

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
HEARING
September 10, 1997

The Zoning Board of Appeals hearing was called to order at 7:35 P.M. by Chair Bob Alexander at the Hayes Township Hall, 09195 Old 31, Charlevoix.

ZBA members present were Joe Rivard, Marlene Golovich, Bob Alexander, Roger Stoppel, and Fred Parsons.

Also present were Kevin J. Whitley, Ethel Knepp, and Jodi Ager.

Bob Alexander explained the purpose of this hearing which is to hear a request by Kevin and Gay Peters for a one foot variance from Section 5.13A to construct a 12' x 27' addition to an existing cottage that is 99' from lake Charlevoix. The zone is R-1.

Jodi Ager, representative for the Peters, explained that the cottage is set on an angle to the Lake and the proposed addition will be 99 feet from the Lake at the closest corner and than angle back to 100 or more feet from the Lake. Jodi also stated that the proposed addition will no closer to the Lake than the existing structure. Jodi stated that the septic system was upgraded in 1991 with a system that pumps back to a shared lot off of the lake. The system was approved for a four bedroom house.

Roger Stoppel stated that this is one of the clearest appeals for a variance he has seen. Roger stated that he is happy to approve this variance because the variance is only one foot.

Bob Alexander stated that the site plan shows that 99 feet to the lake is measured to the waters edge which is lower than the high water mark IGLD.

The Board, Zoning Administrator, and the Applicant's representative discussed the ordinance requirements and this site plan.

Bob Alexander suggested that a one foot variance may not be enough to allow the addition to be built as shown on this plan.

Jodi Ager measured the difference between the waters edge and the elevation of 580 feet as shown on the site plan and determined that the proposed cottage addition will be at least 90 feet from the high water mark IGLD.

The Zoning Board of Appeals reviewed the proposed findings and decision prepared by Ethel Knepp, Zoning Administrator. The Board made two changes that increased the variance from 1 foot to ten feet.

ROGER STOPPEL MADE A MOTION TO ACCEPT THE FOLLOWING GENERAL FINDINGS AND DECISION:

**HAYES TOWNSHIP
ZONING BOARD OF APPEALS**

Applicant: Kevin & Gay Peters
Hearing Date: September 10, 1997
Property Location: #12 Oyster Bay, Charlevoix, MI
Property Tax No.: 15-007-130-012-00

APPLICATION

The applicant desires to construct a 12' x 27' addition to an existing cottage. The applicant is also making application to construct a 26' x 32' garage. To allow the construction of the addition to the existing cottage the applicant is seeking a 1 foot variance from the 100 feet setback requirement from Lake Charlevoix as provided in Section 5.13(A) of the Hayes Township Zoning Ordinance.

GENERAL FINDINGS

The Board having considered the application, a public hearing having been held, after giving due notice as required by law, the Board having heard statements of the applicants representative, the Board having reached a decision on this matter states as follows:

1. The Board finds that the property is currently Zoned R-1, Single Family Residential under the Zoning Ordinance.
2. The Board finds that the property is bordered on the east by Lake Charlevoix and is located in Oyster Bay.
3. The Board finds that under Section 5.13(A) of the Zoning Ordinance a 100 feet setback is required from Lake Charlevoix.
4. The Board finds that the existing cottage was constructed when under Section 5.13(A) of the Zoning Ordinance a 50 feet setback was required.
5. The Board finds that under Section 4.13 of the Zoning Ordinance a 15 foot sideyard setback is required and that the addition to the cottage will maintain a 21 feet sideyard setback.

FINDINGS UNDER SECTION 7.05C OF THE ZONING ORDINANCE

The Board makes the following findings as required by Section 7.05 C of the Zoning Ordinance for each of the following standards listed in that Section. An affirmative finding on all standards is necessary to grant a variance.

1. Will the requested variance be contrary to the public interest or to the spirit and intent of the Zoning Ordinance?
 - a. The Board finds that the public interest and the spirit and intent of the zoning ordinance is to permit the use of property consistent with the uses for which it is zoned.
 - b. The Board also finds that generally the public interest and the spirit and intent of the zoning ordinance is to grant the minimum variance needed to permit the property owner reasonable use of his or her property.
 - c. The Board also finds that the applicant proposes to modify the cottage lay-out by adding a second floor without adding any bedrooms.
 - d. The Board therefore finds that with the Applicant plans, as specified in undated plans prepared by Architectural Assistance & Design, Ltd., the 10 foot variance from Lake Charlevoix would not be contrary to the public interest or to the spirit and intent of the zoning ordinance.
2. Does the requested variance permit the establishment within a zoning district of any use which is not permitted by right within that district?
 - a. The Board finds that the Applicant's property is zoned R-1, which permits the construction of single family dwellings and accessory structures.
 - b. The Board finds that the Applicant has proposed to construct an addition to a single family dwelling and garage on their property.
 - c. The Board therefore finds that the requested variances will not permit the establishment within the R-1 zoning district of a use which is not permitted by right within that district.
3. Will the requested variance cause any adverse effect to property in the vicinity or in the zoning district or in the township?

- a. The Board finds that the setback variance from Lake Charlevoix will not depress property values in the neighborhood.
 - b. The Board finds that the setback variance from Lake Charlevoix would not allow the Applicant to construct their proposed addition and garage any closer to adjoining properties than would otherwise be allowed under the regular sideyard setback requirements of the zoning ordinance.
 - c. As a result, the Board finds that the variance under consideration will not in and of itself cause any adverse effect to property in the vicinity or in the zoning district or in the township.
4. Does the requested variance relate only to property that is under the control of the Applicant?
 - a. The Board finds that the variances under consideration relates only to property owned by the Applicant.
5. Is the need for the requested variance due to exceptional or extraordinary circumstances or conditions relating to Applicant's property that do not generally apply to other property or uses in the vicinity, and not due to any act of the Applicant?
 - a. The Board finds that the existing cottage was constructed prior to the setback requirement being 100 feet.
 - b. The Board finds that the applicant is proposing an addition to the side of the residence and will therefore not encroach on Lake Charlevoix any more than the existing cottage is.
 - c. The Board therefore finds that the variance under consideration are due to exceptional or extraordinary circumstances that do not generally apply to other property or uses in the vicinity, and are not due to any act of the Applicant.

DECISION

Upon motion, seconded and passed, the Board GRANTED the Applicant a 10 feet variance from the 100 feet setback from Lake Charlevoix as required in Section 5.13(A) of the Hayes Township Zoning Ordinance.

FRED PARSONS SECONDED THE MOTION TO APPROVE THE GENERAL FINDINGS AND DECISION.

ROLL CALL VOTE:

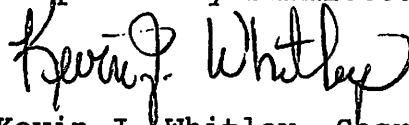
JOE RIVARD	YES
MARLENE GOLOVICH	YES
ROGER STOPPEL	YES
FRED PARSONS	YES

THE TEN FOOT VARIANCE FROM SECTION 5.13A FOR KEVIN AND GAY PETERS IS APPROVED UNANIMOUSLY.

MOTION MADE BY FRED PARSONS TO APPROVE THE MINUTES OF THE 12-11-96, 7-16-97, AND 7-24-97 ZONING BOARD OF APPEALS HEARINGS FOR FRANK SCHULTZ AS PRESENTED. MOTION SECONDED BY JOE RIVARD. MINUTES APPROVED UNANIMOUSLY.

Meeting adjourned.

Respectfully Submitted



Kevin J. Whitley, Secretary

HAYES TOWNSHIP
ZONING BOARD OF APPEALS

Applicant: Kevin & Gay Peters
Hearing Date: September 10, 1997
Property Location: #12 Oyster Bay, Charlevoix, MI
Property Tax No.: 15-007-130-012-00

APPLICATION

The applicant desires to construct a 12' x 27' addition to an existing cottage. The applicant is also making application to construct a 26' x 32' garage. To allow the construction of the addition to the existing cottage the applicant is seeking a 1 foot variance from the 100 feet setback requirement from Lake Charlevoix as provided in Section 5.13(A) of the Hayes Township Zoning Ordinance.

GENERAL FINDINGS

The Board having considered the application, a public hearing having been held, after giving due notice as required by law, the Board having heard statements of the applicants representative, the Board having reached a decision on this matter states as follows:

1. The Board finds that the property is currently Zoned R-1, Single Family Residential under the Zoning Ordinance.
2. The Board finds that the property is bordered on the east by Lake Charlevoix and is located in Oyster Bay.
3. The Board finds that under Section 5.13(A) of the Zoning Ordinance a 100 feet setback is required from Lake Charlevoix.
4. The Board finds that the existing cottage was constructed when under Section 5.13(A) of the Zoning Ordinance a 50 feet setback was required.
5. The Board finds that under Section 4.13 of the Zoning Ordinance a 15 foot sideyard setback is required and that the addition to the cottage will maintain a 21 feet sideyard setback.

FINDINGS UNDER SECTION 7.05C OF THE ZONING ORDINANCE

MADE BY: _____ SUPPORTED BY: _____

The Board makes the following findings as required by Section 7.05 C of the Zoning Ordinance for each of the following standards listed in that Section. An affirmative finding on all standards is necessary to grant a variance.

1. Will the requested variance be contrary to the public interest or to the spirit and intent of the Zoning Ordinance?
 - a. The Board finds that the public interest and the spirit and intent of the zoning ordinance is to permit the use of property consistent with the uses for which it is zoned.
 - b. The Board also finds that generally the public interest and the spirit and intent of the zoning ordinance is to grant the minimum variance needed to permit the property owner reasonable use of his or her property.
 - c. The Board also finds that the applicant proposes to modify the cottage lay-out by adding a second floor without adding any bedrooms.
 - d. The Board therefore finds that with the Applicant plans, as specified in undated plans prepared by Architectural Assistance & Design, Ltd., the 1 foot variance from Lake Charlevoix would not be contrary to the public interest or to the spirit and intent of the zoning ordinance.
2. Does the requested variance permit the establishment within a zoning district of any use which is not permitted by right within that district?
 - a. The Board finds that the Applicant's property is zoned R-1, which permits the construction of single family dwellings and accessory structures.
 - b. The Board finds that the Applicant has proposed to construct an addition to a single family dwelling and garage on their property.
 - c. The Board therefore finds that the requested variances will not permit the establishment within the R-1 zoning district of a use which is not permitted by right within that district.
3. Will the requested variance cause any adverse effect to property in the vicinity or in the zoning district or in the

township?

- a. The Board finds that the setback variance from Lake Charlevoix will not depress property values in the neighborhood.
 - b. The Board finds that the setback variance from Lake Charlevoix would not allow the Applicant to construct their proposed addition and garage any closer to adjoining properties than would otherwise be allowed under the regular sideyard setback requirements of the zoning ordinance.
 - c. As a result, the Board finds that the variance under consideration will not in and of themselves cause any adverse effect to property in the vicinity or in the zoning district or in the township.
4. Does the requested variance relate only to property that is under the control of the Applicant?
- a. The Board finds that the variances under consideration relates only to property owned by the Applicant.
5. Is the need for the requested variance due to exceptional or extraordinary circumstances or conditions relating to Applicant's property that do not generally apply to other property or uses in the vicinity, and not due to any act of the Applicant?
- a. The Board finds that the existing cottage was constructed prior to the setback requirement being 100 feet.
 - b. The Board finds that the applicant is proposing an addition to the side of the residence and will therefore not encroach on Lake Charlevoix any more than the existing cottage is.
 - c. The Board therefore finds that the variance under consideration are due to exceptional or extraordinary circumstances that do not generally apply to other property or uses in the vicinity, and are not due to any act of the Applicant.

DECISION

Upon motion, seconded and passed, the Board GRANTED the Applicant a 1 foot variance from the 100 foot setback from Lake Charlevoix as required in Section 5.13(A) of the Hayes Township Zoning Ordinance.