

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Major Douglas Sloan Road, Charlevoix, MI 49720

The September 18th, 2024, Public Hearing meeting of the Hayes Township Zoning Board of Appeals was called to order by Chair Janice Vedder-Whipple at 7:00 pm. 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 Fleming.

**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 27<sup>TH</sup>, 2024:**

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

Mr. Slocum made a motion, supported by Mr. Kuebler, to approve the August 27<sup>th</sup> 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 waterfront 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.

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

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 Fleming 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 18<sup>th</sup>, 2024 as stated on the Public Hearing Notice.

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

**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 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.

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

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 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.
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 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 generally apply to other properties in

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

- 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.
  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 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

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

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 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.

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

**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**

DRAFT  
Hayes Township  
Zoning Board of Appeals  
Public Hearing  
September 18th, 2024  
09195 Old U.S. N, Charlevoix, MI 49720

**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.

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



clerk hayestownshipmi &lt;clerkhayestownshipmi@gmail.com&gt;

## ZBA letter

tim boyko &lt;tim@timboyko.com&gt;

Fri, Sep 13, 2024 at 8:29 AM

To: clerk hayestownshipmi &lt;clerkhayestownshipmi@gmail.com&gt;, April Hilton &lt;deputyclerkhayes@gmail.com&gt;

Please include the following in the ZBA packet for the September 18th hearing, thank you.

Dear Members,

The ZBA is being asked for a dimensional variance to allow the LTC to construct for the public their first universally accessible trail and viewing deck at the new 56 acre Lake Michigan nature preserve in Hayes Township.

In analyzing any zoning decision we should consider the impact if everyone applied it to their property. Good for one good for all. This approach is especially crucial when dealing with lakefront zoning when many parcels are involved because widespread adoption may have a disastrous effect on a sensitive public resource. This leads us to a very conservative and conservationists approach in our Zoning Ordinance.

In deciding a variance request we should consider the unique circumstances of the property, fairness to neighbors, impact on public safety and whether it follows the spirit of the Zoning Ordinance.

In this variance request we have a unique non-commercial public access parcel which are few and far between. I believe we can be more accommodating for public use versus the treatment of private parcels because of its very limited impact due to the low number of potential sites.

This variance is requesting a somewhat larger dimensions for decks and walkways and a smaller setback from the lake. A universally accessible trail with deck and ramps placed close enough to the shoreline will allow a safer and more intimate lake experience for those unable to scramble down to the beach. The preserve is 56 acres and there a no close by neighbors. The deck occupies a very small percentage of the 1320 feet of lakefront that is being preserved forever. This proposal overwhelmingly protects the lake and is in the spirit of our zoning.

In sum this request fulfills the requirements of a zoning variance:

- it is a unique property,
- it is fair to adjacent properties
- it will increase public safety and
- it is not in conflict with the spirit of our zoning ordinance.

The boat launch and pier at Camp Seagull was a similar accommodation to enhance the public's access. This is successful and I believe the deck and ramps requested for the new preserve (Enji-minozhiiyaamigak, The Place of Peacefullness) would likewise be a successful public access enhancement.

Since the 1970's when LTC was founded by a few citizens concerned with protecting what makes our area attractive. LTC has become the leading agency in Northern Michigan for preservation and a steadfast partner with our Township including the biggest investment in land to date in this 56 acre site. LTC currently provides over 1500 acres for public access in Hayes Township and many more acres protected forever by private conservation easements.

Be mindful that this preserve will serve hundreds if not thousands every year and will add a unique recreation opportunity for Hayes Township residents and visitors. I encourage you to allow the requested variance.

Respectfully,

Tim Boyko

To: Janice Vedder- Whipple, ZBA Chair and ZBA members  
From: Roy Griffitts, Planning Commission Chair  
Re: Little Traverse Conservancy Variance request  
Date: 9/16/2024

AS you consider the requested variance for the project submitted by the Little Traverse Conservancy, I offer the following thoughts.

After reviewing the meeting packet, including a letter from a community member, the application shows that it creates the need for the Conservancy to develop a shoreline restoration plan for that area within 50 feet of the Ordinary Highwater Mark that will be disturbed by the construction activities.

I have no doubt that Conservancy will continue its strong commitment to protecting our natural resources. Our ordinance does require that the disturbed area be restored in accordance with a plan reviewed in this case by the Shoreline subcommittee, which will include input from Tip of the Mitt, and the Zoning Administrator. I recommend that this be included specifically as a condition if the ZBA decides to grant the Variance request.

As we know from our various training sessions that granting this permit affects only this property and does not create a standard by which all future projects are to be evaluated. It in my opinion does serve the greater good, not only for Hayes Township but for all who come to the area seeking to enjoy the beauty of Lake Michigan and Northern Michigan.

Thank you for your consideration of this as part of the deliberation the ZBA will undertake.