

**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **Thomas and Karen Veryser
330 Mission Dr
Boyne City MI 49712**

HEARING DATE: **August 6, 2013**

PROPERTY DESCRIPTION

The property located at **330 Mission Dr.**, described as tax identification number 15-051-026-029-25, hereinafter referred to as the property.

APPLICATION

Describe Variance Requests: The applicants are requesting a 5 ft variance from the minimum 10 ft side yard setback requirement and a 13 ft variance from the minimum 30 ft front yard setback requirement for parcels located in the Rural Estate 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 **August 6, 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 the applicants, Thomas and Karen Veryser.
2. The property is in the Rural Estate District (RED).
3. The property is irregularly shaped.
4. Square footage of this lot is 81,152 square feet; the minimum required in the RED district is 10,890 square feet.
5. The property is currently developed with a single family dwelling.
6. Access to the parcel is provided by Mission Drive which is a private road.
7. Mission Drive is only partially developed and currently provides access to two parcels.
8. If fully developed Mission Drive could provide access for a total of four parcels.
9. The access easement for Mission Drive is the front lot line of the parcel.
10. The RED requires front yard setback of thirty (30) feet.
11. The existing dwelling has a front yard setback of one hundred (100) ft.
12. The RED requires a side yard setback of no less than ten (10) feet.
13. The RED requires the combined side yard setback to be no less than thirty (30) feet.
14. The side yard setbacks for the existing dwelling are 20 ft and 17.6 ft, combined 37.6 ft.
15. The proposed detached accessory building would be located in front yard of the existing dwelling.
16. Section 21.36 requires detached accessory building not erected completely to rear of an existing dwelling must maintain the required setback for the dwelling. Accessory buildings located to the rear of a dwelling may have a side yard setback of 3 ft.
17. The property has significant building constraints due to steep slopes and wetland areas.
18. The building constraints on the property are located in the rear yard.

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 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, it is not possible to erect this structure in an areas in the rear of the property
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
Affirmative, the request 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, land topography and wetlands are limiting

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, land topography, wetlands, mature trees, placement of current well and septic field all limit building site availability

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 to approve the variance requests as presented; 5 ft. variance from the minimum 10 ft. side yard setback and a 13 ft. variance from the minimum 30 ft. front yard setback requirement.

Roll Call
 Aye: Carlile, McClorey, Murray, Reynolds
 Nay: None
 Abstain: None
 Absent: Kubesh
Motion Carries

Date: August 6, 2013

Robert Carlile, Vice Chair *Signature on original 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.