

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
May 17, 1995

The Zoning Board of Appeals meeting was called to order by Chairman Simpson at 7:40 p.m..

Board members present were Roger Stoppel, Douglas Kuebler, Jerry Simpson, and Steve Wilson. Others present were Zoning Administrator Parsons, Secretary Ethel Knepp, Supervisor Hoadley, Jerry Danhof, and Dick Carlisle.

The purpose of the meeting was to re-hear Case Number V-01-95, application for a 75 foot and 25 foot variance from Section 5.13A of the Zoning Ordinance. Section 5.13A requires a 100 foot setback from the shoreline as well as requiring a 50 foot Shoreland Protection Strip. Property owners name is Jerome A & Vickie B Danhof. Property tax number is 15-007-119-029-00, which is located in the R-1, Single Family Residential Zone District. The applicant is requesting permission to construct an addition to the rear of their cottage and a deck on the end of the cottage. The existing home is situated approximately twenty five (25) feet from the Lake Charlevoix Shoreline.

Chairman Simpson asked for clarification on why this matter is being reheard. Secretary Ethel Knepp stated that the reason the matter was being reheard was because Mr. Danhof called her, after being informed of a rejection at the earlier meeting (April 19, 1995), and stated that the ZBA did not have all the information available which was needed to make a decision on their petition.

Chairman Simpson asked Mr. Danhof to present his case. Mr. Danhof stated that they were requesting permission to construct a 9' x 28' addition (not 12') to the rear, and a deck at the end of the cottage. He explained that he had been told (by Fred) that it wasn't necessary for him to be at the last meeting, but it apparently was because the Zoning Administrator couldn't answer the questions raised by the ZBA members. Items cited included the favorable DNR report (no wetlands where the addition is to be built), the magnitude of projects recently completed in the immediate vicinity of their cottage, have installed a "pump back" septic system which replaces a holding tank, will be required to use a floating slab as the roof can be raised over the loft area only, and he doesn't want to construct a new home in the uplands area, which would be approximately 600 feet from the lake, because the Mowrey's Oyster Bay Club regulations require that any new home be a minimum of 2000 square feet. Mr. Danhof explained that he had purchased the cottage 20 years ago, and the cabin had been build prior to Zoning, when no one was concerned about setbacks from the lake. They now have two teen age children with one bedroom so they need to add on so the children aren't sleeping in the same bedroom. Pictures of adjacent properties, with homes located in the same vicinity as the Danhof cottage, were presented. These pictures also depicted the homes to be much larger than the Danhof cottage.

Several letters from adjacent property owners, including William and Mildred Darnton, Gary Schafer, Dr. and Elizabeth Strawbridge, and A. Isabella Mowrey, were submitted which stated, in

part, that the addition would be in conformance with Mowrey's Oyster Bay Club regulations and would not have an adverse effect on the surrounding properties.

Jerry Danhof introduced Dick Carlisle, who is a community planner, asking that he be allowed to address the Zoning issues.

Dick Carlisle stated that he was aware of the five criteria that had to be met before the ZBA could grant a variance. The Zoning Ordinance states "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."

The Danhof's plan to maintain the existing shoreland protection strip. The existing buffer will be maintained and there will be no further encroachment. The addition will not have a negative impact to the neighboring properties because it will not obstruct the visual view of the lake. An improved septic system has been installed.

2. "Shall not permit the establishment within a zoning district of any use which is not permitted by right within that district."

The zoning district is R-1, Single Family Residence, and that's what the property is being used for.

3. "Will not cause any adverse effect to property in the vicinity or in the zoning district or the township."

There will not be any adverse effect because the property owners intend to maintain the existing shoreline buffer.

4. "Relates only to property that is under control of the applicant."

It is.

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."

The circumstances of the property are not self created. The structure has existed for 40 to 50 years. Zoning restrictions came later. The property has unique physical characteristics. There is wetlands uplands of the addition. The addition is the most suitable area to enlarge the structure and is out of the wetlands. A new cottage would be too costly because the Club's rules require a minimum 2000 square foot floor plan thereby creating a hardship on the owners. The existing structure is a cottage which looks and feels like a cottage in the

truest sense of the word. The Danhof's want to maintain the character of the property. The floating foundation (cement slab) will do minimal damage to the roadbed.

Roger Stoppel stated that the ZBA members must read between the lines. Existing lake owners deserve special consideration. Compared to the neighbors its a "dinky" cottage which remains a low keyed establishment.

Jerry Simpson stated that he is concerned with the environmental impact the addition will have when the gravel "roadbed" is dug out as you'll probably hit water. He is also concerned with the lack of trees and shrubs in the front of the home. Mr. Danhof responded that the DNR has determined that the "roadbed" is not wetlands and that the home has lawn in front of it that is never fertilized. They have also installed a break-wall at the lakeshore to stop the deterioration of the shoreline.

Paul Hoadley stated that the ZBA should consider the fact that the lot is 250 feet wide and the adjacent property owners have their homes located approximately in the same setback area as the Danhof Cottage. The adjacent homes are also much larger than the Danhof cottage.

Roger Stoppel made a motion, supported by Steve Wilson, that the prior decision on this matter be overturned, and that a variance be granted to construct a 9' x 28' addition to the rear of the cottage as well as a 10' x 20' deck on the north end of the cottage, because:

the addition will not be contrary to the public interest or to the spirit and intent of the Zoning Ordinance as the existing cottage is "dinky" and the addition will be constructed to the rear of the residence where there is not wetlands and will not impact the shoreline, because the septic system has been moved to the rear of the property there is a major enhancement to the property and lake, the addition will allow the property to remain as a low keyed establishment which will not be a burden on the Zoning Ordinance, neighbors, or the quality of the lake, the exceptional circumstances are that all the neighboring residences are located at approximately same setback as this cottage is, and that it would be a hardship on the property owner if they were required to construct a home at least 100 feet from the lake.

Roll call vote. Ayes: Roger Stoppel, Douglas Kuebler, and Steven Wilson. Nays: None. Motion carried.

Meeting adjourned 8:40 p.m..

Respectfully Submitted,

Ethel R. Knepp
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Secretary