

HAYES TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
November 18, 2015

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

Members present were Paul Hoadley, Jordan Nystrom, Marilyn Morehead and Joni Hosler. Also present were Ron VanZee, ZA and Marlene Golovich, Secretary. Audience members were Jeff Lear.

Acting Chair, Joni Hosler asked to be joined in the Pledge of Allegiance. ZBA members introduced themselves.

The purpose of the meeting is to hear a request by Jeff and Veronica Lear for a 7.5 foot lake front variance, from Section 3.14, Lakefront Regulations of the Zoning Ordinance to seek permission to keep an existing 7.5' x 24' second level deck and a 5.5' variance, from Section 3.14, Lakefront Regulations of the Zoning Ordinance to seek permission to keep an existing 5.5' x 6' set of steps for a ground level egress/ingress doorway at 07215 Birdland Dr., Charlevoix, property tax number 15-007-301-011-00.

Zoning Administrator Ron VanZee presented photos and explained the process of the hearing. Ron also stated that a previous variance was granted to the Lear's with provisions. During remodeling construction the upper deck was removed and rebuilt. It is now larger than the original deck and also is supported with in ground posts rather than cantilevered back to the house. The bottom deck was also removed and replaced with 6 foot wide steps. A variance is needed for the steps as well as the width of the steps and a variance is needed for the upper deck. Ron also stated that the Lears have begun the process of replanting the greenbelt area.

Mr Lear explained that his wife is from Michigan and he is from Texas. He was not present at the first variance but his wife was. He stated that the property is a skinny lot and it would have been too expensive to push the house back for the remodel/addition and that is why they needed a variance in 2012. He stated that they removed the lower wood deck and replaced it with a rock patio. He also stated that they rebuilt the upper deck making it larger and with in-ground supports rather than using the previous style of support that cantilevered back to the house.

Paul Hoadley stated that the property does not meet the green belt standards and more plantings need to be done. ZA VanZee agreed.

The Township received two letters of support from Lear neighbors.

Public comments closed.

The ZBA decided to review the criteria for each variance separately starting with the 5.5foot variance, from Section 3.14, Lakefront Regulations to seek permission to keep an existing 5.5' x 6' set of steps for a ground level egress/ingress.

Acting-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. **Paul Hoadley stated that the property is not unique. Joni Hosler asked if it was unique because of the size of the lot. The current ordinance requires 2 acres and this lot is only ½ acre. Paul stated that the original house conformed and it was the owner's choice to enlarge. ZBA consensus, Paul no, Jordyn yes, Marilyn yes, Joni yes it is unique.**
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created). **All members agree it is self-created. Marilyn stated that the lake is the most important thing to protect and by removing the wood deck and adding an impervious pervious surface (gravel patio) it helps to protect the lake.**
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 a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. **Paul stated that the Lears had an existing home and regulations did not prevent them from using this property. Jordyn Jordan stated there are a lot of restrictions on it. Paul stated they had valid use of their property and decided to add on. Marilyn stated they had a non-conforming structure with the lower deck on it. Joni stated they had to have steps for safety. Right?**

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. **Paul stated they were granted a variance they did not follow but this variance does not affect other property owners. All agree.**
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 this does not impact surrounding property.**

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.

Marilyn Morehead made a motion, supported by Jordyn Nystrom to approve 5.5 foot lake front variance, from Section 3.14 Lakefront Regulations for the existing non-conforming 5.5' x 6' steps.

Roll Call

Paul Hoadley	No, because 1,2, & 3 were not met.
Jordyn Nystrom	Yes
Joni Hosler	Yes
Marilyn Morehead	Yes

Motion carried.

The ZBA reviewed the criteria for the 7.5 foot lake front variance, from Section 3.14, Lakefront Regulations to seek permission to keep an existing 7.5' x 24' second level deck

Acting -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. **Paul stated there are no unique circumstances and the request does not meet this standard. Board members agree there are no unique circumstances. Marilyn stated that there was a previous upper deck.**
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created). **Board members agree it is self-created.**
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 a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. **The Board agrees it will not adversely affect the property owner.**
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. **Paul stated this does not apply.**
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. **The Board agrees it will not have an adverse impact.**

Marilyn Morehead made a motion, supported by ~~Jordyn~~ **Jordan** Nystrom to grant the 7.5 foot lake front variance, from Section 3.14, Lakefront Regulations for the existing non-conforming 7.5' x 24' second level deck. Marilyn stated that the dimensional differences between the old upper deck and the new upper are minimal. ~~Jordyn~~ **Jordan** stated that the strict compliance does restrict the property owner and that the lot is narrow.

Roll Call

Paul Hoadley Yes

Jordyn Nystrom Yes

Joni Hosler No

Marilyn Morehead Yes

Motion carried.

Marilyn Morehead made a motion, supported by Joni Hosler to approve the minutes from June 3, 2015 as written. Motion carried unanimously.

Joni Hosler made a motion, supported by Paul Hoadley to accept the attorney's opinion (see attached) regarding the Rauh property variance on property tax id # 15-007-119-026-20 and make this opinion part of the property file.

Roll Call

Paul Hoadley Yes

Jordyn Nystrom Yes

Joni Hosler Yes

Marilyn Morehead Yes

Motion carried.

Joni Hosler made a motion, supported by Paul Hoadley to adjourn this meeting at 8:30 p.m. Motion carried unanimously.

Respectfully submitted



Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected December 16, 2015

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

Applicant: Jeff and Veronica Lear
Hearing Date: November 18, 2015

The property identified by property tax number, 115-007-301-011-00 located at, 07215 Birdland Dr., Charlevoix, hereinafter referred to as the property.

The Board having considered the application, a public hearing having been held on November 18, 2015 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. Photos
4. Previous minutes dated October 17, 2012
5. Letters of support

GENERAL FINDINGS OF FACT

- The Board finds the lot is approximately 95 feet in width
- The Board finds the lot is zoned R-1 with minimum lot size of 2 acres
- The Board finds the lot is .42 acre
- The Board finds the property is unique
- The Board finds there is an existing non-conforming 5.5' x 6' set of steps
- The Board finds a hardship was created by the owner
- The Board finds a variance will not adversely impact the surrounding properties

The Zoning Board of Appeals approves the findings from Section 8.07 of the Zoning Ordinance and the Board approves a 5.5 foot variance, from Section 3.14, Lakefront Regulations requested by Jeff and Veronica Lear at 07215 Birdland Dr., Charlevoix, and property tax number 15-007-301-011-00.

Respectively Submitted

A handwritten signature in black ink, appearing to read 'Marlene Golovich'.

Marlene Golovich
Hayes Township Clerk

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GENERAL FINDINGS OF FACT

- The Board finds the lot is approximately 95 feet in width
- The Board finds the lot is zoned R-1 with minimum lot size of 2 acres
- The Board finds the lot is .42 acre
- The Board finds there is an existing non-conforming 7.5'x24' upper level deck
- The Board finds there are no unique circumstances
- The Board finds the hardship is self-created
- The Board finds that strict compliance of the ordinance will not be unnecessarily burdensome.
- The Board finds a variance will not adversely impact the surrounding properties

The Zoning Board of Appeals approves the findings from Section 8.07 of the Zoning Ordinance and the Board approves a 7.5 foot variance, from Section 3.14, Lakefront Regulations requested by Jeff and Veronica Lear at 07215 Birdland Dr., Charlevoix, and property tax number 15-007-301-011-00.

Respectively Submitted

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

Marlene Golovich
Hayes Township Clerk

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