

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
BOEHM HEARING
APRIL 19, 2000

The Zoning Board of Appeals hearing was called to order at 7:30 P.M. by chair Joni Hosler at the Hayes Township Hall, 09195 Old 31, Charlevoix.

ZBA members present were Steve Wilson, Jim McMahon, Fred Parsons, Joni Hosler, and Paul Richards.

Also present were Kevin J. Whitley, Ethel Knepp, Dale Boehm, and Sheri Boehm.

The purpose of this hearing was to hear a variance request from Dale and Sheri Boehm for property located at 08758 Old 31 between Burgess and Villa Roads with the id number 15-07-110-024-00. The applicant is requesting a .65 acre variance from Section 4.13B (lot size) so they can divide their 9.35 acre property into a 5 acre parcel and a 4.35 acre parcel. The property is zoned RR-1.

Dale Boehm explained his desire to continue to live on a 5 acre parcel and sell a 4.35 acre parcel for a home site. Dales stated that he has been filling in an old gravel pit along Old 31 to improve the appearance of the property.

One letter was received from a neighbor: Michael Keem wrote: " I'm very strongly opposed to this variance. We have an Ordinance, let's enforce it, not make changes whenever someone requests it."

The Board discussed the five criteria from the Zoning Ordinance Section 7.05C required to be met before a variance is granted:

1. Dimensional zoning requirements cannot be met on an existing lot where narrowness, shallowness or irregular shape, or the topography or natural characteristics of the site (such as wetland, flood plain, bedrock condition, etc.) inhibit the lawful location of a principal or accessory structure.
 - a. The Board finds that this property has an irregular shape that would be 10 acres if the Old 31 right of way did not cut across a corner.
2. The problem creates a practical difficulty which is unique and is not shared by neighboring properties in the same zone.
 - a. The Board finds that this property is unique because most lots in the area are A-1 which requires 10 acres per parcel.

3. The practical difficulty was not created by an action of the applicant, an agent of the applicant, or a predecessor in title to the applicant, and either existed at the time of adoption of the requirement from which the variances requested, or is necessary as a result of governmental action. A self created hardship is not a valid basis for a variance.

a. The Board finds that this lot of record was platted before Township Zoning and was not created by the applicant.

b. The Board finds that the easement for the Old 31 right of way was granted prior to the adoption of the Zoning Ordinance and not by the applicant.

4. The appellant presents information showing that the requested variance will not be contrary to the intent and purpose of the zoning ordinance.

a. The Board finds this to be true because there are other small lots in the area.

Will not cause a substantially adverse effect upon adjacent properties.

a. The Board finds this to be true.

Will relate only to the property under control of the appellant.

a. The Board finds this to be true.

Will not essentially alter the character of the surrounding area.

a. The Board finds this to be true.

Will not increase the hazard from fire, flood, or similar dangers.

a. The Board finds this to be true.

Will not increase traffic congestion.

a. The Board finds this could be true if the two new parcels share the existing driveway.

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

a. The Board finds this to be true.

UPON MOTION MADE BY PAUL RICHARDS TO APPROVE THE FINDINGS OF FACT AND GRANT A .65 ACRE VARIANCE FROM SECTION 4.13B (LOT SIZE), SECONDED BY FRED PARSONS, THE BOARD RULED THAT THE APPLICANT'S VARIANCE REQUEST BE GRANTED WITH THE CONDITION THAT THE TWO LOTS CREATED BY A FUTURE SPLIT WILL UTILIZE A JOINT DRIVEWAY.

ROLL CALL VOTE:

JIM MCMAHON	YES
STEVE WILSON	YES
FRED PARSONS	YES
PAUL RICHARDS	YES

HAYES TOWNSHIP
ZONING BOARD OF APPEALS

DECISION AND ORDER

Applicant: Dale and Sheri Boehm

Hearing Date 4-19-2000

The property of Dale and Sheri Boehm identified by the tax number 15-07-110-024-00.

Hereinafter referred to as the "property".

Applicant seeks a .65 acre variance from Section 4.13B (lot size) of the Zoning Ordinance. Applicant needs the variance to split their property into a 5 acre parcel and a 4.35 acre parcel.

The Board having considered the application, a public hearing having been held on 4-19-00, after giving due notice as required by law, the Board having heard the statements of the Applicant, the Board having considered the following exhibits:

1. A zoning application dated 3-21-00
2. A parcel map showing this property and adjacent neighbors.
3. A memo to the ZBA listing adjacent property owners from Ethel Knepp dated 3-23-00.
4. A notice of hearing.
5. A memo to Ethel Knepp from Michael Keem dated 4-9-00.

And the Board having reached a decision on this matter, stated as follows:

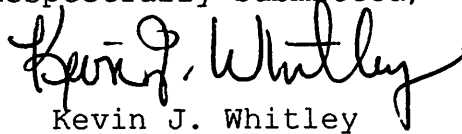
GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned RR-1 and is located at 08758 Old 31.
2. The Board finds that the property is a lot of record created before the Hayes Township Zoning Ordinance.
3. The Board finds that under Section 4.13B 5 acres is the minimum lot size for new lots.
4. The Board finds that this 9.35 acre parcel cannot be split into two lots without a variance

The Board approves the findings from Section 7.05C of the Zoning Ordinance as listed above in the motion and the Board approves a .65 acre variance from the Zoning Ordinance Section 4.13B (lot size) for Dale and Sheri Boehm for parcel number 15-07-110-024-00.

PAUL RICHARDS MADE A MOTION TO ADJOURN AT 7:59 P.M. FRED PARSONS SECONDED THE MOTION. HEARING ADJOURNED.

Respectfully Submitted,


Kevin J. Whitley