

Hayes Township, Charlevoix County, Planning Commission

Regular Meeting of Planning Commission

July 19, 2022 7:00 pm

Hayes Township Hall

9195 Major Douglas Sloan Road

Charlevoix, Michigan 49720

<https://us02web.zoom.us/j/83362098080?pwd=UUhMVnJpYk93YlM5cnpiblV0OWE3UT09>

Meeting ID: 833 6209 8080

Passcode: 009752

+1 312 626 6799 US (Chicago)

AGENDA

Call to Order

Pledge of Allegiance

Review of Agenda

Declarations of Conflict of Interest

Approval of Minutes of Regular PC June 21, 2022,

Public Comments Unrelated to Agenda Items

Report of Township Board Representative to the Planning Commission

Report of Zoning Board of Appeals Representative to the Planning Commission

Zoning Administrator Report

New Business: Ordinance Sections Discussion

 Zoning Board of Appeals

 Administration and Enforcement of Ordinance

 Adoption and Amendments

Set/Confirm Public Hearing Dates: Zoning Ordinance Text Amendment related to Short
Term Rental Ordinance Rescindment Public Hearing

Set/Confirm Date of Next PC Meeting: August 16, 2022 at 7:00 pm

Public Comment

Planning Commission Comment

Adjournment

Hayes Township Planning Commission
June 21st, 2022
Regular Meeting
Zoom ID 894 2977 6730

1 **CALL TO ORDER:** Chairperson Roy Griffiths called the meeting to order at 7:00 p.m.

2 Members present: Roy Griffiths (Chair), Steve Bulman, Matt Cunningham (Board of Trustee
3 Representative), Derek Burnett, Rex Greenslade, Marilyn Morehead, and Ed Bajos.

4 Also, present: Kristin Baranski (Clerk) and April Hilton (Deputy Clerk/Recording Secretary).

5 Audience: Luanne Kozma, Danelle Hutcheson, Tim Boyko, Ellis Boal, Betty Henne, Winnie Boal
6 and Kim Fary.

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8
9 **PLEDGE OF ALLEGIANCE TO THE FLAG:** Mr. Griffiths led the Pledge of Allegiance.

10
11
12 **REVIEW AGENDA:** Mr. Bajos made a motion, supported by Ms. Morehead to approve the
13 agenda as amended.

14 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Rex Greenslade, Ed Bajos, Marilyn Morehead,
15 and Matt Cunningham.

16 Nays: none **Motion Carries**

17 Additional item:

- 18 1. Declaration of Conflicts of Interest
19
20

21 **DECLARATIONS OF CONFLICTS OF INTERESTS:** None
22
23

24 **APPROVAL OF MINUTES MAY 17TH, 2022 REGULAR MEETING**

25 Mr. Bajos made a motion, supported by Mr. Greenslade, to approve the May 17th, 2022 regular
26 meeting minutes as amended.

27 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Rex Greenslade, Ed Bajos, Marilyn Morehead,
28 and Matt Cunningham.

29 Nays: none **Motion Carries**
30

31 **APPROVAL OF MINUTES MAY 31th, 2022 PUBLIC HEARING:**

32 Mr. Bajos made a motion, supported by Ms. Morehead, to approve the May 31st, 2022 public
33 hearing minutes as amended.

34 Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Rex Greenslade, Ed Bajos, Marilyn Morehead,
35 and Matt Cunningham.

36 Nays: none **Motion Carries**

Hayes Township Planning Commission
June 21st, 2022
Regular Meeting
Zoom ID 894 2977 6730

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Next Planning Commission meeting will take place on July 19th, 2022, at 7:00 pm.

PLANNING COMMISSION COMMENT:

Mr. Greenslade think it is a good idea for the Planning Commission to release a draft of the Zoning Ordinance to the public before it is finished.

PUBLIC COMMENT: Public comments open 8:20 pm.

Comments included:

- Resident shares their concern for other residents not receiving information of Townships affairs.
- Resident questioned why the Planning Commission is not using the Beckett and Raeder Ordinance.
- Request for lavish website.
- Resident is concerned the residents will not have an opportunity to view the Zoning Ordinance draft once it is complete.

Public comments closed 8:29pm

ADJOURNMENT: Mr. Bajos made a motion, supported by Ms. Morehead, to adjourn the meeting at 8:37 pm.

Yeas: Derek Burnett, Steve Bulman, Roy Griffiths, Rex Greenslade, Marilyn Morehead, Ed Bajos, and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:

April Hilton
Deputy Clerk/Recording Secretary

HAYES TOWNSHIP
ZONING ADMINISTRATOR REPORT
JUNE 2022

Issued zoning permit for an attached garage and porch at 08400 Burns Road.

Issued zoning permit for 12' x 78' attached deck at 06497 Woods Creek Drive.

Received and reviewing zoning permit application for the razing of existing garage and construction of new detached garage at 07654 Indian Trails. Waiting for soil erosion and shoreland planting plan.

Received and reviewing zoning permit application for razing existing residential structure and constructing new single family residence. Waiting for soil erosion, health department and parcel reconfiguration.

Continue working with architects on a proposed family complex on Boyne City Road next to Hayes Township Park.

Received application for swimming pool 06497 Woods Creek Drive. Waiting for Soil Erosion permit and Shoreland Review. Received and reviewing shoreland planting plan. Plans on hold by owner.

Working on blight issue on See Road and a proposed development at end of See Road.

Working with Developer on proposed 80 unit Foster Care Facility. Developer has purchased the property at Boyne City Road and US 31N.

Received and reviewing zoning permit application for golf storage building at 11519 Stonebridge Drive.

Approved alterations to T-Mobile Tower On US 31 North.

Working with new property owners proposing rustic campground on Stephens Road.

Received and reviewing zoning permit application for residential structure on Division Street.

Working with property owner on Pincherry Road for possible parcel division.

Received application for zoning permit for retail/residential use on US 31 N. Parcel reconfiguration approved waiting for ownership documents.

Approved parcel division application on Murray Road.

Article VIII: Zoning Board of Appeals

SECTION 8.01 ZONING BOARD OF APPEALS CREATION AND MEMBERSHIP

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110, of Public Acts of 2006, as amended, and in such a way that the ~~objectives purposes~~ of this Ordinance ~~as set forth in Section 1.02~~ shall be observed, ~~public safety secured, and justice done~~. This Board shall consist of five (5) regular members, appointed by the Township Board.

1. The first member shall be a member of the Township Planning Commission for the term of his/her office.
2. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
3. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals.
4. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 8.02 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All hearings conducted by said ZBA shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure, *called [state name of document]* and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

The Zoning Board of Appeals shall not conduct business unless a majority of the Board of Appeals regular members are present.

with associated fee, surveys, plans and data as required in **Article V: Site Plan Review**, or ~~and~~ other information deemed reasonably necessary *by the applicant* for making any informed decision on his or her appeal, not less than thirty (30) days prior to the date of the hearing.

SECTION 8.06 NOTICE REQUIREMENTS FOR ZONING BOARD OF APPEALS PUBLIC HEARINGS

The notices for all public hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

1. For an appeal or a request for an interpretation, the notice shall comply with all of the following:

- A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the appeal or interpretation request.
 - 2) If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no such street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - 3) The time, date, and place the appeal or interpretation request will be considered.
 - 4) The address where and the deadline when written comments will be received concerning the appeal or interpretation request.
- B. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
- C. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled public hearing.
- D. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term "occupant" may be used in making notification under this subsection.²

2. For a variance request, the notice shall comply with all of the following:

- A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the variance request.
 - 2) A description of the property on which the requested variance will apply.

² The ZBA believes the distance cited in this provision should be the same as the distance for notice recited in the Planning Commission notice provision.

Listen For
Steve Bulmer's
Comment

5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

SECTION 8.08 CONDITIONS OF APPROVAL

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 9.03 of this Ordinance.

SECTION 8.09 EXPIRATION OF ZBA APPROVALS

No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and (2) substantial construction has occurred *within two years*.

Permit Remains
Active Drafts
Working on

SECTION 8.10 REAPPLICATION

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to section 9.04 of this Ordinance.

SECTION 8.11 STAY

An appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to Circuit Court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court.

SECTION 8.03 JURISDICTION

1. Except for Planning Commission decisions concerning special use permits, **and Planned Unit Developments, and Shoreland Landscaping Plans** an appeal concerning the administration of the provisions of this Ordinance may be taken to the Zoning Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the official or body from which the appellant seeks relief.
2. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the official or body, except for Zoning Administrator decisions regarding enforcement of this Ordinance.
3. The ZBA may grant variances as provided for in **Section 8.07 Variances**.
4. The ZBA may also interpret the location of Zoning District boundaries and may interpret the provisions of this Ordinance.
5. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Zoning Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
6. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
7. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

SECTION 8.04 EXERCISING POWER

In exercising the above powers, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the official or body from whom the appeal is taken.

SECTION 8.05 APPLICATION REQUIREMENTS

The applicant shall submit seven (7) copies of a completed application, with associated fee, surveys, plans and data as required in **Article V: Site Plan Review**, or other information deemed reasonably necessary for making any informed decision on his or her appeal, not less than thirty (30) days prior to the date of the hearing.

SECTION 8.06 NOTICE REQUIREMENTS FOR ZONING BOARD OF APPEALS PUBLIC HEARINGS

The notices for all public hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

1. For an appeal or a request for an interpretation, the notice shall comply with all of the following:
 - A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the appeal or interpretation request.
 - 2) If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no such street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - 3) The time, date, and place the appeal or interpretation request will be considered.
 - 4) The address where and the deadline when written comments will be received concerning the appeal or interpretation request.
 - B. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
 - C. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled public hearing.
 - D. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term "occupant" may be used in making notification under this subsection.
2. For a variance request, the notice shall comply with all of the following:
 - A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the variance request.
 - 2) A description of the property on which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - 3) The time, date, and place the variance request will be considered.
 - 4) The address where and the deadline when written comments will be received concerning the variance request.

public open spaces; the front yard dimensions of the nearest building on both sides

1. Be designed to protect natural resources, the health, safety, welfare, as well as the
-

upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a meeting at which it considers whether to grant a rehearing.

- D. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all applicable notice requirements **as stated in the above section X.04.2.c** have been satisfied.

SECTION 9.05 FEES

1. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
 - A. Zoning permits.
 - B. Special land use permits.
 - C. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - D. Classification of unlisted property uses.
 - E. Requests to change a non-conforming use to another non-conforming use.
 - F. Requests for variances from the Zoning Board of Appeals.
 - G. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - H. Site plan reviews.
 - I. Requests for a planned unit development (PUD).
 - J. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.
 - K. **Review and decisions on Shoreland Landscaping Plans by the Planning Commission.**

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an

2. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten (10%) percent of the initial escrow deposit or less than ten (10%) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

SECTION 9.06 PERFORMANCE GUARANTEE

In connection with the construction of improvements through site plan approval, special land use approval, **site condominium, Shoreland Landscaping Plan** or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

1. One-third of the cash deposit after completion of one-third (monetary value), of the public and site improvements;
2. Two-thirds of the cash deposit after completion of two-thirds of the public and site

SECTION 9.07.4 STOP WORK ORDER

If construction or land uses are being undertaken contrary to a zoning permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy of the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

SECTION 9.08 ~~CONFLICTING REGULATIONS~~ Interpretations

~~In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township Ordinances, in which case the more stringent regulations will rule.~~

When this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings and structures, or on lot coverage, or where this ordinance requires greater lot areas or larger yards or other open spaces than required by other laws, ordinances or private restrictions, the provisions of this ordinance shall prevail.

- development of adjacent property in accord with existing regulations?
- g) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
- h) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
- i) Is the rezoning in conflict with the planned use for the property as reflected in the Land Use Plan?
- j) Is the site served by adequate public facilities or is the petitioner able to provide them?
- k) Are there sites nearby already properly zoned that can be used for the intended purposes?
- l) Are other local remedies available?
- 6) Following the public hearing the Planning Commission shall submit the proposed amendment including any Zoning Map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
- 7) The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
- 8) The Township Board may hold additional public hearings, if they decide it is necessary. Notice of such hearing shall be provided in accordance with **Section 10.02** of this Ordinance.
- 9) Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.
- 10) No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found valid upon inspection by the Township Planning Commission.

SECTION 10.02 PUBLIC HEARING NOTICE REQUIREMENTS FOR ZONING ORDINANCE AMENDMENTS

The notices for all public hearings before the Planning Commission or Township Board concerning proposed Zoning Ordinance amendments (zoning text or map amendments) shall comply with the following applicable notice provisions:

1. For a proposed amendment to the text of the Zoning Ordinance, the notice shall comply with all of the following:
 - A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the proposed Zoning Ordinance amendment.

- E. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
3. For a proposed Zoning Ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:
- A. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the proposed Zoning Ordinance amendment.
 - 2) The time, date, and place the proposed Zoning Ordinance will be considered.
 - 3) The places and times at which the proposed Zoning Ordinance amendment may be examined.
 - 4) The address where and the deadline when written comments can be sent concerning the proposed Zoning Ordinance amendment.
 - B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.
 - C. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
 - D. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
4. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 10.03 ENACTMENT AND EFFECTIVE DATE

- 1. The original zoning ordinance for Hayes Township was adopted by the Hayes Township Board of Trustees, and became effective on July 1, 1974.
- 2. This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Great concerns regarding shoreline regulations.

2 messages

marylee pakieser <mlpakieser@gmail.com>

Tue, Jul 19, 2022 at 7:41 AM

To: CLERK@hayestownshipmi.gov

Cc: mlpakieser@gmail.com

This lake belongs to all of us. Changing parts of the shoreline is not in the best interest of the future of this lake . I do not support any changes that allow individuals to grossly modify the shoreline. I am part of a family partnership that has owned property for over 50 years. We have always kept the shoreline in its natural state. We are 2 properties south of the Law property.

We have already experienced Significant helicopter noise and gun shots heard from their property with our windows opened and closed. To continue to allow them to destroy the shoreline and build structures that will accommodate large groups of people will destroy the peace and quiet of our lake.

I stand in strong opposition to any changes to the contour of Lake Charlevoix.

MaryLee Pakieser MSN, RN, FNP-BC

123 Randall Court, Traverse City, MI

Sent from my iPhone

marylee pakieser <mlpakieser@gmail.com>

Tue, Jul 19, 2022 at 9:02 AM

To: CLERK@hayestownshipmi.gov

Please send my letter to the planning commission for today's meeting. Thank you MaryLee Pakieser

Sent from my iPhone

Begin forwarded message:

From: marylee pakieser <mlpakieser@gmail.com>

Date: July 19, 2022 at 7:41:21 AM EDT

To: clerk@hayestownshipmi.gov

Cc: mlpakieser@gmail.com

Subject: Great concerns regarding shoreline regulations.

This lake belongs to all of us. Changing parts of the shoreline is not in the best interest of the future of this lake . I do not support any changes that allow individuals to grossly modify the shoreline. I am part of a family partnership that has owned property for over 50 years. We have always kept the shoreline in its natural state. We are 2 properties south of the Law property.

[Quoted text hidden]



clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>

Shoreline Protection

1 message

Melvin Czechowski <mhczechow@aol.com>

Mon, Jul 18, 2022 at 10:21 PM

Reply-To: Melvin Czechowski <mhczechow@aol.com>

To: "CLERK@HAYESTOWNSHIPMI.GOV" <CLERK@hayestownshipmi.gov>

July 19, 2022

To: Hayes Township Planning Commission:

I am against any changes to the 50 ft shoreline protection. Shoreline protect should be kept, with no exceptions!

I have read the following and total agree with their statements.

- * Commercial building not allowed in residential zone.
- * "All of the land" of the Shoreland Protection Strip, 50 feet landward from the Ordinary High Water Mark of the lake is protected and must be in place to filter contaminants from reaching the lake.
- *Boathouses specifically not allowed since 1979.
- * Excavating into the shoreland to a depth of 570' (IGLD 1985) is by definition below the Ordinary High Water Mark, and converts uplands into bottomlands. Therefore, the proposed building would be placed below and straddling the OHWM, violating the ordinance that requires a 100 foot setback for buildings. The majority of the building would be over the waters of Lake Charlevoix after expanding the lake into an artificial basin.
- * Basins and canals are constructed and "erected" "structures" and are not allowable within 100 feet of the Ordinary High Water Mark, and certainly not allowed in the Shoreland Protection Strip.
- * Only 20% of vegetation is allowed to be removed from the 50 foot- Shoreland Protection Strip, not the land itself. This is repeated throughout the ordinance by requiring that if trees are removed, 'root systems shall remain in place for shoreline stabilization" and requiring repair of the shoreland if docks or stored boats damage it.

Again, no changes to the shore line protection act.

Regards,

Melvin H. Czechowski, Ph.D.
6717 9 Mile Point Dr.
Charlevoix, MI 49721

July 19, 2022

TO: Planning Commissioners
FROM: LuAnne Kozma, 9330 Woods Road, Charlevoix MI 49720

RE: PC review of Zoning Ordinance articles on ZBA, Zoning Administrator, and Adoption and Amendment

I have the following comments on the proposed changes in your packet for the July 19 PC meeting:

Article 8, ZBA

There are 2 versions of the ZBA section.
In the one with suggestions indicated with cross-outs and italics:

Most of the changes suggested are changing language that is taken right out of the Michigan Zoning Enabling Act and should not be changed.

I don't see why the term "justice done" should be taken out, because after all, that's the purpose of the ZBA.

Section 8.03, Jurisdiction: "and shoreland landscaping plans" should be removed. I don't believe the Michigan Zoning Enabling Act enables townships to exempt actions by the PC from ZBA appeal. The statute says at MCL 125.3603(1), in part:

"It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance. "

Section 8.04, the existing language is in keeping with the Michigan Zoning Enabling Act, and the proposed change is not.

125.3604(6) "...The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit."

Section 8.07 Variances, subsection (4): removing the word "substantial" in from of "substantial justice" and "substantial relief" is not consistent with the Michigan Zoning Enabling Act, which states at 3604(7):

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance,

Date: July 19, 2022

To: Kristin Baranski, Clerk, and Members of the Hayes Township Planning Commission

From: Bill Henne, Citizen of Hayes Township

Subject: Planning Commission Meeting of July 19, 2022

Kristin, please read the following letter into the minutes of the Planning Commission tonight.

Planning Commission members: I am making these comments as a former chair of both the Hayes Township Planning Commission (PC) and Zoning Board of Appeals (ZBA). I am one of the architects of the current ordinance and am very much aware of all the work, time and background education needed in order for any changes to be legal and ethical. Every sentence must conform to the Michigan Zoning Enabling Act and the Michigan Planning Enabling Act. In addition, all changes must meet the intent and purpose of the zoning ordinance. The current zoning ordinance was created with these guidelines, but certain individuals have been proposing changes that would relax and weaken some of the existing provisions, and this approach is not only wrong; in some cases, it is likely illegal since much of the language is from the Michigan Zoning Enabling Act.

SECTION 8.03, Jurisdiction. Shoreland landscaping plans must not be exempted from appeals. This exemption was intended to apply only to PUD's and special use permits.

SECTION 8.07 Variances. The word "substantial" must not be removed because it changes the meaning in an unacceptable way.

SECTION 9.01, The Zoning Administrator (ZA) must not be allowed to interpret the application, precedent and intent of the ordinance. This power must be only in the hands of the ZBA.

SECTION 9.02, 5. Again, the ZA must not be given the authority to "extend". What does that mean? It is not clear. This section should not be changed.

SECTION 9.03, should not be changed to "interpretations" because it confuses the original intent. This section should not be changed in any way.

In my opinion, the Planning Commission should not make any changes to the current zoning ordinance at this time because the intent behind these changes is very questionable. Our township is involved in a very significant controversy over shoreland protection and unresolved legal matters, and until these issues are resolved, I strongly suggest that any proposed changes to our ordinance be postponed.

Comments for the Hayes Township Planning Commission Meeting on July 19, 2022

<wlboal@gmail.com>

Tue, Jul 19, 5:04 PM

To: <clerk@hayestownshipmi.gov>, <rwgriffitts3@gmail.com>, <edbajos@gmail.com>, <morehead.m@gmail.com>, <greensladerex@gmail.com>, <steve@bulmanndock.com>, <trustee2@hayestownshipmi.gov>, <Burnett.pc@outlook.com>

To: Kristin Baranski, Hayes Township Clerk, and Members of the Hayes Township Planning Commission

Kristin, please include my comments in the records of the Planning Commission.

I am extremely concerned that the proposed changes to the Hayes Township zoning ordinance will weaken environmental protections in Hayes Township. The strength of Hayes Township is its natural beauty. I am distressed by changes that would adversely affect environmental quality and the natural, aesthetic beauty of the Township that we all treasure. And the only argument I've heard in favor of these changes is to "modernize" the ordinance. "Modernize" seems to be code for letting property owners do whatever they want regardless of the common good. Regarding the shorelines of Lakes Michigan and Charlevoix and Susan Lake, I hate to think that the Township will allow the eventual development of one resort-style development after another. I think you are proceeding down that path. You never should have allowed the DeVos development, and you shouldn't allow the Law resort or change the zoning ordinance to allow developments like these. Shame on you. In addition, given the controversy about the proposed Law development, I do not think the zoning ordinance should be changed or finalized until the legal and permitting processes for that project have been completed.

While Hayes Township residents do not have an opportunity to vote on the zoning ordinance, I think it is important that they be made fully aware of all the proposed changes and their implications. You have had several years to work on this. Give residents at least a few months to review and comment your proposals before you finalize them. I think you should do more outreach to the community to let them know about the momentous changes being proposed than just posting notices of planning commission meetings. I get the feeling the changes are being snuck through without sufficient public notice, even if you have technically done the minimum you have to do.

It is essential that the zoning ordinance be compliant with the Michigan Zoning Enabling Act, and I think there are proposed changes that are not consistent (or legal). Do not include language that is in conflict with the Michigan Zoning Enabling Act or change current language that is compliant with the Act.

While the inland sections of the Township are beautiful and need protection, our local area is defined by its lakes, and I am afraid the greatest threat is to lake quality and to shorelines. It is extremely important to preserve or enhance shoreline protections, and I think the proposed ordinance weakens shoreline and water quality protections.

It is important that shoreland landscaping plans not be exempted from appeal to the zoning board of appeals (ZBA). It is ludicrous to exempt something so important from review by the ZBA. My understanding is that the only course of appeal would be to the circuit court, which also is ridiculous. I also don't think the Michigan Zoning Enabling Act allows for this exemption.

The Zoning Administrator (ZA) cannot be allowed to interpret the zoning ordinance. That's the purview of the ZBA, and the ZA can ask the ZBA for an interpretation. Please remove language giving the ZA authorities the ZA does not legally have.

SECTION 8.07 Variances. The word "substantial" must not be removed because it changes the meaning in an unacceptable way.

SECTION 9.03, should not be changed to "interpretations" because it confuses the original intent. This section should not be changed in any way.

Sincerely,

Winnie Boal

wlboal@gmail.com

231-547-6859