

ZONING BOARD OF APPEALS
ADMINISTRATIVE MEETING
HAYES TOWNSHIP
9195 MAJOR DOUGLAS SLOAN ROAD
CHARLEVOIX, MICHIGAN 49720
JANUARY 8, 2025
11:00 AM
AGENDA

Join Zoom Meeting

<https://us02web.zoom.us/j/83141540092?pwd=8B9u2ffX3izb5t85jekpgxyEjDjsre.1>

Meeting ID: 831 4154 0092

Passcode: 396667

1. Chair calls meeting to order
2. Pledge of Allegiance
3. Introduction of Zoning Board Members
4. Declaration of Conflict of Interest
5. Approval of September 18, 2024 draft meeting minutes
6. Public Comment
7. Election of Officers
8. Training Presentation by Todd Millar
9. Set Public Hearing Dates
10. Zoning Board of Appeals Member Comment
11. Adjournment

Public Comment at Meetings of Hayes Township Zoning Board of Appeals

The Hayes Township Zoning Board of Appeals values public input and offers two opportunities for public comment near the beginning and end of its meetings. If you speak, however, you should not expect to engage board members or staff in discussion or debate.

ZBA members will not respond to comments made during public comment except to ask a clarifying question, correct an error, or provide specific factual information.

Public comment is recognized by the Michigan Open Meetings Act. The Act allows public bodies to adopt rules for orderly comment. To that end, the following rules have been adopted by the Hayes Township Zoning Board of Appeals:

1. A person wishing to speak will so indicate on the sign in sheet. Zoom attendees can indicate they would like to speak by raising their hand icon. Individuals attending in person will be called on first.
2. The person will begin by stating their name, spelling it if requested.
3. The speaker addresses the Chairperson, or other person chairing the meeting, on behalf of the entire board. Public comment should not be addressed to individual ZBA members or township staff, or to other members of the audience.
4. There is a three (3) minute time allotment for each speaker. The time limit may be extended by the Chairperson or majority of the board. A person may only speak once during a comment period. Audience members may not 'donate' their time to another speaker.
5. A speaker will be out of order if s/he is disruptive, speaks longer than the allotted time, uses vulgarities or makes a personal attack on a ZBA member or township employee that is unrelated to the performance of that person's duties.
6. A speaker ruled out of order will not be allowed to speak again at the same meeting except by special permission of the board.
7. The chair has the discretion to permit audience members to speak at times other than during public comment.

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The September 18th, 2024, organizational meeting of the Hayes Township Zoning Board of Appeals was called to order by Chairman Janice Vedder-Whipple at 10:00 am. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix, MI 49720.

BOARD MEMBERS PRESENT: Rod Slocum, Bruce Deckinga, Janice Vender-Whipple, and Doug Kuebler.

BOARD MEMBERS ABSENT: Joni Hosler (Alternate) and Rex Greenslade.

ALSO PRESENT: April Hilton (Recording Secretary/Deputy Clerk) Ron VanZee (Zoning Administrator)

Audience: LuAnne Kozma, Mallory O'Brien, Leslie Cunningham, Tim Boyko, Alexander Curley, Roy Griffiths, CT Martin, and Anne Flemings.

PLEDGE OF ALLEGIANCE: Ms. Vedder-Whipple (Chair) opened the meeting at 10:00 am with the Pledge of Allegiance to the Flag.

REVIEWED AGENDA:

Mr. Deckinga made a motion, supported by Mr. Slocum, to approve the agenda.

Yeas: Rod Slocum, Bruce Deckinga, Doug Kuebler, Janice Vedder-Whipple.

Nays: None Motion Carried

INTRODUCTION OF ZONING BOARD OF APPEALS (ZBA) MEMBERS:

BOARD MEMBERS PRESENT: Rod Slocum, Bruce Deckinga, Janice Vedder-Whipple, and Doug Kuebler.

BOARD MEMBERS ABSENT: Joni Hosler (Alternate) and Rex Greenslade.

DECLARATION OF CONFLICT OF INTEREST:

NONE

APPROVAL OF DRAFT MINUTES FROM AUGUST 27TH, 2024:

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Mr. Slocum made a motion, supported by Mr. Kuebler, to approve the August 27th 2024 meeting minutes as amended.

Yeas: Rod Slocum, Bruce Deckinga, Doug Kuebler, and Janice Vedder-Whipple.

Nays: None **Motion Carried**

PUBLIC COMMENT NON AGENDA ITEMS:

Public Comment Opened at 7:05pm

Comments Included:

- Enjoying the view from Lake Charlevoix, they own property on Lake Charlevoix and put in a great effort to conserve the Shoreline. Referenced a ZBA case from 2022.

Public Comment Closed at 7:09 pm

CHAIR OPENS PUBLIC HEARING:

Mr. Deckinga made a motion, supported by Mr. Slocum to open the public hearing at 7:11pm.

Yeas: Rod Slocum, Bruce Deckinga, Doug Kuebler, and Janice Vedder-Whipple.

Nays: None **Motion Carried**

ZONING ADMINISTRATOR INTRODUCES CASE AND PRESENTS EXHIBITS:

In the Matter of: Little Traverse Conservancy CASE #240918

Charlevoix County Property Tax Identification Number 15-007-101-002-00, located on property commonly known as 6413 Division Ave. Charlevoix MI 49720. The applicant is seeking variances to construct a 320 square foot deck/viewing platform, an eight foot wide stairway and an eight foot wide crushed gravel pathway.

The Conservancy recognizes the need for handicap accessible trails in Northern Michigan and believes their largest water front conservancy parcel would be a great start with addressing this unique need. The funding for the natural woodlands is in perpetuity. To accomplish this project the applicant is seeking the following variances:

A. A 120 square foot variance from the 200 square foot maximum allowed in Section 3.14,2,A.

B. A 70 foot variance from the 100 foot setback requirement in Section 3.14,2,A. for a 320 square foot deck to be placed within 30 feet of the Ordinary High Water Mark.

C. A 84 foot variance from the 100 foot setback requirement in Section 3.14,2,A. for a 6 foot wide stairway to be placed within 16 feet of the Ordinary High Water Mark.

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D. A 2 foot variance from requirement of Section 3.14, 3, D, for an 8 foot wide pathway to be constructed to service viewing area.

E. An average of 4 foot height allowance variance from requirement of Section 3.14,2,A,I for the deck to be located higher than the 2 feet above the natural grade allowance. Section 3.14.3.d states that "The Shoreland Protection Strip shall not be altered more than 20% under any condition... Walkways or stairs for water access shall be allowed, provided they; do not exceed six (6) feet in width, are constructed in such a way that storm water is slowed, take the most environmentally sensitive route between each destination and are not constructed in such a way that they expand the deck beyond the two hundred (200) square foot maximum."

PETITIONER IS RECOGNIZED (AND/OR AGENT) AND PUTS FORTH CASE:

Anne Flemings presented a brief explanation to the ZBA and public of The Little Traverse Bay Conservancy history, and vision for the largest coast line accessible Conservancy property including their hope to have budget friendly handicap access in the future. Propose the entire project will take at least a year to complete, once complete the Conservancy believes the amount of visitors to this property will increase.

BOARD MEMBERS REPORT ON THEIR SITE INSPECTIONS:

Mr. Deckinga stated he is concerned with the path having several steep inclines it may not be universally accessible. Anne Flemings responded they plan to construct the path throughout the project to make it as universally accessible as possible.

CHAIR OPENS PUBLIC COMMENT:

Opened at 7:26 pm

Comments Included:

- Appreciates the Conservancy's involvement in the Township. Correspondence attached.

Public Comments Closed 7:27 pm

CORRESPONDENCE ACKNOWLEDGED:

ZBA members reviewed all correspondence received by 4:00pm September 18th, 2024 as stated on the Public Hearing Notice.

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CHAIR CLOSES PUBLIC COMMENT:

Public Comment closed at 7:28pm.

REVIEW OF APPLICABLE SECTION OF HAYES TOWNSHIP ORDINANCE:

ZBA Members discussed the size of the property shall be considered during this decision.

Mr. Deckinga does not believe there will be an increase in visitors as a result to this project as proposed by the applicant.

REVIEW AND DISCUSSION OF FINDING OF FACT:

Discussed the need for the 120 foot variance from the 200 square foot maximum requested variance to construct a 16ftx20ft viewing platform.

Ms. Vedder Whipple suggested putting the condition on the variance for the Shoreline Subcommittee to review the project before approval. Specifically to view the number of trees within the shoreline protection strip and to receive feedback and recommendations from Tip of the Mitt.

Discussed the need for the 6 foot wide stairway with in the 16 feet of the Ordinary High Water Mark.

A 120 square foot variance from the 200 square foot maximum allowed in Section 3.14.2.A

- The requested variance is to construct a 16ftx20ft viewing platform

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally apply to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

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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.

A 70 foot variance from the 100 foot setback requirement in Section 3.14.2.4

- For a 320 square foot deck to be placed within 30 feet of the Ordinary High Water Mark

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally apply to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would gove a substantial relief to the property owner and be more consistent with justice to other property owners.
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.

A 84 foot variance from the 100 foot setback requirement in Section 3.14.2.A for a 6 foot wide stairway to be placed within 16 feet of the Ordinary High Water Mark

- For a 6 foot stairway to be placed within 16 feet of the Ordinary High Water Mark

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally apply to other properties

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in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would gove a substantial relief to the property owner and be more consistent with justice to other property owners.
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.

A 2 foot variance from requirement of Section 3.14.3.D for an 8 (eight) foot wide path wide to be constructed to service viewing area.

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally apply to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to

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the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

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.

An average of four (4) foot height allowance variance from requirement of Section 3.14.2.A.I

- The requested variance is to allow for the deck to be located higher than the 2 feet above the natural grade allowance.

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally apply to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
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.

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MOTION AND ROLL CALL VOTE:

Mr. Kuebler made a motion, Supported by Mr. Slocum to approve a 120 square foot variance from the 200 square foot maximum allowed in section 3.14.2.A.

Yeas: Rod Slocum, Doug Kuebler, and Janice Vender-Whipple.

Nays: Bruce Deckinga **Motion Carried**

Mr. Slocum made a motion, supported by Ms. Vedder-Whipple to approve a 70 foot variance from the 100 foot setback requirement in section 3.14.2.4. with the condition of approval from the Shore land Sub-Committee Review.

Yeas: Rod Slocum, Doug Kuebler, Bruce Deckinga, and Janice Vender-Whipple.

Nays: **Motion Carried**

Ms. Vedder-Whipple made a motion, supported by Mr. Slocum to approve the 84 foot variance from the 100 foot setback requirement in section 3.14.2.A, for a 6 foot wide stairway to be placed within 16 feet of the ordinary High Water Mark.

Yeas: Rod Slocum, Doug Kuebler, Bruce Deckinga , and Janice Vender-Whipple.

Nays: **Motion Carried**

Mr. Deckinga made a motion, supported by Mr. Kuebler to approve the 2 foot variance from requirement of section 3.14.3.D for an 8 foot wide pathway to be constructed to service viewing area.

Yeas: Rod Slocum, Doug Kuebler, Bruce Deckinga , and Janice Vender-Whipple.

Nays: **Motion Carried**

Mr. Slocum made a motion, supported by Mr. Kuebler to approve an average of a four foot height allowance variance from requirement of section 3.14.2.A.I, to allow for the deck to be located higher than the 2 feet above the natural grade allowance.

Yeas: Rod Slocum, Doug Kuebler, Bruce Deckinga , and Janice Vender-Whipple.

Nays: **Motion Carried**

Section 3.14.3.d states that “The Shoreland Protection Strip shall not be altered more than 20% under any condition... Walkways or stairs for water access shall

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be allowed, provided they; do not exceed six (6) feet in width, are constructed in such a way that storm water is slowed, take the most environmentally sensitive route between each destination and are not constructed in such a way that they expand the deck beyond the two hundred (200) square foot maximum.”

Ms. Vedder-Whipple stated it is important for the Deck Variance because the size allowed does not give enough room for wheelchair and handicap communities to comfortably access the lookout of the natural preserve.

Mr. Slocum made a motion, supported by Mr. Deckinga to approve Case #240918 allowing 120 square ft variance from the 200 sq ft maximum allowed in section 3.14,2,A.

70 ft variance from the 100 ft setback requirement in Section 3.14.2.A for a 320 sq ft deck to be placed within 30 feet of the OHWM.

84 foot variance from the 100 foot setback requirement in section 3.14.2.A for a 6 foot wide stairway to be placed within 16 feet of OHWM.

12 ft variance from requirement of section 3.34.3.D, for an 8 foot wide pathway to be constructed to the service viewing area.

An average of 4 foot height allowance variance from requirement of section 3.14,2,A,I for the deck to be located higher than the 2 feet above the natural grade allowance on condition of a restoration plan and Shoreline Sub-Committee Review submitted.

Yeas: Rod Slocum, Bruce Deckinga, Doug Kuebler, and Janice Vender-Whipple.

Nays: None **Motion Carried**

CHAIR CLOSES PUBLIC HEARING:

Mr. Kuebler made a motion, supported by Mr. Deckinga to close the Public Hearing at 8:16pm.

ADJOURNMENT: Ms. Vedder-Whipple made a motion, supported by Mr. Deckinga, to adjourn at 8:17pm

12:00 p.m.

Yeas: Rod Slocum, Bruce Deckinga, Doug Kuebler, and Janice Vender-Whipple.

Nays: None **Motion Carried**

Respectfully Submitted,

April Hilton

Hayes Township Deputy Clerk/Recording Secretary

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