

HAYES TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
January 4, 2012

The Zoning Board of Appeals hearing was called to order by Chair Joni Hosler at 7:30 p.m. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix.

Members present were Joni Hosler, Rich Burnett, Doug Kuebler Bill Henne and Scott Parker. Also present were Jonathan Scheel, ZA and Marlene Golovich, Secretary. Audience members were Ken Stolpmann, Karen Stolpmann, Jim Russell, Janice Vedder Whipple, and Ms. Wilson.

The purpose of the meeting is to hear a request by Janice Whipple for a nine (9) foot side yard variance, from Section 4.13 Schedule of Regulations and a seventy one (71) foot lake front variance, from Section 3.14 Lakefront Regulations of the Zoning Ordinance to add fill material within the shoreland protection strip, and build an 12'x16' storage shed at 06561 Nine Mile Point Drive, Charlevoix, property tax number 15-007-400-029-00.

Zoning Administrator Jonathan Scheel stated the application was complete with the following exhibits;

1. Application and all corresponding notification documents
2. Letter from applicant
3. Photos
4. Prepared staff report

Jonathan Scheel stated that the applicant wishes to build a storage shed on an existing narrow lot. Building on the shed has already begun but applicant ceased construction when notified. A side lot variance was granted in 1974. A variance for a detached garage was denied in 2001.

Janice Vedder Whipple, applicant, gave an overview of her need for storage. She stated that she has been storing items outside in Rubbermaid tubs and along the side of her home. She stated the proposed storage shed would look much better for the entire neighborhoods sake. The storage shed would be painted colors that blend into the area and trees and shrubs would be planted to visually screen it from the lakefront and the neighbors. The shed will not be a permanent structure and will not be attached to any existing buildings. She stated that variances are given for unusual circumstances and there is no

other location on the lot due to the narrowness and slope of the lot as well as the location of her septic and well. Janice also quoted from a report prepared by Georgian Bay Association stating that the water levels of the Great Lakes will never return to the current all-time high water mark. She stated that steps and platforms are allowed and cannot see how her shed would adversely affect the shoreland protection strip.

The ZBA reviewed the prepared staff report.

Scott Parker asked how far the shed was from the house. It is 26 feet.

Bill Henne stated that without a survey a true measurement for the lakefront set back cannot be determined. The application states one distance from the all-time high water mark determined by the zoning administrator and the applicant states she measured a different distance. Bill also stated no matter which measurement is correct a portion of the shed would still be within the shoreland protection strip.

Scott Parker asked how the applicant would service her well. She stated that the well is only 100 feet deep, the pump is above ground and even with the shed in place there would be room for a small service truck.

Marlene Golovich asked how the ZBA can be asked to give a variance from the lakefront without establishing the all-time high water mark. How do you know what the actual variance is?

Bill Henne asked if the decision could be tabled until a survey could be done to determine the all-time high water mark. Jonathan Scheel replied that it could be tabled but because he thought this was a tough case, at best, he did not want to ask the applicant to bear the financial burden of a survey until the ZBA reviewed Section 8.07 and determined whether there was a valid reason to grant the variance.

Ms. Wilson stated that the dynamics of the Great Lakes is changing and the water levels will never return to the current recorded all-time high water mark.

Scott Parker stated that he thought the applicant's lot already exceeded the allowed lot coverage and that a variance would be needed from the schedule of regulations to allow the storage shed.

Chair Joni Hosler read the criteria from the Zoning Ordinance Section 8.07 which is required to be considered before approving variances.

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally 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. **This property is not unique to this particular development (Nine Mile Point) but it is unique to other areas zoned R-2. This development has been granted variances on almost all the lots due to their narrowness and topography. Rich Burnett stated that it is the location of the well and septic that impede placement of the shed.**
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created). **Bill Henne stated that it is self-created by the original owner of the property and the property splits. Scott Parker also stated it is the result of the property owners.**

Bill Henne made a motion, supported by Scott Parker to deny the request by Janice Whipple for a seventy one (71) foot lake front variance, from Section 3.14 Lakefront Regulations of the Zoning Ordinance to add fill material within the shoreland protection strip, and build an 12'x16' storage shed at 06561 Nine Mile Point Drive, Charlevoix, property tax number 15-007-400-029-00 based on the fact that the need for the requested variance is the result of action of the property owner or previous property owners.

Motion carried unanimously.

Jonathan Scheel stated that the shed construction that is existing now must be removed by spring 2012.

Rich Burnett made a motion, supported by Doug Kuebler to nominate Joni ~~Hasler~~ **Hosler** as Chairman . Motion carried unanimously.

Rich Burnett made a motion, supported by Doug Kuebler to nominate Scott Parker as Vice-Chairman. Motion carried unanimously.

Rich Burnett made a motion, supported by Doug Kuebler to adjourn at 9:14 p.m. Motion carried unanimously.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Marlene Golovich', with a stylized flourish at the end.

Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected July 9, 2012.

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
DECISION AND ORDER

Applicant: Janice Vedder Whipple
Hearing Date: January 4, 2012

The property identified by property tax number 15-007-400-029-00, located at 06561 Nine Mile Point Drive, Charlevoix, hereinafter referred to as the "property".

The Board having considered the application, a public hearing having been held on January 4, 2012 and after giving due notice as required by law, the Board having heard the statements of the applicants representative, public comments and the Board having considered the following exhibits:

1. Application and all corresponding notification documents
2. Letter from applicant
3. Photos
4. Prepared staff report
5. Study on water levels prepared by Georgian Bay Association

GENERAL FINDINGS OF FACT

The Board finds there is a legal non-conforming building constructed on this lot

The Board finds side yard setback variance was granted in 1974

The Board finds a variance for a detached garage was denied in 2001

The Board finds that this property is not unique to this particular development (Nine Mile Point) but it is unique to other areas zoned R-2. This development has been granted variances on almost all the lots due to their narrowness and topography. Rich Burnett stated that it is the location of the well and septic that impede placement of the shed. The Board finds that the need for the requested variance is the result of action of the property owner or previous property owners.

The Zoning Board of Appeals approves the findings from Section 8.07 of the Zoning Ordinance and the Board denies the request by Janice Whipple for a seventy one (71) foot lake front variance, from Section 3.14 Lakefront Regulations of the Zoning Ordinance to add fill material within the shoreland protection strip, and build an 12'x16' storage shed at 06561 Nine Mile Point Drive, Charlevoix, property tax number 15-007-400-029-00.

Respectively Submitted

A handwritten signature in black ink, appearing to read 'Marlene Golovich', written in a cursive style.

Marlene Golovich
Hayes Township Clerk

Minutes approved as written July 9, 2012

1/4/12

ZBA

HAYES TOWNSHIP
PLANNING COMMISSION
MEMBERS ATTENDANCE

Dan Fuchler

Rick Brunt

Jim Hume

Bill Hume

Pat Kuhn

Mark Ch

Jonathan