

HAYES TOWNSHIP BOARD OF APPEALS  
MINUTES  
January 10, 1990

The Hayes Township Board of Appeals meeting was called to order by Chairman Fred Parsons at 7:30 p.m.

Board members present were Fred Parsons, James Waier, Betty Straw, and William Henne. Lloyd Kuebler was Absent. Also present were Zoning Administrator, John Hess, Clerk, Ethel Knepp, and audience participants, Brian Olley, Donald MacGregor, Carl Price, and applicant Bill Rimmelin.

The purpose of the meeting was to hear a request from William Rimmelin, Lot 21, Michigan Shores Sub-Division, for a 50 foot frontyard variance from Section 5.13A and/or an interpretation of "structure" from the Hayes Township Zoning Ordinance. The Clerk had included letters to Mr. Rimmelin, from the prior Zoning Administrator, Monte Hunt, in the Board of Appeals packet. The letters indicated that Mr. Rimmelin had been cited for not obtaining a zoning permit and for having a structure within 100' of the Lake. Further correspondence advised Mr. Rimmelin that a zoning permit could not be granted on the information in his application nor on the Zoning Administrator's observation of the structure, because the structure was not an addition, a deck, an accessory building, nor could it be properly labeled a "dock" since it was located entirely on the beach area.

Mr. Rimmelin introduced himself stating he has lived in Hayes Township for 12 years. He presented some pictures of the dock, with railing, he had built. He advised the Board that he usually has sand put over the stone along his beach. John Hess, Zoning Administrator, advised Mr. Rimmelin that he was not allowed to put anything within 35' of the lake per Section 5.13A of the Zoning Ordinance.

Mr. Rimmelin submitted letters he had received from John & Debi Murray, Michael West, Donald MacGregor, Joel & Carolyn Darby, Bill Cornelius, and Tom & Laurel Butcher, who are neighboring property owners. All letters were read by each Board of Appeal member and put in Mr. Rimmelin's file, retained by the Township. All letters referred to the "dock" as a deck and stated the dock/deck would in no way interfere with their property, view of the shore, or is in any way a detriment to their property.

Chairman Parsons requested that Mr. Rimmelin explain exactly what the Board was dealing with as there has been a lot of correspondence included in the file.

Mr. Rimmelin explained that he considers the structure a dock, which he usually puts two boats on, because he can't

drag them over the stones. He agreed that it is a structure.

The Zoning Administrator advised the Board of Appeals that he felt the structure was not a dock, because it doesn't go in the water at all. He felt it was a platform structure. The structure is located in the shoreland protection strip as well as the setback area.

The Board of Appeals discussed the definition of structure and what was allowed within the setback area per Section 5.13A. Per the Ordinance a structure is anything constructed, erected or to be moved to or from any premises, which is permanently located above, on or below the ground, including signs and billboards. Section 5.13A allows boardwalks, docks and launch ramps closer than 100' from the lake.

It was determined that the structure was a deck, because, per the pictures submitted by the applicant, the structure was secured in the ground as a platform would be, and it is not in the water. The letters from the neighboring property owners also called it a deck.

John Hess advised the members that Mr. Rimmelin's deck is in violation of Section 5.13A because it is in the setback area. William Henne suggested that Mr. Rimmelin must apply to the Zoning Administrator, per Section 5.13H. The Zoning Administrator felt that this had no bearing on a structure being placed in the Shoreland Protection strip.

Mr. Rimmelin asked about Section 5.13E, Modification by the Zoning Board of Appeals, which states, in part, that the Board of Appeals may vary or modify the strict application of Section 5.13 A-D if it shall determine that undue hardship will otherwise result and the spirit and intent of the Ordinance will be preserved by such variance or modification.

The Board of Appeals discussed granting a 50' variance for the structure.

Chairman Parsons asked Mr. Rimmelin if he agreed, by making application, that he considered this a structure. Mr. Rimmelin agreed to the interpretation that he had a structure.

William Henne read Section 7.05C - Variances, which state:

It shall be found by the Zoning Board of Appeals that any variance granted:

1. Will not be contrary to the public interest or to the spirit and intent of this Ordinance.

2. Shall not permit the establishment within a zoning district of any use which is not permitted by right within that district.
3. Will not cause any adverse effect to property in the vicinity or in the zoning district or the Township.
4. Relates only to property that is under control of the applicant.
5. Affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity, and have not resulted from any act of the applicant.

Mr. Rimmelin asked for a tape of the meeting. Clerk Knepp advised him that it was impossible. The sign in the meeting room states "The meeting is being taped for backup to minutes only", and that the tapes were not kept. The Clerk advised him that he would get a copy of the minutes.

Chairman Parsons advised Mr. Rimmelin that he should contact the DNR and inquire into the permit requirements for placing sand or structures on the beach.

Mr. Rimmelin stated he would get an attorney because he felt it was all a gray area as the prior Zoning Administrator had advised him he needed a 50' variance, and the Board of Appeals is saying the structure has to be back 100'. It was explained to Mr. Rimmelin that if a 50' variance is requested that means the structure is proposed to be built 50' from the normal high water mark, thus an additional 50' is required.

The Board of Appeals didn't understand what gray area Mr. Rimmelin was talking about. The only gray area was whether Mr. Rimmelin wanted an interpretation of structure, because he indicated that he felt a dock was not a structure. The Board determined that it is a structure, and Mr. Rimmelin concurred.

Meeting adjourned 8:20.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Ethel R. Knepp". The signature is written in dark ink and is positioned above the printed name.

Ethel R. Knepp, Clerk