

9330 Woods Road
Charlevoix, MI 49720

May 31, 2022

Zoning Board of Appeals
c/o Kristin Baranski, Secretary, clerk@hayestownshipmi.gov
c/o Tom Darnton, Chair, tdarnton@me.com
Hayes Township
9195 Major Douglas Sloan Road
Charlevoix, MI 49720

Re: Requesters LuAnne Kozma, Irene Fowle, Elisabeth Hicklen
Interpretation requests case filed 9-27-21

Appellant LuAnne Kozma Appeals case filed 12-20-21

Dear Hayes ZBA members and alternates:

(Kristin and Tom: Please distribute this letter by email today to the ZBA members and alternates, so they can reflect on it before tomorrow morning's meeting. We ask that our request be put on the agenda for your June 1 meeting).

As you know the above Appeals and Interpretation Requests are pending before you, but hearing dates have not been set.

As you also know, LuAnne has litigation pending against the Township Board in the Circuit Court. But it is only about ancillary aspects of the above matters, not about whether ZBA hearings should go forward. We did not sue the ZBA itself or its members.

Todd Millar is representing the Township in that case. He told us a week or two ago that ZBA hearings would not be scheduled until our Court case against the Township is resolved. But he was speaking for the Township Board not the ZBA.

We see no reason for the hearings to wait.

A recusal issue at the ZBA is whether Doug Kuebler can sit on either matter, given that as a PC member he (and Roy Griffiths) voted in favor of the Law basin and channel in the Shoreland Protection Strip and a landscaping plan based on it, on November 19, 2019. Because a ZBA member cannot judge “the same matter that the member voted on as a member of the . . . planning commission,” as MCL 125.3601(13) says, therefore Doug cannot participate in either ZBA case. See also ZBA Rule 4.10.

Another issue is the propriety of the 15-day public notices which are to precede the hearing dates. On April 14 and 16 Kristin published newspaper notices for the originally-scheduled hearings of April 20 and 27. But they were filled with errors. They:

- Were both untimely, even the “corrected” one.
- Stated the April hearings would “continue” the hearings of January 26 and February 2 though those meetings had no quorum, at which no business could be conducted.
- Stated untruthfully that members of the public could “stop by” the Hall “during normal business hours” to review the paperwork even though the Hall has been locked except by appointment since February.
- Conflated in a single public notice for the Kozma/Fowle/Hicklen Interpretation Requests and for the Kozma Appeal filed December 20 – which are separate ZBA cases– as though the ZBA might intermix the two in one hearing. Each case needs its own public notice.
- Disparaged the December 20 appeal of the ZA affidavit-determinations as protesting merely “alleged” determinations.
- Gave no instructions on how the public could submit written comments by letter or email, or by which date they are due for each case.
- Misspelled the names of the Requesters/Appellant in four ways.

Even so, on April 18 Todd told the Court “the Township believes that its notice of the hearings was proper.” The notices were not proper. You should make sure they are now.

Todd is in a curious position, having represented both the Township and individual ZBA officials including your Chair. We do not see how he can continue ethically to do both. We recommend you retain other counsel for the hearings.

On procedure, we noticed in the Cozier-Beek Interpretation hearing last week you did follow the order of business prescribed by ZBA Rule 4.8. We expect you to do the same for the Kozma/Fowle/Hicklen Interpretation Requests.

The bottom line is, following proper procedures is imperative to avoiding aggrieved parties going to circuit court to have the case reheard on remand back to the ZBA. Thus far, procedurally the ZBA has acted with very improper procedure and now twice, with two separate cases, hearings had to be cancelled due to ZBA member malfeasance, improper procedure, and lack of quorum.

Our desire is that hearings proceed soon – with a definite date assigned for the Interpretations case and a separate definite date assigned for the Appeals case.

We are available the following dates: June 22-23 for one hearing and June 29-30 for the other hearing. July 13-14 would also be acceptable. Each date should allow for an additional day to continue if needed.

Very truly yours,



LuAnne Kozma
Co-Representative



Ellis Boal
Co-Representative

cc: Todd Millar, tmillar@parkerharvey.com