

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

Regular Meeting – January 18, 2023

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, Trish Downard, Neil Boff

Members Absent: Steve Richardson

APPROVAL OF THE AGENDA:

A motion was offered by Mr. Boff to approve the agenda as published. The motion was supported by Ms. Downard. The motion passed unanimously (4-0).

APPROVAL OF MINUTES:

A motion was offered by Mr. Arbanas to approve the minutes from the meeting held on October 19, 2022. The motion was supported by Mr. Boff. The motion passed unanimously (4-0).

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: Ted Toms requests variances to reduce the required side setbacks for a front building addition from 40 feet to 22 feet (east) and 38 feet (west). The variances are related to Chapter 42, Article 6, Attachment 3. The subject property is located at 36083 Valley Drive, Paw Paw, MI 49079 (parcel # 80-14-200-002-00).

The request was summarized and read for the record.

Chair Arbanas opened the public hearing.

- Mr. Heath Wall opposed the variance request.

Mr. Arbanas closed the public hearing.

The ZBA discussed the comments outlined in the Township Planner's memo, dated January 9, 2023.

A motion was made by Mr. Boff to approve the variances requested by the applicant based on the following 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 size of the lot is much narrower than the 200-foot LDR width requirement. As such, applying 40-foot side setbacks on a narrow nonconforming lot could be considered unnecessarily burdensome.

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

Finding: Granting the variance will provide substantial justice to the applicant, allowing a reasonable-sized front addition. Granting the variance will also do substantial justice to nearby property owners, as the addition will comply with the minimum front setback, and the width of the covered entry and addition will be significantly narrower than the existing 75-foot-wide dwelling.

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 proposed setback is reasonable based on the exceptionally narrow nature of the lot (110 feet) compared to the 40-foot side setback requirements. A lesser variance, or no variance, would not provide additional justice to the applicant or nearby property owners based on the limited scope of work proposed by the applicant.

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 property is exceptionally narrow (110 feet) compared to the minimum width for the LDR zoning district (200 feet). Since the 40-foot setbacks assume a 200-foot wide lot, applying setbacks to the unusually narrow lot would result in a hardship.

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

Comment: The problem is not self-created. The applicant did not plat the property.

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 when the characteristics of the lot or land are unique. Based on the unique characteristics of this property, compliant placement would be unnecessarily burdensome. Impacts

on public health, safety, and welfare are not anticipated, and impacts on neighboring properties are not expected.

The motion was supported by Mr. Cicchini. The motion passed unanimously (4-0).

OLD BUSINESS: None.

OTHER BUSINESS: None

ADDITIONAL PUBLIC COMMENT:

No public comments were offered.

ADJOURNMENT:

A motion was offered by Ms. Downard to adjourn the meeting. The motion was supported by Mr. Boff. The motion passed unanimously (4-0).

Prepared by: Neil Boff

Formalized by: David Jirousek, AICP
Township Consulting Planner
January 23, 2023

Approved: March 15, 2023