

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
May 20, 2015

The Zoning Board of Appeals hearing was called to order by Chair Bill Henne at 7:00 p.m. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix.

Members present were Rich Burnett, Jim Rudolph, Bill Henne, Joni Hosler and Scott Parker. Also present were Ron VanZee, ZA and Marlene Golovich, Secretary. Audience members were Jacob Hall, Sandra Arnold, Barbara May, & Tom Orr.

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

The ZBA members introduced themselves.

Chair Henne reviewed the Order of Business and stated the purpose of the meeting is to hear a request by Barbara May for a 7.5 foot variance, from Section 4.13, schedule of regulations, to add an attached garage to the existing home, at 06801 Nine Mile Point Dr., Charlevoix, property tax number 15-007-400-021-00.

Zoning Administrator Ron VanZee presented the following information;

PROPERTY INFORMATION:

- 1. Property Tax Identification Number: 15-007-400-021-00**
- 2. Property Address: 06801 Nine Mile Point, Charlevoix**
- 3. Owners of Record: Barbara May**
- 4. Application for 7.5' variance from required 25' rear yard setback, section 4.13 Schedule of Regulations, Hayes Township Zoning Ordinance 2009 as amended, received on April 21, 2015.**

EXHIBITS

- 5. Application: Yes**
- 6. Published notice Yes**
- 7. Notice of meeting sent to property owners within 300': Yes**
- 8. Site Plan: Yes**

9. Photos: Yes

FINDINGS OF FACT

- 10. Zoning District: R-2. Minimum lot size: $\frac{3}{4}$ acre.**
- 11. Lot Dimensions: 80.10' +/- x 190' +/- . Total lot acres/square footage: 3/10ths acre.**
- 12. Setback requirements: Front 100' Rear 25' Side 15'.**
- 13. Existing setbacks: Front 60' +/- Rear 38' Side 34' east Side 9' west *.**
- 14. Existing non-conformities: *8' x 10' residential addition on west side (to be removed),
10' x 20' deck in greenbelt area (to be removed).**
- 15. Previous variance(s) granted: None. Variance for deck in greenbelt denied in 1990.**
- 16. Variance request from Section(s) 4.13, Schedule of Regulations, of Zoning Ordinance
requiring a 25' rear yard setback.**
- 17. Unique features of property: Lot smaller than currently allowed by ordinance.
Waterfront property.**
- 18. Adjacent properties: Lots are smaller than currently allowed by ordinance.
Waterfront properties.**
- 19. % Impervious Surface Allowed: 20% Proposed: 11%.**

Scott Parker asked about the previous variance denial for the deck and why it has not been removed. Ron VanZee indicated there were no zoning records to show when the deck was built. Ron also stated that the applicant was proposing to remove the non-conforming deck within the shoreland protection strip. There are three existing decks, one at the rear of the home that will be incorporated into the proposed garage and remodel and two in the front of the home, one attached to the home and one located in the shoreland protection strip.

Jacob Hall, representing the applicant, stated they are not removing any decks in the front of the home and are planning to add a roof to the current deck attached to the front of the home. He added that a shed on the west side of the property to the house will be removed.

Ron VanZee directed the ZBA members that the only item being dealt with at this meeting was the variance request for the proposed garage.

Mr Hall stated that the applicant, Barbara May, is proposing to add an attached garage to the rear of the home. Most of the homes in the Nine Mile

Point development don't meet the current setbacks and have received variances.

Scott Parker asked where the septic system was located. It is located on the east side of the house on the water side.

Bill Henne asked if there are any other rear yards variances in the development. There are some houses slightly closer to the road than allowed currently.

Bill Henne asked if the applicant could remodel and add a garage without the variance. The applicant said no, it would be too tight.

Public comments.

ZA Ron VanZee stated he received 2 emails with no objections to the variance.

Sandra Arnold asked if there have been many requests for rear yard setback variances. Ron answered that one was recently approved in the nine mile point development.

Public Comment period closed.

Scott Parker stated he made a site visit and stated that the diversion of water will be affected but it does not look like there will be a water problem because of it.

Jim Rudolph stated he likes the idea of the west side shed being removed. He added that the deck in the shoreland protection strip is a concern and when considering granting a variance as much of the property that can be should be brought into current zoning compliance.

Scott Parker stated that he agreed with Jim, the garage is a benefit to the applicant and the deck is a concern.

Rich Burnett stated that he agreed the deck within the shoreland protection strip was a concern and would consider making the removal of it a condition of the variance.

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

SECTION 8.07 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. ***All ZBA members agree that the request meets this standard.***

2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created). ***All ZBA members agree that the request meets this standard.***

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. ***All ZBA members agree that the request meets the standard that it would be 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. ***All ZBA members agree that the request meets this standard.***

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. ***All ZBA members agree that the request meets this standard.***

SECTION 8.08 CONDITIONS OF APPROVAL

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 9.03 of this Ordinance.

Scott Parker made a motion, supported by Jim Rudolph to a grant a 7.5 foot variance from, from Section 4.13, schedule of regulations, to build an attached garage, as presented on the site plan, to the existing home, at 06801 Nine Mile Point Dr based on the findings of fact and the standards in section 8.07 of the Hayes Township Zoning Ordinance. The following conditions shall also apply; applicant must remove the non-conforming portion (shed) of the home on the west side of the property and remove the existing deck (deck number three) closest to the water's edge.

Yays: Joni Hosler, Rich Burnett, Jim Rudolph, Bill Henne, Scott Parker

Nays:

Motion carried unanimously.

Jim Rudolph made a motion, supported by Scott Parker to approve the minutes from January 28, 2015 as corrected. Motion carried unanimously.

Board Comments

Ron asked the members how they liked the new ZA information form. Rich stated that the Nine Mile Point area needs its own zoning regulations.

Rich Burnett made a motion, supported by Jim Rudolph to adjourn this meeting at 8:05 p.m. Motion carried unanimously.

Respectfully submitted



Marlene Golovich, Clerk
Hayes Township

Minutes approved as written June 3, 2015

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

Applicant: Barbara May
Hearing Date: May 20, 2015

The property identified by property tax number 15-007-400-021-00, located at, 06801 Nine Mile Point Dr., Charlevoix, hereinafter referred to as the property

The Board having considered the application, a public hearing having been held on May 20, 2015 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 and considering the criteria from Section 8.07 of the Hayes Township Zoning Ordinance:

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- 3. Owners of Record: Barbara May**
- 4. Application for 7.5' variance from required 25' rear yard setback, section 4.13 Schedule of Regulations, Hayes Township Zoning Ordinance 2009 as amended, received on April 21, 2015.**

EXHIBITS

Application: Yes

- 5. Published notice Yes**
- 6. Notice of meeting sent to property owners within 300': Yes**
- 7. Site Plan: Yes**
- 8. Photos: Yes**
- 9. Emails received by the Zoning Administrator**

FINDINGS OF FACT

- 10. Zoning District: R-2. Minimum lot size: ¾ acre.**
- 11. Lot Dimensions: 80.10' +/- x 190' +/- Total lot acres/square footage: 3/10ths acre.**
- 12. Setback requirements: Front 100' Rear 25' Side 15'.**

13. Existing setbacks: Front 60' +/- Rear 38' Side 34' east Side 9' west *.
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16. Variance request from Section(s) 4.13, Schedule of Regulations, of Zoning Ordinance requiring a 25' rear yard setback.
17. Unique features of property: Lot smaller than currently allowed by ordinance.
Waterfront property.
18. Adjacent properties: Lots are smaller than currently allowed by ordinance.
Waterfront properties.
19. % Impervious Surface Allowed: 20% Proposed: 11%.

The Board finds there is a need for an attached garage

The Board finds the difficulty was not created by an action of the applicant/owner.

The Board finds the variance will not alter the character of the surrounding area.

The Board finds the variance granted is the minimum necessary to permit reasonable use of the land and buildings for activities permitted in the zone district

The Board finds there are two existing non-conforming structures that must be removed before a zoning permit may be issued;

1. Shed on the west side of the home.
2. The entire deck currently located within the shoreland protection strip.

The Zoning Board of Appeals approves the findings from Section 8.07 of the Zoning Ordinance and the Board approves a variance request by Barbara May for a 7.5 foot variance from Section 4.13, Schedule of Regulations so the applicant may build an attached garage as presented on the site plan. The following conditions shall also apply; applicant must remove the non-conforming portion (shed) of the home on the west side of the property and remove the entire non-conforming deck (deck number three) closest to the water's edge.

Respectively Submitted



Marlene Golovich

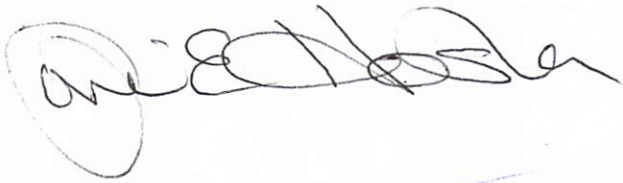
Hayes Township Clerk

Minutes approved as written June 3, 2015

ZBA

3/20/15

HAYES TOWNSHIP
PLANNING COMMISSION
MEMBERS ATTENDANCE



Rich Burnett

James W. Rudolph

Bill Henne

SCOTT FAEVER

Mark Ph

Ron Van Zee