

HAYES TOWNSHIP
ZONING BOARD OF APPEALS
HEARING
MAY 29, 1996

The Zoning Board of Appeals Hearing was called to order at 7:34 P.M. by Chair Jerry Simpson at the Hayes Township Hall, 09195 Old 31, Charlevoix.

Zoning Board of Appeals Members present were Craig Golovich, Doug Kuebler, LeRoy Brooks, Jerry Simpson, and Roger Stoppel.

Also present were Zoning Administrator Ethel Knepp, Kevin J. Whitley, Jim Harrison, and Bud Zipp.

The purpose of this hearing is to hear a request for a variance from Section 4.13 setbacks and Section 5.12 Greenbelt. Jim Harrison is proposing a new store, gas pumps, and a canopy on property tax number 15-007-153-001-00 located on U.S. 31 at Townsend Road. Jim is asking for a 27 foot rear yard setback variance and a 25 foot side and rear yard greenbelt variance.

Ethel Knepp explained that the Ordinance was changed on 3-17-95 to require that all commercial developments provide a 25 foot greenbelt in the side yard setback.

Jim Harrison was present to explain his plan. Jim stated that he needs room behind the new store for trucks so they are away from the highway while they are unloading. Jim also stated that the side yard near Townsend will be kept open for trucks buying diesel fuel at the end pump. Jim believes that any greenbelt along Townsend would be damaged by vehicles.

Jim explained that he left room for a car to wait to enter U.S. 31 without being at the gas pumps and he left room for cars to park in front of the store without blocking access to the pumps.

Roger Stoppel asked if MDOT will accept cars pulling directly onto the highway?

Jim responded that the safety situation will be improved because cars will be able to drive around the store and exit the property anywhere.

Jim explained that the location of the gas pumps is designed to be used with the existing store now and used with the proposed store in the future. Jim stated that he is working on a 5 year plan to have the new store complete and remove the existing store. Jim stated that all future plans depend upon removing the old tanks which requires DEQ involvement.

Craig Golovich asked if Jim considered changing the plan to have all vehicles exit onto Townsend Road? Jim responded that he needs this plan to use new pumps with the current store.

Jerry Simpson stated that the location of the existing store is the biggest hinderance to sight for vehicles leaving the property.

LeRoy Brooks asked if the diesel pump could be located behind the building? Jim responded that all pumps must be lined up and visible from the existing store.

Roger Stoppel stated that the ZBA may want to avoid granting a variance for a building that may or may not be built in the future. Ethel Knepp stated that variances are good for one year and then an applicant would have to apply for an extension. Roger also asked what will happen to the area of the existing store after the store is removed.

Jim stated that he does not know about the plan after the existing store is removed. Jim explained that there is a potential pollution problem from the old gas station tanks and he cannot legally combine the lots so he doesn't jeopardize his existing business.

Ethel Knepp stated that she expects the Township to require that the existing store is removed and that space left open to prevent this property from being over developed. Ethel confirmed that Jim Harrison understands that removing the old store and leaving that space open is required.

Jim Harrison stated that future plans depend on the availability of money, and he cannot guarantee what will be done.

Bud Zipp, owner of a lot South of the alley, was present. Bud asked if Jim considered closing the alley which would add 16 1/2 feet to his rear yard setback? Bud stated that the project is a mistake if the alley is not closed. Bud also stated that regardless of what happens, the property should be surveyed and the alley staked out so everyone knows where it is.

Jim Harrison is not asking for the alley to be abandoned, his plan will work as presented with the alley left as it is.

Bud Zipp explained that he is not opposed to Jim Harrison's proposal, he is only concerned about his property. Bud stated that he will accept the alley remaining open.

LeRoy Brooks asked for a greenbelt along Townsend Road. LeRoy stated that the required 25 foot greenbelt is not reasonable but there is room for a 12.5 foot greenbelt. LeRoy suggested a greenbelt limited to 2 foot high will allow drivers to see over it.

Jim explained that the plan is designed without greenbelts for maximum flow of vehicles around the building.

Jerry Simpson reminded the ZBA that the purpose of greenbelts is screening and aesthetics.

Craig Golovich agrees that the greenbelt will be in the way of traffic flow.

Doug Kuebler stated that the plan as presented is a big improvement over what is there now so he will agree to eliminate the required greenbelt if the existing green curbed area is left on the corner.

Jerry Simpson read the five criteria required by the Zoning Ordinance to grant a variance: 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.

LeRoy Brooks stated that he will oppose a motion that does not require some greenbelt.

MOTION MADE BY DOUG KUEBLER TO GRANT A 27 FOOT REAR YARD SETBACK VARIANCE AND A VARIANCE TO NOT REQUIRE A 25 FOOT GREENBELT ON THE EAST SIDE AND REAR TO JIM HARRISON FOR PROPERTY TAX NUMBER 15-007-153-001-00 BECAUSE IT MEETS ALL FIVE CRITERIA AND THE NEW BUILDING WILL BE AWAY FROM THE LOT LINES WHICH IS AN IMPROVEMENT TO WHAT IS THERE NOW. MOTION SECONDED BY CRAIG GOLOVICH. ROLL CALL VOTE:

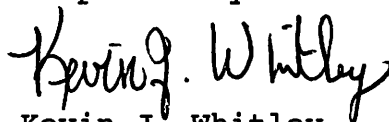
ROGER STOPPEL	YES
CRAIG GOLOVICH	YES
DOUG KUEBLER	YES
LEROY BROOKS	NO

MOTION APPROVED BY A VOTE OF THREE IN FAVOR AND ONE OPPOSED.

Jerry Simpson asked the Planning Commission to require the applicant to pave the entire alley.

HEARING ADJOURNED BY CHAIR JERRY SIMPSON.

Respectfully Submitted,


Kevin J. Whitley

Minutes approved as presented 