

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

Regular Meeting – May 18, 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, Denise Lawrence, and Lori Priola.

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

A motion was offered by Mr. Boff to approve the minutes from the meeting held on March 16, 2022, as presented. 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:

1. Public Hearing and Consideration of Variances: Joseph and Lori Priola request a variance to reduce the required seven (7) foot west side setback to one (1) foot and 11 inches for the addition of an attached garage to the existing dwelling (Chapter 42, Article 6, Attachment 3). The subject property is located at 41818 E Bayshore Drive, Paw Paw, MI 49079 (parcel # 80-14-150-029-00).

Mr. Arbanas read the request as submitted by the applicant.

Chair Arbanas opened the public hearing at 7:05 pm.

Ms. Priola explained that they wanted a larger garage to support their growing family and improve the property and home.

Denise Lawrence, a neighbor to the west, expressed support.

Mr. Jirousek explained that the applicant proposes a four-car garage addition of approximately 27 feet wide by 40 feet deep (1,080 square feet). There is already an attached one-stall garage on the house. It was noted that the west setback request is not clear, as the building plan shows one (1) foot and 11 inches while the site plan indicates three (3) feet. Although the Table of Dimensions in the Zoning Ordinance requires a 15-foot side setback, note 5 states: "The front, side and rear setbacks shall be equal to or greater than the front, side and rear setbacks of adjacent lots." As such, the Zoning Administrator determined that a decreased seven (7) foot west side setback is required based on the measured setbacks of the homes to the east and west. The subject waterfront property is approximately 80 feet wide and is nonconforming to the width requirement for WFR, which is 100 feet. Although the lot is nonconforming, the horizontal measurement of the building envelope is only four feet narrower than a compliant 100-foot lot with 15-foot side setbacks.

Mr. Jirousek stated that he felt that all of the standards of approval had not been met for granting a variance and referenced the findings in the May 6, 2022 report.

Mr. Boff stated that it would set a bad precedent to allow a one-foot and 11-inch setback without unique circumstances.

Ms. Priola stated that the detached garages are not preferable in the neighborhood, and concrete was already up to the property line.

Mr. Muvrin asked if the driveway had any bearing on the application, and Jirousek said no.

Ms. Downard asked how side setback was determined. Jirousek explained that the Zoning Administrator determined the setback by adjacent properties and explained the requirement

Mr. Arbanas spoke about the challenges of lake lots.

Ms. Priola stated that the detached option would take out trees which was not desirable.

Mr. Muvrin asked if they knew they had a seven-foot setback, not a 15-foot one, and Ms. Priola was not aware that the architect knew this requirement.

Mr. Muvrin and Mr. Jirousek both discussed how a large garage addition could be built in a compliant manner so it is not a case of hardship.

Ms. Downard stated that compliance is only a 5-foot difference, so they should assess a redesign.

Mr. Boff stated that the concrete would need to be removed anyway to dig footings.

Mr. Arbanas closed the hearing at 7:30 pm.

The ZBA acknowledged the following negative findings against Section 42-11.03 B(4)(a) of the Zoning Ordinance, which were included in the May 6, 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: Although the lot is nonconforming to width requirements, the situation does not appear to be so unique that relief is needed. The building envelope allows for a 66-foot wide home, which is not unreasonably burdensome to enforce. Additionally, the owner could build a 22-foot wide (approx.) garage addition without the need for the variance, which would still allow the indoor parking of multiple vehicles and/or a boat.

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

Finding: The variance is not needed for substantial justice as a very large compliant addition could be constructed, or the applicant could build a large detached garage in the yard abutting the street. Other options should be considered.

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 provide additional justice to the applicant or nearby property owners. No variance is needed to provide relief based on the multiple development options for compliant attached or detached garage options.

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: While the lot is nonconforming at 80 feet wide, the setbacks are reduced by more than 50 percent based on adjacent property setback measurements. The side setbacks allow for a 66-foot-wide building envelopment, which is more than sufficient for extra storage and indoor parking space.

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 problem and resulting need are completely self-created. The problem results from a development preference and desire that is not compliant with zoning requirements.

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. Since the variance is a self-created issue, is not based on an exceptional and unique circumstance, and is not necessary for compliant indoor storage and garage space, denial would be in the spirit of the Zoning Ordinance.

A motion was offered by Mr. Boff to deny the variance request and referenced the findings in the May 6, 2022 report as the basis for the motion. The motion was supported by Mr. Muvrin. The motion passed unanimously (5-0).

OLD BUSINESS: None.

OTHER BUSINESS:

The ZBA members offered some commentary on how to build a garage in a compliant manner.

ADDITIONAL PUBLIC COMMENT:

No public comments were offered.

ADJOURNMENT:

A motion was offered by Mr. Boff to adjourn the meeting at 7:37 pm. The motion was supported by Ms. Downard. The motion passed unanimously (5-0).

Prepared by: David Jirousek, AICP
Township Consulting Planner
5-19-22

Approved: 7-20-22