

HAYES TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
October 5, 2011

The Zoning Board of Appeals hearing was called to order by Chair Joni Hosler at 7:31 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 Donna Stilson, Vic Stilson, Alan Slagle, Holly Slagle, Robert Drost and Craig Boss.

The purpose of the meeting is to hear a request **from** Ken Kojaian for a sixty (60) foot variance, from Section 3.14, Lakefront setback regulations of the Zoning Ordinance to add an outdoor entertaining space to an existing structure at 07801 See Rd, Charlevoix, property tax number 15-007-130-007-00.

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

1. Application and all corresponding notification documents
2. Design Plan
3. Photos
4. Drawings of Proposed Patio and Outdoor Kitchen
5. Letters from Haggards Plumbing & Heating, Kenneth Kojaian and Janet & Thomas Kohler

Jonathan Scheel stated that a 46 ft lakefront variance was given in 2000 so that an existing home could be torn down and a new home constructed on the same footprint.

Robert Drost and Craig Boss, representatives of the applicant, gave an overview of the proposed patio and outdoor kitchen. Mr Boss stated that the applicant was willing to put in a shoreland protection strip where currently none exists. The current landscape allows for most of the runoff water to flow over the lawn and into the lake. Mr Drost stated that a planted vegetation strip will help filter the nutrients that cause algae bloom in the lake. Mr Drost also stated that the proposed patio would be better than the current landscaping for runoff control.

Rich Burnett asked if they would be hauling in any fill. Craig Boss stated no, they would be using drain stone.

Bill Henne stated that a vegetation strip should have been planted before now and that it had nothing to do with the variance applied for. He also asked why the patio was better than the current landscaping. Mr Drost explained that the patio design included a drain that would filter the water through the drain stone.

Mr Henne asked if the ATHWM indicated on the site plan was approximate or had a survey been done. Jonathan Scheel responded that he had requested a survey be done and Mr Drost had complied. The plan indicates that the outside wall of the patio is 40 ft from the ATHWM.

Charles Slagle, adjacent property owner, has no objection to the variance and stated he thought the proposed vegetation strip would add beauty to the property. He also stated that the catch basin under the patio was a wonderful idea.

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:

- A. 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. **Rich Burnett stated that the only unique circumstance is the mounded lakefront yard and that the yard to the rear of the house provided adequate room for a patio/summer kitchen. Bill Henne stated that he did not see a unique circumstance that supported a variance. Scott Parker asked if they could allow a structure in the designated shoreland protection strip.**

Jonathan stated that according to the ordinance they could. Scott then asked why they were not seeking a sideyard setback as the plan showed the patio encroaching on the side yard setback. Jonathan stated that they would not be allowed to build the patio as sited on the plan but would have to move it so it would not encroach on the sideyard setback. Bill Henne stated that the mounded yard would still exist after the patio was put in so was not a valid reason to grant the variance.

Rich Burnett made a motion, supported by Bill Henne to deny the request for a sixty (60) foot variance, from Section 3.14, Lakefront setback regulations of the Zoning Ordinance to add an outdoor entertaining space to an existing structure at 07801 See Rd, Charlevoix, property tax number 15-007-130-007-00 based on lack of unique circumstances or physical conditions of the property involved.

Roll Call:

Rich Burnett	Yes
Doug Kuebler	Yes
Bill Henne	Yes
Scott Parker	Yes

Motion carried unanimously.

Bill Henne made a motion, supported by Rich Burnett to adjourn at 9:00 p.m. Motion carried unanimously.

Respectfully submitted



Marlene Golovich, Clerk
Hayes Township

Minutes approved as corrected November 14, 2011.

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
DECISION AND ORDER

Applicant: Ken Kojaian
Hearing Date: October 5, 2011

The property identified by property tax number 15-007-130-007-00 located at 07801 See Rd, Charlevoix hereinafter referred to as the "property".

The Board having considered the application, a public hearing having been held on October 5, 2011 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. Design Plan
3. Photos
4. Drawings of Proposed Patio and Outdoor Kitchen
5. Letters from Haggards Plumbing & Heating, Kenneth Kojaian and Janet & Thomas Kohler

GENERAL FINDINGS OF FACT

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

The Board finds a lakefront setback variance was granted in 2000

The Board finds there are no unique circumstances or physical conditions of the property involved for a lakefront setback variance to add an outdoor entertaining space

The Board finds that property exists to the rear of the building that could accommodate an outdoor entertaining space

The Zoning Board of Appeals approves the findings from Section 8.07 A of the Zoning Ordinance and the Board denies a sixty foot (60) variance of the Zoning Ordinance to build an outdoor entertaining space to an existing structure at 07801 See Rd, Charlevoix, property tax number 15-007-130-007-00.

Respectively Submitted

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

Marlene Golovich
Hayes Township Clerk

Minutes approved as corrected November 14, 2011.

ZBA

10/5/11

HAYES TOWNSHIP
PLANNING COMMISSION
MEMBERS ATTENDANCE

Joni E. Hasler

Paul Bunt

Dan Kuehn

Bill Henne

Scott Parker

Jonah Stahl

Mark Ch