

**PAW PAW TOWNSHIP
ZONING BOARD OF APPEALS MINUTES**

Regular Meeting – March 16, 2022

Chairman Arbanas called the Paw Paw Township Zoning Board of Appeals (ZBA) meeting to order at 7:00 PM.

ROLL CALL:

Members Present: Phillip Arbanas, Ron Cicchini, Joe Muvrin, Neil Boff, Trish Downard

Members Absent: None

Also present were David Jirousek, AICP, Planning Consultant, and several members of the public

APPROVAL OF THE AGENDA:

A motion was offered by Mr. Boff to approve the agenda as published. The motion was supported by Mr. Muvrin. The motion passed unanimously (5-0).

APPROVAL OF MINUTES:

A motion was offered by Mr. Muvrin to approve the minutes from the meeting held on January 19, 2022, with the following change on page 2: "The ZBA members were sympathetic to the request but felt that the request was too extreme to be justified by existing site conditions." The motion was supported by Mr. Boff. The motion passed unanimously (5-0).

PUBLIC COMMENT ON NON-AGENDA ITEMS:

Chairman Arbanas called for public comment on non-agenda items. No public comments were offered.

NEW BUSINESS:

Public Hearing and Consideration of Variances: Sharon Hultquist requests variances to reduce the required road-side setback from 40 feet to 30 feet; reduce the required west side setback from 20.5 feet to 12.5 feet; and reduce the required east side setback from 20.5 feet to 10 feet for a new dwelling (Chapter 42, Article 6, Attachment 3). The subject property is located at 44409 North Shore Drive, Paw Paw, MI, 49079 (parcel # 80-14-440-018-00).

Sharon Hultquist said she and her husband bought the house as a tear-down, and the dwelling has many structural issues and can no longer be reasonably improved.

Mr. Jirousek explained that the applicant intends to build a new dwelling on the property and felt that the standards of approval were met, as outlined in his March 8, 2022 report, which is available as a public record and part of this project file.

Chair Arbanas opened the public hearing. There were no official public comments. Chair Arbanas closed the public hearing.

The ZBA acknowledged the following positive findings against Section 42-11.03 B(4)(a) of the Zoning Ordinance, which were included in the March 8, 2022 report:

1. *Strict compliance with the letter of the Zoning Ordinance will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*

Finding: The setbacks are unnecessarily burdensome. For instance, with the nonconforming width (90 feet) and increased side setbacks due to adjacent property setbacks (20.5 feet each), the lot loses approximately 21 feet of building envelope width compared to a conforming 100-foot lot with 15-foot side setbacks. Additionally, the front setback may cause the building envelope to decrease significantly based on the degree of lot area nonconformity (approximately 1/3 of a conformity lot).

2. *A grant of the variance will do substantial justice to the applicant, as well as to other property owners.*

Finding: It is not uncommon along North Shore Drive to find homes with lesser road-side and side setbacks than requested by the applicant. A 30-foot road-side setback and 10-12 foot side setbacks would better reflect the built neighborhood than the required setbacks.

3. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*

Finding: The setbacks as proposed are reasonable based on the size and dimensions of the nonconforming lot. A lesser variance would not necessarily provide additional justice to the applicant or nearby property owners.

4. *That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.*

Finding: The primary unique circumstances involving the lot are the nonconforming width and area measurements, which are reasonable to consider in this case.

5. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*

Finding: Although the applicant desires a specific house design and dimension, the unique factor concerning this lot is its nonconforming nature and increased side setbacks due to the measured setbacks on adjacent properties.

6. *That, in granting a variance, the ZBA is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.*

Finding: The intent of the Zoning Ordinance is to enforce the requirements in a fair and equitable manner. Additionally, the intent is for homes to be placed in a manner that provides for general consistency with building placement and setbacks. However, it is common for reasonable variances to be granted for nonconforming lots to allow for a home that can be comparable in size and scale to neighboring properties. Additionally, it should be noted that the house setback is proposed at 34 feet and the porch at 30 feet, with the bulk of the structure 34 feet back and beyond.

A motion was offered by Mr. Muvrin to approve variances to reduce the required road-side setback from 40 feet to 30 feet; reduce the required west side setback from 20.5 feet to 12.5 feet; and reduce the required east side setback from 20.5 feet to 10 feet for a new dwelling (Chapter 42, Article 6, Attachment 3), and Mr. Muvrin referenced the findings in the March 8, 2022 report as the basis for the motion. The motion was supported by Mr. Cicchini. The motion passed unanimously (5-0).

OLD BUSINESS: None.

OTHER BUSINESS: None.

ADDITIONAL PUBLIC COMMENT:

No public comments were offered.

ADJOURNMENT:

A motion was offered by Mr. Muvrin to adjourn the meeting at 7:15 pm. The motion was supported by Mr. Boff. The motion passed unanimously (5-0).

Prepared by: David Jirousek, AICP
Township Consulting Planner
3-21-22

Approved: 5-18-22