

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
May 24, 2017

The Zoning Board of Appeals (ZBA) hearing was called to order by Chair Bill Henne at 7:03 p.m. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix.

Members present were Paul Ivan, Bob Jess, Frank Shepherd, Tom Darnton, and Bill Henne. Paul Hoadley and Jim Rudolph were absent. Also present were Larry Sullivan, Zoning Administrator (ZA), Marlene Golovich, Secretary, Jim and Diane McMahon, Debbie Luhrs, Jan and Dave Kemme and Bob Kroondyk.

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

The ZBA members introduced themselves.

Chair Henne stated the procedures for the meeting and stated purpose of the meeting is to hear a request by Helga Strey for approval to construct a 16x24 ft attached garage with an attached 4x12 ft porch to an existing non-conforming waterfront home pursuant to Article III, Section 3.02 Nonconformities, #10, at 07333 Nine Mile Point Drive, Charlevoix, property tax number 15-007-400-008-00.

Zoning Administrator Larry Sullivan presented the following information;

PROPERTY INFORMATION:

1. Property Tax Identification Number: 15-007-400__ -008__ -00__
2. Property Address: 07333 Nine Mile Point Drive
3. Owners of Record: Helga Strey__
4. Application for Approval to add addition received on April 19, 2017__
5. Agent representing owners: Bob Kroondyk

EXHIBITS

6. Application X
7. Published notice 4-4-17__
8. Notice of meeting sent to property owners within 300' 4-3-17

9. Site Plan X

10. Photos X

11. Other Zoning Administrator Memorandum

FINDINGS OF FACT

12. Zoning District: R-2 . Minimum lot size: 3/4 acre

13. Lot Dimensions: 68' x235 avg depth_. Total lot acres/square footage: .394 acres

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

15. Existing setbacks: Front 22.5' Rear 45' Side E 2' Side W 13'_

16. Existing non-conformities: Deck, Porch, and Chalet.

17. Previous variance(s) granted: No record of any variances having been issued.

18. A request from Section(s) Approval to expand under 3.02 10 of Zoning Ordinance requiring ZBA approval to add onto a non-conforming structure in a way that does not encroach into the required setbacks.

19. Unique features of property: Narrow and undersized with Lake MI frontage .

20. Adjacent properties: R-2 Zoning, single family residences.

21. % Impervious Surface Allowed 20% % Proposed 17.3%.

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 having water frontage 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 with a portion of the structure being located with the 100' setback, the Zoning Board of Appeals is required to grant permission prior to the Zoning Administrator being able to grant the permit.

The structural additions being proposed to the Strey residence entails an attached garage (16' x 24') on the south side of the existing dwelling and a small covered porch (4' x 12') on the east side of the garage and south side

of the dwelling, connecting the ~~to be constructed~~ garage, with the dwelling.

None of these additions are located within 100 feet of the OHWM of Lake Michigan ~~Charlevoix~~, therefore, the Zoning Board of Appeals has the legal ability to grant permission for the proposed additions. These additions will result in an increase in the % of impervious from the current % of 15.7 to a proposed % of 17.3, still within the maximum % of impervious surface allowed in the R-2 District which is 20%.

The Zoning Ordinance does not contain standards upon which the ZBA is to base your decision to approve or deny the requested additions as the Ordinance does for variance requests. Section 3.02 10. of the Hayes Township Zoning Ordinance provides for the ZBA to allow for the alteration and/or enlargement of the structure outside of the 100' waterfront setback such that it does not increase the degree or extent of the non-conformity. The Ordinance provides the ZBA with the authority to impose conditions at the time of the approval that would lessen the impact or partially mitigate the impact of the non-conformity on the water quality. Conditions that have been placed upon approvals in the past have included but not necessarily been limited to requiring a gutter system and a replanting of the shoreline protection strip in those instances where the shoreline protection strip does not meet the current ordinance requirements.

Larry also stated that letters were received from Jim & Diane McMahon and Dave & Jan Kemme (see attached).

Bill Henne asked if there were gutters on the house now. Larry responded there were no gutters. Bill asked if the shoreline protection strip could be restored with the existing conditions. Larry stated he would be concerned about fertilizer and pesticide runoff because the runoff will settle in the low depression area and be ~~absorb~~ absorbed. **The ordinance** allows for 20% clearing and ~~that~~ there is a lot of tree cover on the property.

Bill Henne stated that the letter from the McMahons requested that a swale be installed to avoid runoff on to their property.

Bob Jess stated that the ZBA does not know the garage design or roof pitch.

Frank Shepherd stated that the garage is on one side and the swale is on the other side and the swale will not take care of the runoff from the new roof.

Applicant Presentation

Bob Kroondyk, representative for Helga Strey, explained that no drawings of the proposed garage and porch have been done yet because of cost. His client wanted to see if she would be given permission for the garage before investing in drawings. He noted that the cost of the ZBA meeting was \$700.00. Bob K stated that he also lives on the lake and understands zoning. His township has a greenbelt requirement and a 100' lakefront setback. He indicated that the garage would be in front of the furnace vent as shown on photo #2 and would stay within the setbacks.

Bob K also gave an overview of the dimensions (see site plan).

Bob K suggested that gutters could be installed on the garage with drain tile into pea stone to a dry well increasing the ability to reduce runoff to the lake and away from the McMahon property. **Bob K commented about sloping the grade away from the garage so the water doesn't run back to the garage footing.** On the opposite side of the proposed garage there is a walkway with steps and this is the entry that must be used in the winter. The applicant wishes to make an entrance from the garage to the home for safety in the winter and also wants to install a covered porch for the outside entrance.

The roof structure will be 4x8s and a very steep ~~12x12~~ 12:12 pitch. The runoff would be caught by gutters and directed to the dry well.

There is not a lot of grass on the lot but lots of walkways and natural vegetation consisting of cedars. The shoreline was not changed by Helga and no rocks were hauled in.

The entire house will be re-sided with ½ log siding.

Frank asked where the septic system was located, is there any runoff to the neighbor's property now and does water runoff reach the lake? Frank stated he just wanted to be sure the septic was not under the new garage.

Bill Henne stated that because of the location of the garage there was no room for any additional drain field expansion. He stated that this will have no bearing on the decision he just wanted the applicant to be aware of it. There is an existing permit for the current septic.

Larry stated that ~~is~~ if they needed a new septic in the future they may be required to move the well but that was not part of the discussion regarding the decision of the application.

Bill asked if the applicant would be willing to install gutters on the entire home as well as the garage.

Public Comments

Diane McMahon, neighbor, stated she was in favor of the garage and that her main concern was drainage. She asked if the topography would be raised. Bob K ~~the builder~~ replied it will be raised slightly for the garage to reduce the number of steps going into the house. The driveway will not change in height.

Jim McMahon asked if the area around the garage would be raised. Jim stated that he was concerned about runoff onto his property with spring rains on frozen ground. Bob K replied it would be raised around the garage to create positive drainage away from the building. He stated there is no way to completely eliminate runoff from frozen ground. He stated that in order to create a swale they would have to remove part of the tree buffer between the homes.

Jim also stated that he had two additional concerns.

1. He would like to see gutter helmets installed to insure that the gutters do not become plugged. They cost more money but if you do not clean your gutters they become clogged and do not work.
2. The proposed location of the dry well is very near their water well which is a shallow well and Jim is worried that runoff to the proposed drywell could contaminate his well water. Jim stated that he would prefer they put in a swale to redirect runoff instead of the dry well.

Bob K stated that they could dig a trench 2'x3' with pea stone and filter paper with larger rocks but in this case it would have to run to the lake.

What about a French drain, it is a pipe with holes and covered with pea stone. They work great but it would have to drain towards the lake or into a swale. Paul Ivan stated that the existing swale is on the other side of the house.

Bob J suggested that they use a French drain, drain it into a catch basin and put the dry well in front of the houses and use gravity.

Debbie Luhrs stated she is in favor of Helga getting a garage and that Helga's property is lower than the McMahons and will not cause a runoff problem. The area is very natural around Helgas home and a French drain would require removal of some trees and she did not want to see that happen.

Jan Kemme stated that draining towards the lake would not be an issue as it will be caught by natural vegetation. Dave Kemme stated that there is no issue of drainage problem now and it should be left up to the contractor, he is the professional.

Jim restated that he is concerned about runoff when the ground is frozen.

Frank asked Jim, is there is a drainage problem now? Jim replied no, he is just worried about the addition of the garage.

Public Comment Closed.

Board Discussion

Bill Henne stated he could see no reason not approve it with conditions, gutters, some sort of drainage swale and dry well.

Bob Jess stated that he wants Helga to have a garage and now is the time to discuss doing it right.

Tom Darnton stated he agreed. The ZBA needs to be satisfied there will not be a drainage problem.

~~Bob Jess~~ **Bill Henne** stated the drainage plan should be put on a drawing for Zoning Administrator Sullivan to approve.

Frank stated there should be gutters and ~~no~~ the land should not be raised to create a drainage problem.

Frank asked if the ZBA thought the shoreland protection strip was adequate. It looked fine to Frank. The area would be hard to improve with the existing soil conditions. **Bob J** stated he had no concerns about the protection strip. Tom stated it looked good to him and it was a good thing to bring up.

The application should be approved with conditions. The current drainage flow should be preserved. Gutters should be installed on the home and garage. Drainage plans should be presented to the zoning administrator for approval. The west side drainage should be directed north and no soil build up to change current slope.

Bob K ~~the builder~~ stated he could move the drywell closer to the lake to move away from the McMahon's well.

Zoning Administrator Sullivan stated he is not an engineer but he could check with other people to make sure the plan would work.

Tom Darnton made a motion, supported by Frank Shepherd to approve the application for an attached garage and covered deck as presented on the site plan with the following conditions;

1. Rain gutters **are to** be installed on the existing home, **new entry** and the new garage.
2. The slope of the property cannot be changed by the construction project.
3. A drainage plan must be submitted to the Zoning Administrator that addresses the concerns about the drainage on the west side of the property indicating where the water will go and assuring the neighbor's property will not be impacted and that the water collected will be directed away from the neighbors.

Yays: Paul Ivan, Bob Jess, Tom Darnton, Bill Henne, Frank Shepherd

Nays:

Motion carried.

Paul Ivan made a motion, supported by Frank Shepherd to approve the minutes from April 19, 2017 as written. Motion carried.

Frank Shepherd made a motion, supported by Tom Darnton to adjourn this meeting at 8:20 p.m. Motion carried unanimously.

Respectfully submitted

Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected June 20, 2017

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

Applicant: Helga Strey
Hearing Date: May 24, 2017

The property identified by property tax number 15-007-400-008-00, located 07333 Nine Mile Point Drive, Charlevoix, hereinafter referred to as the property

The Board having considered the application, a public hearing having been held on May 24, 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:

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21. % Impervious Surface Allowed 20% % Proposed 17.3% .

The Board finds that with rain gutters installed on the existing home and the new garage and slope of the property not to be changed by the construction project the requested approval will not increase the impervious surface to the degree that it will have an adverse effect on lake water quality or adversely affect the neighboring properties by creating additional runoff.

The Board also finds that a drainage plan must be submitted to the Zoning Administrator that addresses the concerns about the drainage on the west side of the property indicating where the water will go and assuring the neighbor's property will not be impacted and that the water collected will be directed away from the neighbors.

The Board approves the findings of fact and grants the approval of the request for an addition of a garage and covered porch to the non-conforming structure as presented on the site plan with the addition of a gutter system on the existing home and new garage, no slope changes on the property due to construction and an approved drainage plan at the home located at 07333 Nine Mile Point Drive, Charlevoix and property tax number 15-007-400-008-00.

Respectively Submitted

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

Marlene Golovich
Hayes Township Clerk

Minutes approved as corrected June 20, 2017

Date 5/24/17

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MEMBERS ATTENDANCE

Paul Ivam

Robert J. J. —

Tom Danton

Frank Shepherd

Bill Henne

Mark Ch