

HAYES TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
January 29, 2013

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, Jim Rudolph, Bill Henne and Scott Parker. Also present were Jonathan Scheel, ZA and Marlene Golovich, Secretary. Audience members were Harry Stolt, Dave Stolt, Gerald Mills, Mary Mills and John Ferguson.

Chair Joni Hosler asked to be joined in the Pledge of Allegiance.

The purpose of the meeting is to hear a request by Mary Vandecar Trust for a parcel division variance, from Section 6 (d) Standards for Approval of Parcel Divisions or Property Transfers. Each new lot, parcel, or tract of land that will result from the division, including those lots, parcels, and tracts of land greater than ten (10) acres, shall have a depth of not more than four (4) times its width as measured under the requirements of the Hayes Township Parcel Division Ordinance. The property is located at 6044 Stolt Rd., Charlevoix, property tax number 15-007-124-001-00.

John Ferguson, representative for the applicant, stated the owners wish to have the property divided and the proposed division does not meet the 4:1 depth ratio. He also stated the current owners will be selling the resulting "Creek Parcel" to Little Traverse Conservancy for land protection.

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

1. Application and all corresponding notification documents
2. Site Plan
3. Aerial Maps

Jonathan stated that the criterion for a land division variance was similar to a zoning ordinance variance. The ZBA should take into consideration the Township Master Plan, particularly Chapter 8, Future Land Use Plan and Strategy.

Public Comments:

Gary Stolt asked if the resulting parcels could be resold. Mr Ferguson stated that the resulting "Creek Parcel" was being sold to the Little Traverse Conservancy and they would probably never sell the property. The remaining parcel will continue to be used by the family as farm land. Mr. Stolt stated he was looking for assurance that the land would not be developed.

Jim Rudolph asked if the Township could rezone the "Creek Parcel" to Conservation Reserve District. Marlene Golovich stated the Township cannot force anyone to rezone their property. Jonathan Scheel corrected that statement by saying the Township does have that authority.

Jonathan stated that the variance could include restrictions on development. Jim Rudolph stated the creek area is very fragile and should be protected.

Mary Mills asked if development restrictions were put on the "Creek Parcel" would that mean no parking lots, no paths, no anything. Jonathan stated that no development means no structures as per the definition in the Hayes Township Zoning Ordinance.

Gerald Mills asked if the purpose of the meeting was a variance for lot ratio or a rezone. It is not a rezone. Mr Mills stated ~~in~~ he was in favor of the variance.

Public comment closed.

Jim Rudolph asked how many resulting lots there could be if no development conditions were added. Jonathan stated five, but they would have to meet setbacks etc. If the remaining parcel was rezoned to RR1 and developed under a PUD there could be eleven homes but they would be clustered and not developed along the creek.

Scott Parker asked if the remaining lot could also have a no development condition put on it. Marlene Golovich stated she thought that would amount to a "taking" and could not be done.

Jim Rudolph stated he was in favor of putting no development conditions on the "Creek Parcel" and Bill Henne agreed.

The Zoning Board of Appeals reviewed Section 7.(c) of the Parcel Division Ordinance;

(c). The Zoning Board of Appeals may grant a variance under this Ordinance from the depth to width requirement of Section 6(d) of this Ordinance, if all of the following exist:

(1). Exceptional or extraordinary circumstances or conditions exist on the parent parcel, including exceptional topographic or physical conditions that do not generally apply to other lots, parcels, or tracts of land in the township.

This parcel has Horton Creek on it.

(2). The exceptional or extraordinary circumstances or conditions existing on the parent parcel are not the result of any act or omission by the Applicant or his or her predecessors in title.

It is not the result of the applicant or predecessors.

(3). The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcels, or tracts of land or to the general health, safety, and general welfare of the township.

It will enhance the surrounding parcels.

(4). The resulting lots, parcels, or tracts of land with the variance granted shall be compatible with surrounding lots, parcels, or tracts of land.

The resulting parcels will consist of farmlands and a large tract of protected creek land.

(5). The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.

Yes it will allow the "Creek Parcel" to be protected.

(e). In granting any variance under this Ordinance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order to ensure that the lot, parcel, or tract of land that will result from the division or property transfer complies with the variance granted under this Ordinance. Violations of such conditions and safeguards shall be deemed a violation of this Ordinance, punishable under Section 9 of this Ordinance.

Bill Henne asked how we protect the creek parcel from development in the long term for future generations. Jonathan stated by insuring no development can occur in the future.

Bill Henne made a motion, supported by Rich Burnett to approve the requested variances based on Section 7 of the Land Division Ordinance and Chapter 8 of the Hayes Township Master Plan adding one condition that the resulting "Creek Parcel" be perpetually undeveloped.

Roll Call

Rich Burnett	Yes
Jim Rudolph	Yes
Scott Parker	Yes
Bill Henne	Yes

Motion carried unanimously.

Jim Rudolph made a motion, supported by Scott Parker to approve the minutes from January 9, 2013 as written. Motion carried unanimously.

Jonathan Scheel presented the ZBA with an application for a parcel division variance and asked the ZBA to schedule the hearing. Rich Burnett made a motion, supported by Jim Rudolph to hold the public hearing on February 27, 2013, 7:30 p.m. at the Hayes Township Hall. Motion carried unanimously.

Rich Burnett made a motion, supported by Scott Parker to adjourn this meeting at 8:30 p.m. Motion carried unanimously.

Respectfully submitted



Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected March 6, 2013

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
DECISION AND ORDER

Applicant: Mary Vandecar Trust
Hearing Date: January 29, 2013

The property identified by property tax number, 15-007-124-001-00 located at, 6044 Stolt Rd., Charlevoix, hereinafter referred to as the property

The Board having considered the application, a public hearing having been held on January 29, 2013 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. Site Plan
3. Aerial Maps

GENERAL FINDINGS OF FACT

- The Board finds the parcel is approximately 58.2 acres
- The Board finds the parcel is zoned A-1 Agricultural
- The Board finds there is an existing creek on the property
- The Board finds a portion of the parcel is being farmed
- The Board finds a hardship was not created by the owner
- The Board finds the resulting parcels will enhance the surrounding parcels
- The Board finds the resulting parcels will consist of farmland and protected creek property

The Zoning Board of Appeals approves the findings from Section 7 of the Parcel Division Ordinance and approves a 4.49:1 and a 5.35:1 variance from Section 6 (d) the 4:1 depth requirement of the Parcel Division Ordinance with the following condition, the resulting "Creek Parcel" will remain perpetually undeveloped, requested by Mary Vandecar Trust at 6044 Stolt Rd., Charlevoix, property tax number, 15-007-124-001-00.

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 corrected March 6, 2013

ZBA

1/24/13

HAYES TOWNSHIP
PLANNING COMMISSION
MEMBERS ATTENDANCE

Rich Buntz
Lamar Judson
Scott Parker
Loni E. Hoosler
Bill Henne

Jonathan
Marlene