

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
PYKE HEARING
JUNE 28, 2000

06.28.2000
or
07.19.2000

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

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

Also present were Kevin J. Whitley, Ethel Knepp, Thomas Pyke, Susan Pyke, Chris Carson, and Tim Boyko.

The purpose of this hearing was to hear a request from Thomas Pyke for a 2 foot variance from the Zoning Ordinance Section 4.13B so a deck can be added to an existing house. The proposed deck will be 13 feet from the property line. The property is located at 08470 Boyne City Road in the R-1 zone with the id number 15-07-003-016-00.

Chris Carson, the contractor chosen to build this proposed deck, explained that this applicant appeared before the ZBA in 93 for a variance to enlarge the home and now they want to add a deck in the same area.

Thomas Pyke was present to explain his request: He stated that the existing cabin he bought was built before the lot lines were created. Thomas stated that the house is angled toward the line which makes any addition difficult to build without variances. He also informed the Board that he sees no other practical alternative to this variance without building a deck that is too small because he does not want to cover an existing bay window.

There was discussion to determine if any design alternatives would be practical and reasonable. The Board determined that the plan as submitted would actually need a variance of over three feet.

Jim McMahon offered a compromise and said he would support a variance of two feet if the applicant were was willing to build a smaller deck and keep all parts of the deck at least 13 feet from the property line.

Township Supervisor Tim Boyko offered some suggestions on design alternatives.

One letter was received from a neighbor: Mary D. Henkel wrote "Please be advised that as a neighboring party, I would hope Sue and Tom Pyke could revise their existing plans and keep to the present restrictions. I expect a deck could be readjusted to fit the site."

The Board read the criteria from the Zoning Ordinance Section 7.05C1 which is required to be considered before approving variances:

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 the property has an irregular shape that was created after the house was built.
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 the neighboring lots would not have the same problem because they have more room to expand since the lot lines are set back farther from the homes.
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 the lot lines were created close to this house before Zoning was adopted and the lot lines were not created 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.

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 that the character of the surrounding area is lakefront homes.

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 to be true.

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 that allowing this deck to be built as shown on the application site plan is not the minimum necessary to allow reasonable use of the land.
- b. The Board finds that a smaller deck could be built and still allow reasonable use of the land.
- c. The Board finds that a 2 foot variance is the minimum necessary to allow reasonable use of the land.
- d. The Board finds that the applicant could redesign the deck and keep all parts of the deck at least 13 feet from the property line.

JIM MCMAHON MADE A MOTION TO APPROVE A TWO FOOT VARIANCE FOR THOMAS R. PYKE FOR PARCEL NUMBER 15-07-003-016-00 WITH THE UNDERSTANDING THAT NO PART OF THE DECK STRUCTURE CAN BE CLOSER THAN 13 FEET FROM THE PROPERTY LINE. PAUL RICHARDS SECONDED THE MOTION. ROLL CALL VOTE:

FRED PARSONS	YES
PAUL RICHARDS	YES
JIM MCMAHON	YES

MOTION APPROVED.

HAYES TOWNSHIP
ZONING BOARD OF APPEALS

DECISION AND ORDER

Applicant: Thomas R. Pyke
Hearing Date: 7-19-00
The property of identified by the tax number 15-07-003-016-00.
Hereinafter referred to as the "property".

The Board having considered the application, a public hearing having been held on 7-19-00, after giving due notice as required by law, the Board having heard the statements of the Applicant and the Builder, the Board having heard from the Township Supervisor, The Board having read a letter from a neighbor, and the Board having considered the following exhibits:

1. A zoning application dated 6-23-00.
2. A letter from Ethel Knepp to ZBA dated 6-27-00.
3. A memo of notice of hearing.
4. A letter from Thomas and Susan Pyke to Ethel Knepp dated 6-21-00.
5. A map of the property lines.
6. A letter from Mary D. Henkel to the ZBA undated.

GENERAL FINDINGS OF FACT

1. The Board finds that the existing house does not meet the required 15 foot setback from the property line.
2. The Board finds that the lot lines were created after the houses in this area were built and before Zoning was adopted.

The Board approves the findings from Section 7.05C of the Zoning Ordinance and the Board approves a 2 foot variance from the side yard setback for parcel number 15-07-003-016-00.

The minutes of the 6-28-00 Boehm hearing were corrected: the date on the first page was corrected and Steve Wilson was added to the list of members present. The following words were added to the motion: "...with the condition that both new parcels created by a parcel split will share the existing driveway and no new curb cuts will be built onto Old 31."

PAUL RICHARDS MADE A MOTION TO APPROVE THE MINUTES OF THE 6-28-00 BOEHM HEARING AS AMENDED. JIM MCMAHON SECONDED THE MOTION. MINUTES APPROVED AS AMENDED.

The minutes of the 6-28-00 Peterson / Seymour hearing were corrected: the date on the first page was corrected and Steve Wilson was added to the list of members present.

PAUL RICHARDS MADE A MOTION TO APPROVE THE MINUTES OF THE 6-28-00 PETERSON / SEYMOUR HEARING AS AMENDED. FRED PARSONS SECONDED THE MOTION. MINUTES APPROVED AS AMENDED.

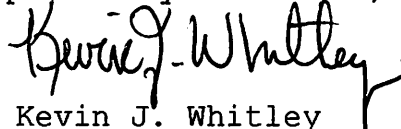
The minutes of the 5-31-00 and 6-28-00 Gary and Vicky Schafer hearing were corrected: the minutes were changed to add Steve Wilson to the list of members present at the 6-28-00 portion of this hearing.

PAUL RICHARDS MADE A MOTION TO APPROVE THE MINUTES OF THE 5-31-00 AND 6-28-00 GARY AND VICKY SCHAFER HEARING AS AMENDED. FRED PARSONS SECONDED THE MOTION. MINUTES APPROVED AS AMENDED.

The ZBA discussed changes to improve the Ordinance. The ZBA recommends that the Planning Commission work on changes to the Ordinance to give the Zoning Administrator the discretion to require applicants to provide a survey of their property when a survey would make the application more accurate and understandable. The ZBA would also like the Planning Commission to work on changes to the Ordinance to require variance applicants to mark the lot lines so members and staff can go out and see the lines.

PAUL RICHARDS MADE A MOTION TO ADJOURN. FRED PARSONS SECONDED THE MOTION. HEARING ADJOURNED AT 8:37 P.M.

Respectfully Submitted,


Kevin J. Whitley