

**HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
February 8, 2017**

The Zoning Board of Appeals hearing was called to order by Chair Bill Henne at 7:02 p.m. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix.

Members present were Paul Hoadley, Marilyn Morehead, Bill Henne, and Tom Darnton. Also present were Larry Sullivan, ZA, Marlene Golovich, Secretary, Ron Way and William Emerson.

Chair Bill Henne asked to be joined in the Pledge of Allegiance.

The ZBA members introduced themselves.

Chair Bill Henne reviewed the Order of Business and stated the purpose of the meeting is to hear a request by William and Marlene Emerson for approval to make structural changes to a non-conforming waterfront home pursuant to Article III, Section 3.02 Nonconformities, #10, at 07644 Indian Trails, Charlevoix, and property tax number 15-007-130-012-00.

Zoning Administrator Larry Sullivan presented the following information;

PROPERTY INFORMATION:

- 1. Property Tax Identification Number: 15-007-130 -012 -00**
- 2. Property Address: 07644 Indian Trails, Charlevoix, MI**
- 3. Owners of Record: William and Marlene Emerson**
- 4. Application for approval to add addition received on Jan. 4, 2017**
- 5. Agent representing owners: Ron Way**

EXHIBITS

- 6. Application Yes**
- 7. Published notice 1-20-17**
- 8. Notice of meeting sent to property owners within 300' 1-15-17**

9. Site Plan Yes

FINDINGS OF FACT

12. Zoning District:R-1 . **Minimum lot size:**2 acre, 200 ft.width

13. Lot Dimensions: 151' x285'. **Total lot acres/square footage:** 43,035

14. Setback requirements: Front 100' Rear 25'_ Side 15' .

15. Existing setbacks: Front 90' Rear 57' Side 17' Side 19'_

16. Existing non-conformities: A portion of the dwelling is located within 100' of Lk. Chx. .

17. Previous variance(s) granted: 9-10-97 10' variance from OHWM .

18. Approval from Section(s) 3.02 10. approval, not a variance request **of Zoning Ordinance** requiring permission of ZBA to add addition to non-conforming structure located beyond the 100' required setback .

19. Unique features of property:

20. Adjacent properties: residential .

21. % Impervious Surface Allowed 15% **% Proposed** No increase in impervious surface .

Zoning Administrator Presentation

The Non-Conforming Section of the Hayes Township Zoning Ordinance was amended on January 11, 2016 with an effective date of January 26, 2016. This amendment resulted in requests to expand a non-conforming structure that is partially within the 100 foot setback needing to be treated in one of the two following ways. If the expansion is to be located within 100 feet of the OHWM (Ordinary High Water Mark) the ZBA is precluded from hearing the request. If the expansion is located beyond the 100 foot setback, the Zoning Board of Appeals is required to grant permission prior to the Zoning Administrator being able to grant the permit.

The additions being proposed to the Emerson residence entail a small addition on the south side of the dwelling, basically enclosing a cement slab that currently exists at the door that allows occupants of the kitchen to directly exit from the kitchen to the outdoors. The second addition is to place a covered (roof) in front of the existing attached garage with the cover extending outward from the garage by 4 feet and having a width of 16 feet.

Neither of these additions are located within 100 feet of the OHWM of Lake Charlevoix, therefore, the Zoning Board of Appeals has the legal ability to grant permission for the proposed additions. Neither of these additions will increase the amount of impervious area as the areas upon which they will be located are already covered with impervious materials.

The Zoning Ordinance does not contain standards upon which the ZBA can base their decision to approve or deny the requested additions as the Ordinance does for variance requests. Based upon the lack of standards, it is up to the Zoning Board of Appeals to make a determination as to whether to approve or deny the requested additions based upon your judgement.

Paul Hoadley stated that it does increase the amount of impervious service but not to the degree that it will affect lake water quality.

Applicant Presentation

Ron Way, representative for the applicant, stated that the home owners do have a need for additional kitchen storage space and a small roof over a portion of the existing driveway to provide protection from the weather.

The Township received a letter of support from John Haggard for this project.

Paul Hoadley made a motion, supported by Marilyn Morehead to approval the request for a 4'x16' roof to overhang the main entrance of the home and a 5'x4' one story addition **over crawl** on the south side of the home.

Yays: Paul Hoadley, Tom Darnton, Marilyn Morehead, Bill Henne

Nays:

Motion carried.

Other Business

Paul Hoadley made a motion, supported by Marilyn Morehead to nominate Bill Henne as the Zoning Board of Appeals Chairperson. Motion carried

Paul Hoadley made a motion, supported by Marilyn Morehead to nominate Tom Darnton as the Zoning Board of Appeals Vice -Chairperson. Motion carried.

ZA Sullivan suggested that the ZBA make a recommendation to the Planning Commission to review Article III, Section 3.02 Nonconformities, #10 for clarification. Paul Hoadley stated that he would like Sullivan to ask attorney Bryan Graham to take a look at that section. If the addition had been larger it could have effect on water quality.

Paul Hoadley made a motion, supported by Tom Darnton to ask the Township attorney Bryan Graham to review Article III, Section 3.02 Nonconformities, #10. Is it ok as written, does it need additional language or standards, under what circumstances could the ZBA deny a request and with what standards? Motion carried.

Marilyn Morehead made a motion, supported by Paul Hoadley to approve the minutes from August 10, 2016 as corrected.

Paul Hoadley stated that the Township is seeking a new ZBA member and two ZBA alternates.

Marilyn Morehead made a motion, supported by Tom Darnton to adjourn this meeting at 8:00 p.m. Motion carried unanimously.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Marlene Golovich', with a stylized, cursive script.

Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected March 1, 2017

**HAYES TOWNSHIP
ZONING BOARD OF APPEALS
DECISION AND ORDER**

Applicant: William and Marlene Emerson
Hearing Date: February 8, 2017

The property identified by property tax number 15-007-130-012-00, located 07644 Indian Trails, Charlevoix, hereinafter referred to as the property

The Board having considered the application, a public hearing having been held on February 8, 2017 and after giving due notice as required by law, the Board having heard the statements of the applicants and the applicants representative, public comments and the Board having considered the following property information, exhibits, findings of fact:

PROPERTY INFORMATION:

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EXHIBITS

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FINDINGS OF FACT

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18. Approval request from Section(s) 3.02 10. approval, not a variance request of **Zoning Ordinance** requiring permission of ZBA to add addition to non-conforming structure located beyond the 100' required setback .

19. Unique features of property:

20. Adjacent properties: residential .

21. % Impervious Surface Allowed 15% % Proposed No increase in impervious surface .

The Board finds that the requested approval will not increase the impervious surface to the degree that it will have an adverse effect on lake water quality.

The Board approves the findings of fact and grants the approval of the request for a 4'x16' roof to overhang the main entrance of the home and a 5'x4' one story addition over crawl on the south side of the home at 07644 Indian Trails, Charlevoix, and property tax number 15-007-130-012-00.

Respectively Submitted



Marlene Golovich
Hayes Township Clerk

Minutes approved as corrected March 1, 2017

Date 2/8/17

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MEMBERS ATTENDANCE

A. Paul Hoadley

Martine Mouchard

Bill Henne

Tom Danton

Mark Ch

Larry E. Hagan