

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
July 23th, 2025
09195 Major Douglas Sloan Road, Charlevoix, MI 49720

The July 23th, 2025, Public Hearing meeting of the Hayes Township Zoning Board of Appeals was called to order by Chair Janice Vedder-Whipple at 7:00 pm. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix, MI 49720.

BOARD MEMBERS PRESENT: Joni Hosler, Bruce Deckinga, Janice Vender-Whipple, Rex Greenslade, Doug Kuebler and Jessica Perry (Alternate).

ALSO PRESENT: April Hilton (Recording Secretary/Deputy Clerk) Ron VanZee (Zoning Administrator)

Audience: Micheal Branan, Ellis Boal, Jim Rudolph, LuAnne Kozma, Joellen Rudolph, Kevin Willis, Tim Boyko, William Conklin, Diane Conklin, Jennifer Schafer, Darcy Phelps, Mark Snyder, Shelly VanWart, and Catherine Phelps.

PLEDGE OF ALLEGIANCE: Ms. Vedder-Whipple (Chair) opened the meeting at 7:00 pm with the Pledge of Allegiance to the Flag.

INTRODUCTION OF ZONING BOARD OF APPEALS (ZBA) MEMBERS:

BOARD MEMBERS PRESENT: Rex Greenslade, Bruce Deckinga, Janice Vedder-Whipple, Joni Hosler and Doug Kuebler.

REVIEWED AGENDA:

Move item #6 Public Comment – Non Agenda Items to item 8A. After the public hearing is held.

Ms. Vedder-Whipple made a motion, supported by Mr. Greenslade, to approve the agenda as amended.

Yeas: Joni Hosler, Bruce Deckinga, Doug Kuebler, Janice Vedder-Whipple and Rex Greenslade. **Nays: None** **Motion Carried**

DECLARATION OF CONFLICT OF INTEREST: NONE

APPROVAL OF DRAFT MINUTES FROM MARCH 26TH, 2025:

Mr. Greenslade made a motion, supported by Mr. Kuebler, to approve the March 26th 2025 meeting minutes as presented.

Yeas: Rex Greenslade, Bruce Deckinga, Doug Kuebler, Joni Hosler and Janice Vedder-Whipple. **Nays: None** **Motion Carried**

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CHAIR OPENS PUBLIC HEARING:

Mr. Deckinga made a motion, supported by Mr. Greenslade to open the public hearing at 7:04pm.

Yeas: Joni Hosler, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vedder-Whipple.

Nays: None **Motion Carried**

ZONING ADMINISTRATOR INTRODUCES CASE AND PRESENTS EXHIBITS:

In the Matter of: Bill and Pamela Yates CASE #072325A

Publication date was June 21st 2025 in the Petoskey News Review. Notice was next to all property owners within 300 feet on June 18th 2025.

Charlevoix County Property Tax Identification Number 15-007-301-021-25, Zoning District R1 located on property commonly known as 6995 Birdland Dr. Charlevoix MI 49720. The applicant is seeking a variance to construct a new single family residence in replacement to an existing non-conforming single family residence. The proposed new single family residence meets to 100 foot front yard setback eliminating a 24 foot non-conformity from Lake Charlevoix. The parcel is unique with containing two shoreline protection strips, 50 foot from Lake Charlevoix and 50 foot from a Stream. The applicant has submitted a Shoreline Protection Strip Site Plan which will be reviewed by the Planning Commission if the variance is approved.

To accomplish this project the applicant is seeking the following variance:

- A 15 foot variance from the 50 foot water feature (stream) setback requirement in section 3.14.3. to allow construction within 35 feet of the stream.

PETITIONER IS RECOGNIZED (AND/OR AGENT) AND PUTS FORTH CASE:

Mr. Branan stated it is a very unusual site. They've been working with the home owner and architects to conform and get 50 feet away from the stream. However, it becomes extremely difficult the further they get away from the stream. They could push the house back and in front of an adjacent property, however they would lose all the view of the lake, which would make no sense to tear down the existing building. The landowner however would like an

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opportunity to move the house back out of the 100 foot Lake Charlevoix Setback. The lot currently has a grass lawn all the way to Lake Charlevoix and the stream. With this project they have an opportunity to correct a couple of problems and establish a protection strip along the stream and Lake Charlevoix. The property is relatively flat, therefore with being 35 feet away from the stream and moving into conformity along Lake Charlevoix with Shoreline protection strips along the stream and the lake will help with any runoff. If the variance does not get approved tonight the landowners will be forced to keep the house as is and fix the foundation issues.

Mr. Collins (owners of Glennwood Custom Builders) stated he lives on Lake Charlevoix as well and have seen how improvements of a protection strip along the lake can create a nicer lake bottom. This variance request is an opportunity to correct the problem of run off into the lake and stream.

BOARD MEMBERS REPORT ON THEIR SITE INSPECTIONS:

Mr. Greenslade asked what is the difference in height of the slope from the driveway to the stream versus the slope from the house to Lake Charlevoix?

Mr. Branen stated the slope to Lake Charlevoix is greater than the slope to the stream.

Mr. Deckinga stated the variance request would be to eliminate the Lake Charlevoix non conformity.

Ms. Vedder-Whipple asked if poor soils was a concern on this lot and what the process would be for the foundation repair on the existing structure?

Mr. Collins stated the soils are very poor on the parcel. Which would most likely lead to driving helical piles on an angle and jack the footings up and clamp them to hold the piles in place.

Ms. Vedder-Whipple requested how long the repair is estimated to last?

Mr. Collins stated it would possibly last decades, however, with a new build they would spread the footings out so they have less bearing point loads, and the helical piles would be vertical versus on an angle. This would be the nicest long-term solution.

Ms. Vedder-Whipple requested if the mechanical HVAC equipment would be in a **crawlspace** or within the structure. ~~it self?~~

Mr. Collins stated with the new build it would be in the structure the soil conditions will only allow for a very small crawlspace.

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CHAIR OPENS PUBLIC COMMENT:

Opened at 7:28 pm

Comments Included:

- LuAnne Kozma stated they are the president of Protect Lake Charlevoix, would request the ZBA deny the variance request because the stream setback is just as important as the setback for Lake Charlevoix.
- Bill Conklin suggested the resident consider a berm or french drain within the variance request of the stream.
- Mr. Collins stated the applicants are open to any suggestions or requirements in order to eliminate any runoff into the stream and Lake Charlevoix.

CORRESPONDENCE ACKNOWLEDGED:

ZBA members reviewed all correspondence received by 4:00pm July 22nd, 2025 as stated on the Public Hearing Notice.

CHAIR CLOSES PUBLIC COMMENT:

Public Comment closed at 7:37pm.

REVIEW OF APPLICABLE SECTION OF HAYES TOWNSHIP ORDINANCE:

The ZBA reviewed and discussed sections 3.14 Waterfront Regulations and Section 3. Non-Conformity.

Discussion included:

Mr. Deckinga stated if the variance request is denied, then the building stays where it is with two legal Nonconformities. If the variance is approved they will be correcting the Lake Charlevoix setback as well as including plans for a shoreline protection strip on both the stream and the lake.

Ms. Vedder-Whipple stated- ~~this~~ **that** approving the variance gives the landowner a chance to improve the property. Waterfront properties have different constraints and challenges sometimes, and this seems to be a reasonable request with all considerations.

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REVIEW AND DISCUSSION OF FINDING OF FACT:

A 15 foot variance from the 50 foot water feature (stream) setback requirement in Section 3.14.3. To allow construction within 35 feet of the stream.

SECTION 8.07 VARIANCES

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not generally apply to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
 - The Board of Appeals find that yes the existing physical conditions of the parcel make the property unique and very difficult to develop a new home without the requested variance.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self created).
 - The Board of Appeals find that no, the parcel has poor soil which was not a result of any action of the current or previous property owners.
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any ~~for any~~ permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
 - The Board of Appeals find that yes the regulations are unnecessarily burdensome in this case.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
 - The Board of Appeals find that granting the variance will give substantial justice to the applicant and neighboring property owners by eliminating the non-conformity the Lake Charlevoix, which is a primary consideration. It includes the creation of a shoreline

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protection strip on the lake and stream with Shoreland Protection Strip Committee and Planning Commission approval.

5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

- The Board of Appeals find that the requested variance will not cause an adverse impact on surrounding properties because currently there is not a shoreline protection strip on the stream or Lake Charlevoix and the front (Lake Charlevoix) setback will become conforming.

MOTION AND ROLL CALL VOTE:

Mr. Greenslade made a motion, supported by Mr. Kuebler to approve the 15 foot variance from the 50 foot water feature (stream) setback requirement of section 3.14.3 to allow construction within 35 feet of the stream, contingent on the Shoreline Protection Strip Site Plan is approved by the Planning Commission.

Yeas: Rex Greenslade, Doug Kuebler, Bruce Deckinga, Joni Hosler and Janice Vender-Whipple.

Nays: **Motion Carried**

CHAIR CLOSSES PUBLIC HEARING:

Mr. Greenslade made a motion, supported by Ms. Hosler to close the Public Hearing at 8:00pm.

Yeas: Joni Hosler, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

PUBLIC COMMENT NON AGENDA ITEMS:

Public Comment Opened at 8:01pm

Comments Included:

- Ellis Boal stated they would like to return two checks to the Zoning Administrator in the amount of \$935.00. Stated he is representing the appellants whom wish to appeal the Zoning Permit issued to Pickle ball Storage LLC. Find it a conflict of interest for Todd to influence the

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- LuAnne Kozma stated the signature requirement on an appeal application is not required. Would like the ZBA to schedule a meeting tonight to hear the appeal of the Zoning Permit issued to Pickle ball Storage LLC.

- Joellen Rudolph supports the previous comments and approve LuAnne Kozma and Ellis Boal as the appellants legal representatives. Feels they have done everything correctly as written in the Zoning Ordinance and Zoning enabling act for their case to be scheduled with the ZBA.

ZONING BOARD OF APPEALS MEMBER COMMENT:

~~Mr. Greenslade~~ **Ms. Vedder- Whipple** made a motion, supported by ~~Ms. Hosler~~ **Mr. Greenslade**, to close public comment at 8:16pm.

Nays: Bruce Deckinga **Motion Carried**

Yeas: Joni Hosler, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

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Respectfully Submitted,
April Hilton
Hayes Township Deputy Clerk/Recording Secretary



zoning hayestownshipmi <zoninghayestownshipmi@gmail.com>

Fwd: Request to ZBA to be on Agenda July 23

2 messages

clerk hayestownshipmi <clerkhayestownshipmi@gmail.com>
To: Ron Vanzee - Zoning <zoning@hayestownshipmi.gov>

Tue, Jul 22, 2025 at 3:39 PM

Sent from my iPhone

Begin forwarded message:

From: LuAnne Kozma <luannekozma@gmail.com>**Date:** July 22, 2025 at 2:58:31 PM EDT**To:** Janice Whipple <jvwhipple65@gmail.com>, Doug Kuebler <hayestrustee5@gmail.com>, Rex Greenslade <greensladerex@gmail.com>, Bruce Deckinga <bdeckinga@gmail.com>, bubbahos@gmail.com, Rod Slocum <rodslocum@gmail.com>, kristin baranski <clerk@hayestownshipmi.gov>, Hayes supervisor <supervisorhayestownshipmi@gmail.com>**Cc:** Ellis Boal <ellisboal@voyager.net>, JoEllen <jobee949@gmail.com>, Carol Umlor <umlorcarol4@gmail.com>, kevin willis <kwillisc@yahoo.com>, Kim <kfgarden10@gmail.com>, Mike Taylor <taylor58112@gmail.com>, Catherine Phelps <cathelps73@yahoo.com>, Darcy Phelps <darcyphelps57@gmail.com>, Shelly VanWart <taxladybayshore@gmail.com>, Jim Rudolph <jmr09799@gmail.com>**Subject:** Request to ZBA to be on Agenda July 23**To:** Hayes Township Zoning Board of Appeals**Date:** July 22, 2025**RE:** Request to amend your July 23 agenda to include agenda item to schedule two hearings for two ZBA Notices of Appeal

Dear ZBA Chair Vedder-Whipple and ZBA members and alternate:

I now co-represent, with Ellis Boal, the appellants Kevin Willis, Kim and Pat Fary, Carol Umlor, Darcy and Catherine Phelps, Mike Taylor, Summer LaVanway, JoEllen and Jim Rudolph and Shelly Van Wart before the ZBA regarding:

(1) their Notice of Appeal filed May 29 of the zoning permit issued for the 12,000+ -square foot Pickleball facility and storage building being built in the Agriculturally-zoned former gravel mine site next to their homes; and

(2) their Notice of Appeal filed June 24, of Mr. Van Zee's administrative mis-handling on June 16 of their May 29 application accompanying the Notice of Appeal, which violated the Zoning Ordinance, as well as his ongoing failure to submit his administrative files on the permit to the ZBA, and his ongoing failure to enforce the automatic, mandatory Stay. Applications are not due until 30 days prior to the date of the appeal's scheduled ZBA hearing, per ZO § 8.05.

The Appellants request that you add the scheduling of the required public hearings for these two Appeals on your July 23 meeting agenda.

Ellis Boal wrote to the entire ZBA by email on July 9. We do not see this correspondence on your agenda.

Yesterday, the Appellants sued the Township in Charlevoix County Circuit Court for the ZBA Chair for failing to schedule these mandatory two hearings. Only the ZBA Chair has the power to call the ZBA's meetings and it is a clear requirement upon receipt of a Notice of Appeal. The purpose of the lawsuit is for the Court to order you to do your clear legal duties as required by the Michigan Zoning Enabling Act.

ZBA members, please make a motion at the July 23 meeting to add to your agenda the scheduling of these public hearings on the two Appeals.

The Appellants would also like to speak to the issue when you discuss.

Sincerely yours,

LuAnne Kozma

Rex Greenslade <greensladerex@gmail.com>
To: Ron VanZee <zoning@hayestownshipmi.gov>

Tue, Jul 22, 2025 at 5:39 PM

Best regards,
Rex Greenslade
Sent from my iPhone
[Quoted text hidden]