

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

Regular Meeting – January 19, 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 the applicant’s team.

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 November 17, 2021, with the following change: “Jason Will, a property owner to the west, asked questions and expressed concerns.” The motion was supported by Mr. Cicchini. 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 a Variance: Paul and Jennifer Hansen request a variance to reduce the required road-side setback from 60 feet to 30 feet (Chapter 41, Article 6, Attachment 3). The subject property is located at 44107 Carla Drive, Paw Paw, MI, 49079 (parcel # 80-14-331-003-00).

Mr. Jirousek explained that the applicant requested a variance to reduce the road-side setback from 60 feet to 30 feet (Chapter 41, Article 6, Attachment 3). The property is zoned Water Front Area (WFR) and is approximately 0.6 acres in size. The applicant intends to add additional square footage to the garage area of the house within the required setback area. While two other additions are proposed, they adhere to the setback requirements.

Mr. Jirousek outlined his thoughts from the January 11, 2022 staff report, which is available as a public record. Mr. Jirousek felt that the variance standards were not met.

Chair Arbanas opened the public hearing.

Paul and Jennifer Hansen provided an overview of their building plans with their architect. They felt that the curve of the road, nearby homes, waterfront yard ridgeline, and trees on the property were unique, and they felt that strict adherence to the ordinance was unreasonable for their proposed renovation project. They felt the project was a benefit to the community, and the options available to renovate and expand the older home were limited.

Chair Arbanas referenced the following letters for consideration, which are part of the public record file for the request:

1. Thomas Kohl- opposed.
2. James and Deborah Melnyk- support.
3. Anders and J. Brooke Fogt- support.

Chair Arbanas closed the public hearing.

Mr. Jirousek referenced that findings that must be made against Section 42-11.03 B(4)(a) of the Zoning Ordinance.

The ZBA members were sympathetic to the request but felt that the request was too extreme to be justified by existing site conditions. As such, they felt a compromise of a 40-foot setback was appropriate for the attached garage.

The applicant team mentioned that they could make 40 feet work but removing the shop space between the kitchen and the garage.

The ZBA outlined the following positive findings against Section 42-11.03 B(4)(a) of the Zoning Ordinance:

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 variance will allow for reasonable indoor storage of cars and boats without the need to completely replace the existing dwelling.

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

Finding: The variance will provide substantial justice to the applicant to allow for reasonable indoor storage. However, the approved variance is not as extreme as requested so as to also provide substantial justice to nearby landowners.

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: A lesser variance would not allow for a new attached garage on the existing dwelling. The variance granted is not as extreme as requested but is just enough to allow a new attached garage on the existing dwelling.

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 curve of the street, the existing orientation of the building, south ridgeline, location of the well, and existing vegetation are unique to this site and were factors considered in the approval.

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

Finding: The curve of the street, south ridgeline, and existing vegetation were factors that created a predicament for the applicant and were not caused by the applicant or the applicant's predecessors.

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 reduced setback of 40 feet rather than 30 feet was determined to be a compromise that would respect the spirit of the Zoning Ordinance and would lessen the visual impact from neighboring properties.

A motion was offered by Mr. Muvrin to approve a 40-foot road-side setback for an attached garage based on the findings stated during the discussion (referenced earlier in these minutes). The motion was supported by Mr. Boff. 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. Boff to adjourn the meeting at 8:30 pm. The motion was supported by Ms. Downard. The motion passed unanimously (5-0).

Prepared by: David Jirousek, AICP
Township Consulting Planner
1-28-22

Approved: 3-16-22