

**PAW PAW TOWNSHIP
PLANNING COMMISSION MINUTES**

Regular Meeting – August 15, 2023

1. CALL TO ORDER AND ROLL CALL

Chairman Kerby called the Paw Paw Township Planning Commission meeting to order at 6:00 pm.

PRESENT: Chairman Kip Kerby, Phillip Arbanas, Phil Hover, Mark Root, E. Frances Sanders, Chuck Felcyn, Chad Learned

ABSENT: None

Also present was Kyle Salay of Horizon Community Planning.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. APPROVAL OF THE AGENDA

A motion was offered by Arbanas to approve the agenda as presented. The motion was supported by Learned.

- Chairman Kerby called for the vote, and the motion passed 7-0.
- Aye: Chairman Kerby, Arbanas, Hover, Root, Sanders, Felcyn, Learned
- Nay: none
- Abstain: none

4. APPROVAL OF MINUTES

A motion was offered by Root to approve the minutes from the regular meeting held on June 20, 2023, as presented. The motion was supported by Sanders.

- Chairman Kerby called for the vote, and the motion passed 7-0.
- Aye: Chairman Kerby, Arbanas, Hover, Root, Sanders, Felcyn, Learned
- Nay: none
- Abstain: none

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

- David Pete provided information for the property owned by Randall Pete. David Peete informed the commission that Randall Pete plans to split his land into single-family home lots and sell to a home builder. David Pete mentioned that the views of Vineyard will likely be gone in the future.

6. BUSINESS:

a. Public Hearing and Consideration of a Special Land Use and Site Plan: Brenda and Tim Tortorelli request approval of a new accessory building in the front yard at 34663 64th Avenue, Paw Paw, MI 49079 (parcel # 80-14-025-004-10).

Chairman Kerby introduced the project.

Applicant Tim Tortorelli generally described the accessory building location and use along with the unique features of his property, which limits the location of the new building. According to Tortorelli, the only location on the property that will work for the building is to put it flush with the existing non-conforming garage. He also mentioned he had received confirmation from his neighbor that the proposed location would not hinder their views and that they support the project.

Salay provided a general overview of the project and stated that the applicant requested a special land use and site approval for a 1,200-square-foot accessory building in the front yard (ordinance requires it in the rear or side yard), and the Planning Commission has waiver authority through this process. Salay stated that all other zoning requirements were met, and the special land use standards were generally met because impact on neighbors was not anticipated, impact on character of the area was not anticipated, and there would be no impact on sensitive natural resources.

Chairman Kerby opened the public hearing at 6:09 pm.

- John Ritsema commented that the applicant should be able to build the building where he has proposed it.

The hearing was closed at 6:10 pm.

Learned mentioned the requirement to have a maximum height of 15 feet for lighting. Felcyn asked for confirmation that the next-door neighbor in the brick home was comfortable with the new building, and it was confirmed.

Several members of the commission generally discussed the placement of the barn on the site to make sure they understood the location proposed on the aerial photos.

A motion was offered by Root to approve the special land use and site plan for a new 1,200-square-foot building to be placed within the front yard of the property, contingent upon compliance with all other applicable zoning requirements. This decision was based on the documented findings included within the staff report dated August 9, 2023, provided by the Township Planner, and other findings discussed during the meeting.

The motion was supported by Felcyn.

- Chairman Kerby called for the vote, and the motion passed 7-0.
- Aye: Chairman Kerby, Arbanas, Hover, Root, Sanders, Felcyn, Learned
- Nay: none
- Abstain: none

b. Public Hearing and Consideration of a Special Land Use and Site Plan: Joseph and Heidi Jerz request approval of a new replacement dwelling beyond the maximum 250-foot front setback at 50620 45th Street, Paw Paw, MI 49079 (parcel # 80-14-006-009-00).

Chairman Kerby introduced the project.

Applicant Joseph Jerz generally described the existing home and commented that the home had structural issues and needed to be removed. Jerz explained that if the home is positioned as required setback, it would put the home right under the overhead power lines. Jerz also reported that he spoke with neighbors Blake and Grace, and they support the project, and Mike and Judy across the street support it as well. Mr. Jerz stated he spoke with the Pete's as well, and they did not convey any concerns. Mr. Jerz explained the land is currently being used as a flower farm, which includes sunflowers. Mr. Jerz emphasized that visible road frontage is important for a flower farm to attract drive-by and u-pick customers. It was also explained that when he purchased the property, it was overgrown with Sumac which required it to be cleared so that it could be used as Agricultural land again. Lastly, he noted that the high point of the property where the home is proposed is very rocky and is not a farmable location.

Kyle Salay provided a general overview of the project and explained that the applicant requested special land use approval to place a new home beyond the 250-foot maximum setback for the AGR zoning district, and the Planning Commission may have the maximum setback through the process. Salay explained that the home is proposed approximately 475 feet from the right-of-way and will be a family farm operation.

Salay explained that the Township Planner's report stated the following:

- The applicant carefully planned the site to maintain farm operations.
- The building site is less suitable for crops.
- The proposed building is centrally placed between side property lines, allowing 300-foot side setbacks.
- Impact on nearby farming operations was not expected.
- Compliant placement would put the home much closer to a nearby dwelling. Instead, there would be 350 feet of separation, also allowing for additional privacy.

Regarding the criteria for special land Use review, Salay summarized the report and stated that:

- The Township Planner felt all standards are met.
- Impacts on nearby residential or farming use were not expected.
- The proposed location will have no more impact than a compliant-placed home.

Salay explained that the Township Planner recommended approval of a 475-foot setback for the dwelling along with a central location between side property lines.

Chairman Kerby opened the public hearing at 6:25 pm.

- John Ritsema, who is the neighbor across the street, would like to see the outdated ordinance updated so that applicants should not have to pay to have their projects approved and

supported the project. He would also like the road frontage requirement to be updated/modified and reduced based on property size.

- David Pete fully supported Mr. Jerz's proposed home location.

The hearing was closed at 6:29 pm.

The Planning Commission discussed recent requests for the 250-foot requirement to be eliminated or revised as well as some of the pros and cons of that requirement that have been brought to their attention.

Arbanas commented that the 250-foot maximum setback was implemented to keep homes closer to the road to protect farmable land.

Felcyn explained why he was against the idea of putting the home 475 feet back due to it limiting future use of land for farming, mainly fruit farming, and he stated that it hurts the Township in the long run.

Felcyn explained that approving waivers would accelerate developer interest if they were allowed to build homes wherever they want on large parcels, which would have a long-term negative effect on the farming community.

Felcyn believed the requirement was established for the good of the community and the long-term protection of the farmland and the farming industry. He explained that the viability of fruit farming would continue to get worse by allowing homes further than 250 feet from the road.

Learned asked if it was currently economically viable for fruit farmers to keep working the land, as he has heard that there are fewer fruit farmers and less interest in preserving fruit farming.

Felcyn explained the various market forces causing some of the local fruit farmers to struggle, mainly due to larger purchasers of fruits, changing requirements, and predatory pricing from outside of the USA. Felcyn stated that the life and death of the fruit farming in Paw Paw is in the hands of the Township Board, Planning Commission, and Zoning Board of Appeals, and the situation will continue to worsen with homes greater than 250 feet from the road.

A motion was offered by Root to approve the special land use and site plan for a new single-family dwelling that would exceed the 250-foot maximum front setback required by the AGR Zoning District, allowing the proposed building to be placed approximately 475 feet from the road in a central location between side property lines. This decision was based on the documented findings included within the staff report dated August 9, 2023, provided by the Township Planner.

The motion was supported by Hover.

During the discussion, Learned mentioned that the applicant could possibly move the home somewhere else on the property. Hover agreed with Felcyn that the 250-foot setback was in place to protect farmland and that he regretted a previous vote to waive the requirement. However, Hover and Root felt that we review requests on an individual basis, and the request was made by someone that intends to keep agriculture in the Township.

- Chairman Kerby called for the vote, and the motion passed 4-3.
- Aye: Chairman Kerby, Sanders, Hover, Root
- Nay: Arbanas, Felcyn, Learned
- Abstain: none

7. ADDITIONAL PUBLIC COMMENT

- Ritsema stated that he supports saving farmland, but land with a house on it is going to produce more tax revenue than unused farmland and crops.

8. ADDITIONAL DISCUSSION

Sanders reported that the board was going request the Planning Commission to look at the current 250-foot maximum setback requirement and possibly seek feedback from the farming community through the master planning process.

Felcyn reported that the feedback he was hearing was that others wanted to open up the Township farmland like adjacent townships had done recently.

Learned commented that these situations are important to discuss as there are long-term effects from current decisions being made, which is why the Planning Commission exists and that it is important to tread with caution.

Felcyn referenced nationwide farm product pricing; however, over the long term, there is an ebb and flow of farming demand based on the supply and demand of fruit and that the land will be desirable again in the future, and that there needs to be land available to farm.

Fran Sanders offered that we were getting by well on our millage with not a lot of houses and that it is a financially viable Township.

Learned agreed with Sanders that it was a viable Township, and we needed a representative group of voices from the community to help provide feedback for the master plan.

Chairman Kerby reported that the Short-Term Rental ordinance was not approved and that the board would like to let it rest for now.

Hover reported he had a conversation with Maureen Lewandowski from the South Haven Township Board, who is part of the DarkPark organization. She is currently trying to get a park designated as a Dark Sky, and her concern was our lighting in Paw Paw. Lewandowski would like to suggest some changes to the Township's lighting requirements, and she would like to see future lighting different/better to reduce lighting pollution.

Hover and Sanders discussed the current solar ordinance language.

9. ADJOURNMENT

Root made a motion to adjourn the meeting at 7:12 pm. The motion was supported by Sanders.

- Chairman Kerby called for the vote, and the motion passed 7-0.
- Aye: Chairman Kerby, Arbanas, Hover, Root, Sanders, Felcyn, Learned
- Nay: none
- Abstain: none

Prepared by Kyle Salay and formalized by David Jirousek, AICP, Township Consulting Planner, on August 22, 2023

Approved: September 19, 2023