

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th, 2025
09195 Major Douglas Sloan Road, Charlevoix, MI 49720

The October 8th, 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: Bruce Deckinga, Janice Vender-Whipple (Chair), Rex Greenslade, Doug Kuebler and Jessica Perry (Alternate).

Absent: Joni Hosler

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

Audience: Stephanie Baldwin, Zeze Jess, Bill Conklin, Darcy Phelps, Catherine Phelps, Kevin Willis, and Shelly VanWart.

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

REVIEWED AGENDA:

Add item 7a. Authorizing the Chair of the ZBA to work with the Township Attorney to amend By-Laws.

Mr. Greenslade made a motion, supported by Mr. Kuebler, to approve the agenda as amended.

Yeas: Jessica Perry, Bruce Deckinga, Doug Kuebler, Janice Vedder-Whipple and Rex Greenslade.

Nays: None Motion Carried

INTRODUCTION OF ZONING BOARD OF APPEALS (ZBA) MEMBERS:

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

Absent: Joni Hosler

DECLARATION OF CONFLICT OF INTEREST: NONE

APPROVAL OF DRAFT MINUTES FROM JULY 23, 2025:

Mr. Deckinga made a motion, supported by Mr. Greenslade, to approve the July 23rd 2025 meeting minutes as amended.

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

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

CHAIR OPENS PUBLIC HEARING:

Mr. Greenslade made a motion, supported by Mr. Kuebler to open the public hearing at 7:10pm.

Yeas: Jessica Perry, 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: Ryan and Lauren Bergstrom CASE #100825B

Publication date was September 18th 2025 in the Petoskey News Review. Notice was next ~~sent~~ to all property owners within 300 feet on September 15th 2025.

Charlevoix County Property Tax Identification Number 15-007-130-014-00, Zoning District R1 located on property commonly known as 07720 Indian Trails Dr. Charlevoix MI 49720. The applicant is seeking a variance to allow for construction of a structure to connect the principle structure to the detached garage. The original principle structure was constructed in 1974 prior to the Hayes Township Zoning Ordinance adoption, and encroaches almost entirely in the current front setback requirement of 100 feet. Owner proposes to add an approximate 570 square foot addition to connect the principle structure to existing detached garage. A narrow 3.14 feet portion of proposed addition is within the 100 foot setback requirement. 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 variances:

- A variance of 3.14 feet from section 3.14 Waterfront regulations from the 100 foot front setback requirement to allow for construction of a structure to connect the principle structure to the detached garage.

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

- A variance from the non-conforming section 3.02.10 to allow for construction that will enlarge or alter the structure.

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

Mr. Bergstrom stated they are privileged to purchase the Darnton family home, they have no intention of changing anything within the Shoreland Protection strip. They plan for this home to be their full time residence after their children graduate.

Ms. Baldwin (President and Owner of Edgewater Design Group) stated the house was built in the seventies. The bridge connection between the house and garage was built in the nineties with no foundation under it and is experiencing some erosion issues. The new construction will be to provide a proper foundation and protect from erosion.

Ms. Perry requested if they plan to install gutters to help with run off.

Ms. Baldwin stated they will install a french drain to capture the runoff.

Mr. Greenslade asked if the applicant does not receive this variance what would be the applicants' plan.

Ms. Baldwin stated they will still need to somehow fix the foundation due to structural damage.

Mr. Greenslade stated the ordinance shall not prohibit the repair, improvement or modernization of a non-conforming structure to correct deterioration, obsolescence, depreciation and wear, provided the structures spatial envelope remains the same. Is there a way they can fix the issues without the section 3.14 variance?

Ms. Baldwin stated the 3.14 foot variance of section 3.14 is necessary to connect the structures.

BOARD MEMBERS REPORT ON THEIR SITE INSPECTIONS:

Ms. Vedder-Whipple stated she has visited the site and find the property owner is in a sticky situation.

Ms. Perry stated they have to raise the roof line in order to solve the structural issues. With the drainage design it will be better protection for the lake and garage structure.

Mr. Deckinga agreed it is a challenging situation.

Mr. Greenslade stated the applicant will have extra living space, however the structure is necessary and don't see it being obstructive to any neighboring property.

Ms. Baldwin presented a letter from the HOA, approving the proposed project.

Mr. Greenslade read the letter into the record, please see attachment.

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

CHAIR OPENS PUBLIC COMMENT:

Opened at 7:32pm

Comments Included: none

CORRESPONDENCE ACKNOWLEDGED:

none

CHAIR CLOSES PUBLIC COMMENT:

Public Comment closed at 7:33pm.

REVIEW OF APPLICABLE SECTION OF HAYES TOWNSHIP ORDINANCE:

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

REVIEW AND DISCUSSION OF FINDING OF FACT:

A 3.14 feet variance from section 3.14 Waterfront regulations from the 100 foot front setback requirement to allow for construction of a structure to connect the principle structure to the detached garage. And a variance from the non-conforming section 3.02.10 to allow for construction that will enlarge or alter the structure.

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 property was constructed in 1974, prior to the first Hayes Township Zoning Ordinance. Variance is needed due to unique foundation, water management and structural issues.
2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

- The Board of Appeals find that no, the erosion caused the structural issues.
- 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 compliance with the regulations is 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, and has already been approved by the HOA.
- 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 it has been HOA approved.

MOTION AND ROLL CALL VOTE:

Mr. Greenslade made a motion, supported by Mr. Deckinga to approve the 3.14 foot variance from the setback requirement of section 3.14 to allow construction within 100 foot of Lake Charlevoix, and the enlargement and alteration of a non-conforming structure for property commonly known as 7720 Indian Trails Dr. contingent on the Shoreline Protection Strip staying in its existing state.

Yeas: Rex Greenslade, Doug Kuebler, Bruce Deckinga, Jessica Perry and Janice Vender-Whipple.

Nays: **Motion Carried**

CHAIR CLOSES PUBLIC HEARING:

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

Mr. Greenslade made a motion, supported by Ms. Vedder-Whipple to set a ZBA Administrative meeting at 5:00pm on October 21st 2025 to approve the minutes from tonight's meeting.

Yeas: Jessica Perry, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

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

Yeas: Jessica Perry, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

AUTHORIZING THE CHAIR OF THE ZBA TO WORK WITH THE TOWNSHIP ATTORNEY TO AMEND ZBA BY-LAWS:

Mr. Greenslade made a motion, supported by Mr. Kuebler to approve the ZBA Chair to work with the Township Attorney to amend the ZBA By-laws in regards to how the public can contact and share information with ZBA members to eliminate possible OMA violations.

Yeas: Jessica Perry, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

PUBLIC COMMENT NON AGENDA ITEMS:

Public Comment Opened at 7:55pm

Comments Included:

- Requested clarification on the previous motion.

Public Comment Closed at 7:56 pm

ZONING BOARD OF APPEALS MEMBER COMMENT:

Ms. Vedder-Whipple apologized for her getting distracted at the previous meeting by public interruption and feels she missed what Bruce Deckinga was saying and will do a better job as chair controlling the meeting.

DRAFT
Hayes Township
Zoning Board of Appeals
Public Hearing
October 8th 2025
09195 Old U.S. N, Charlevoix, MI 49720

Mr. VanZee thanked the applicant and Edgewater design for the complete and detailed application and documents. Stated the public should be apologizing for being out of order at the previous meeting and causing the distraction.

ADJOURNMENT: Mr. Kuebler made a motion, supported by Mr. Greenslade, to adjourn at 7:59pm.

Yeas: Jessica Perry, Bruce Deckinga, Doug Kuebler, Rex Greenslade and Janice Vender-Whipple.

Nays: None **Motion Carried**

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



April Hilton <deputyclerkhayes@gmail.com>

corrections to draft ZBA minutes of 7-23-25

3 messages

Ellis Boal <ellisboal@voyager.net>

Wed, Oct 1, 2025 at 4:53 PM

To: Janice Whipple <jvwipple65@gmail.com>, Bruce Deckinga <bdeckinga@gmail.com>, Rex Greenslade <greensladerex@gmail.com>, Doug Kuebler <hayestrustee5@gmail.com>, Rod Slocum <rodslocum@gmail.com>

Cc: zoning@hayestownshipmi.gov, April Hilton <deputyclerkhayes@gmail.com>, kristin baranski <clerk@hayestownshipmi.gov>, Darcy Phelps <darcyphelps57@gmail.com>, LuAnne Kozma <luannekozma@gmail.com>, Hayes supervisor <supervisorhayestownshipmi@gmail.com>, kevin willis <kwillisc@yahoo.com>, JoEllen <jobee949@gmail.com>

Janice and Hayes ZBA members,

I write on behalf of on behalf of Bay Shore residents including Darcy Phelps et al, cc'd on this email. Also cc'd are the ZA, your recording secretary, and the Township clerk. (Darcy is asked to forward this to his co-appellants.)

I write to request correction of the draft minutes for the ZBA meeting of July 23, which I attach.

As you may know, Section 9 of the Open Meetings Act has this to say about minutes of open meetings:

Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public. . . . [Emphasis added]

I attach a copy of the draft minutes, prepared for ZBA approval at the next coming meeting, now scheduled for October 9. We also have the Township's recording of the July 23 meeting and have listened to it with care. We transcribed the last five minutes as seen below. You can verify the transcript by listening to the recording yourselves.

The penultimate Item, "Public comment on Non-Agenda Items" notes several comments by myself, LuAnne, Kevin, JoEllen, and the Supervisor.

Related to LuAnne's comment is her email to the Clerk of the day before (which I also attach) concerning the Notices of Appeal of May 29 and June 24, that ended with this:

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.

This email was before you on July 23 as part of the final ZBA packet. It called for the ZBA Chair to schedule hearings for the Notices of Appeal of May 29 and June 24.

LuAnne's and my comment to you at the meeting on July 23, which we provided both verbally and in writing (also attached), likewise called for scheduling of ZBA hearings on the two Notices.

All other commenters also called for scheduling of hearings. The draft minutes make no note of any of those requests.

As an agenda item, the draft shows "Zoning Board of Appeals Member Comment" on page 7. But it is improperly abbreviated, showing only a single comment of one ZBA member, the Chair:

Ms. Vedder-Whipple referred to the legal opinion of the Hayes Township attorney, "the applicant has failed to follow the rules adopted by the ZBA and filed an incomplete application for appeal by the deadline. Therefore it is my opinion that the ZBA lacks jurisdiction to hear the appeal and the appeal should be rejected as untimely."

There was a second comment by ZBA Member Deckinga. But the draft omits it completely. The recording and transcript show the following occurred:

Chair Janice Vedder-Whipple [reading from a document]: Thank you. In this case, um, it is the opinion that the Applicant has failed to follow the rules adopted by the ZBA and file a completed Application for an appeal by the deadline. Therefore it is, um, my opinion that the ZBA lacks jurisdiction to hear this Appeal and the Appeal should be rejected as untimely.

[Colloquy from audience]

Vedder-Whipple: Ma'm it's absolutely correct. It is from the — our attorney. As individuals we have no rights to go out and set meetings. We don't have a staff report. And when we get a staff report, that's when we respond. So, this is the advice of counsel, um, and that's what has to be read. I'm sorry. [Emphasis added]

Ellis Boal: We have not seen that advice of counsel and I asked that it be produced earlier during my remarks and it was not.

Vedder-Whipple: We have not —

Boal: It does not exist unless you produce it here and now.

...

Vedder-Whipple: My motion is, do we close the Public Comment — yes — in those in favor say "aye." [Ayes] Motion carries. Thank you.

...

Vedder-Whipple: We have a motion to adjourn the meeting by —

ZBA Member Bruce Deckinga: Wait, wait, wait, wait. You didn't ask for the "Nays."

Vedder-Whipple: Nay — regarding Public Comment?

10/2/25, 11:21 AM

Gmail - corrections to draft ZBA minutes of 7-23-25

Deckinga: Regarding our ability to discuss this. I would be a "Nay."

...

Deckinga: [Pointing to each of the other four ZBA member and saying to each] "Yes, yes, yes, yes, [then pointing to himself] Nay.

Vedder-Whipple: Oh, okay. Motion to adjourn the meeting?

We recognize that as a general matter, minutes are not expected to be a verbatim transcript of everything said at a meeting.

But Deckinga as a ZBA member called to have discussion on "our ability to discuss this." He polled the other Members individually, with the decision being 4-1 against him.

Deckinga's "this" referred to the issue whether or not the May 29 Applicantd supposedly had "failed to follow the rules adopted by the ZBA and file a completed Application for an appeal by the deadline."

The Chair did not rule Deckinga out of order. She just said "okay."

The Open Meetings Act is mandatory on the point of the minutes having to record ZBA "decisions" accurately.

Please incorporate the 4-1 decision. alongside of Vedder-Whipple's comment, in your approved minutes for July 23. Thank you.

Ellis

3 attachments

 25-07-23_zbaMinutes-draft.pdf
113K

 25-07-23_statementToZba.pdf
1254K

 25-07-22_kozmaToClerk.pdf
1731K

Rex Greenslade <greensladerex@gmail.com>
To: Hilton April <deputyclerkhayes@gmail.com>, Kristin Baranski <kbaranski9333@gmail.com>
Cc: Janice Whipple <jvwhipple65@gmail.com>

Wed, Oct 1, 2025 at 5:02 PM

April, Kristin,
I have no problem in the draft minutes being amended to show the 4-1 decision on adjournment. It is what happened.
Let me know if I can assist in amending them.
Best regards,
Rex Greenslade

Begin forwarded message:
[Quoted text hidden]

3 attachments

 25-07-23_zbaMinutes-draft.pdf
113K

 25-07-23_statementToZba.pdf
1254K

 25-07-22_kozmaToClerk.pdf
1731K

Ellis Boal <ellisboal@voyager.net>
To: Janice Whipple <jvwhipple65@gmail.com>, Bruce Deckinga <bdeckinga@gmail.com>, Rex Greenslade <greensladerex@gmail.com>, Doug Kuebler <hayestrustee5@gmail.com>, Rod Slocum <rodslocum@gmail.com>
<zoning@hayestownshipmi.gov>, April Hilton <deputyclerkhayes@gmail.com>, kristin baranski <clerk@hayestownshipmi.gov>, Darcy Phelps <darcyphelps57@gmail.com>, LuAnne Kozma <luannekozma@gmail.com>, Hayes supervisor <supervisorhayestownshipmi@gmail.com>, kevin willis <kwillisc@yahoo.com>, JoEllen <jobee949@gmail.com>

Wed, Oct 1, 2025 at 10:50 PM

All,

I believe the next ZBA meeting is October 8, not October 9. Sorry.

M_{owrey's} O_{yster} B_{ay} C_{lub}

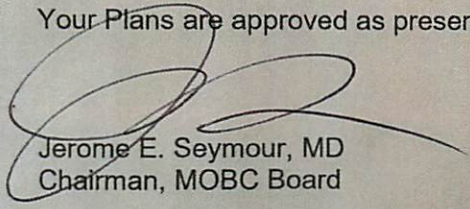
September 8, 2025

Ryan and Lauren Bergstrom
7720 Indian Trails
Charlevoix, MI 49720

Dear Ryan and Lauren,

The Architectural Committee has reviewed your plans and the only deviation noted is the driveway in front of the garage which is inside the 25 foot setback allowed by the MOBC Deed Restrictions. However we feel that this is preexisting and my predate the incorporation of MOBC.

Your Plans are approved as presented



Jerome E. Seymour, MD
Chairman, MOBC Board

CC: Ed Willis
Shelley Sgrazzutti

P. O. Box 241
Charlevoix, Michigan 49720