests: Relief from the 10-foot setback requirements of the TRD zoning district regulations for a detached accessory building on a corner lot, to construct a 28’ x 40’ detached accessory building on the lot line in order to preserve a Landmark tree and avoid the steep slope area of the parcel.

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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 **December 6, 2022** 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, if any, by members of the public and comments, if any, 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 Mark & Tracey Yallup
2. The property identification number is 15-051-373-003-00
3. The property is located within the Traditional Residential District (TRD).
4. Access to the property is provided by the dead-end portion of Lincoln St. which is a public road that bounds the southeast side of the parcel.
5. All of the adjacent parcels surrounding the property are also zoned TRD.
6. The property is not irregularly shaped.
7. The topography of the property is mixed with some steep slopes on the northern portion of the parcel with a rise of 32-feet of elevation beginning at the northern most point of the parcel, rising southward and cresting near the center of the lot, spanning a distance of 100 feet, which equates to an overall slope grade of 32% covering approximately half of the property.
8. The Ordinance defines a steep slope as *“Slopes with a grade of twelve percent (12%) or more.”*
9. The property is approximately 21,780 sq. ft. in area.
10. The maximum allowable percent of lot area covered by all buildings in the TRD is 40%
11. The property currently has approximately 9% of lot area covered by all existing buildings at a total of 1,959 sq. ft.
12. The proposed detached accessory building would increase the percent of lot area covered by buildings by 5% to a total of 14%, which is still less than the allowable maximum of 40%.
13. The Ordinance defines a Landmark tree as: *“Any tree of stature standing alone in the open; or any tree which stands obviously apart from others within the immediate vicinity by size, form or species. Trees equal or greater than the dimensions shown below will generally be considered a landmark tree regardless of location.”*
14. Property contains a Landmark tree which is a mature specimen Maple tree that is twenty (20) inches in diameter; requested relief from setback standard is to preserve this Landmark tree.
15. There are only two (2) other residences that use the dead-end portion of Lincoln St. and both are on the opposite side of the road from the subject property.
- 16.
- 17.

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.
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.

<p><i>Motion by</i></p> <p><i>Roll Call:</i></p> <p><i>Aye:</i></p> <p><i>Nay:</i></p> <p><i>Abstain:</i></p> <p><i>Absent:</i></p> <p><i>Vacancy: One</i></p> <p><i>Motion Carries</i></p>	<p><i>Date: 12-6-2022</i></p>
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Chairperson signature on the original handwritten copy Zoning Board of Appeals	December 6, 2022 Date
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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.