

**PAW PAW TOWNSHIP  
PLANNING COMMISSION MINUTES**

**Regular Meeting – October 17, 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, E. Frances Sanders, Chuck Felcyn, Chad Learned

**ABSENT:** Mark Root

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**3. APPROVAL OF THE AGENDA**

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

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Arbanas, Hover, Learned, Sanders, Felcyn
- Nay: none
- Abstain: none

**4. APPROVAL OF MINUTES**

A motion was offered by Mr. Hover to approve the minutes from the regular meeting held on September 19, 2023, as presented. The motion was supported by Mr. Felcyn.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Arbanas, Hover, Learned, Sanders, Felcyn
- Nay: none
- Abstain: none

**5. PUBLIC COMMENT ON NON-AGENDA ITEMS**

- None

## 6. GENERAL ZONING DISCUSSION

During a general zoning discussion, several topics were addressed by the Planning Commission members and the Township Planner. Generally, the commission felt that the short-term rental (STR) discussion should be postponed as they were waiting on feedback from the Township Board on the previously submitted memo from Mr. Jirousek. Mr. Jirousek confirmed the STR memo was sent to the township attorney.

Mr. Learned requested that Ms. Sanders discuss the memo and comments from the commission with the Township Board as an advisory statement, and Ms. Sanders said she would follow up with the Board and see if the commission's notes had been discussed.

Mr. Hover suggested that the lake properties should get together and discuss the STR implications and share their thoughts with the Board. Chairman Kerby suggested that the lake properties should start slowly with a STR registration as a starting point. Most commissioners felt there should be safeguards in place to ensure there are no long-term negative implications and that the Board should consider the comments from the commission and feedback from constituents.

The commission then moved to the following discussion items.

1. 250-foot Maximum Setback in AGR. Mr. Jirousek reviewed and discussed the various options on ways to address setback requirements in the AGR district. He reviewed them in order from the strictest options to the most lenient:
  - a. Require a 250-foot maximum setback with no exceptions, aside from variance relief if standards are met (previous ordinance). Variance standards have no relationship to farmland preservation and cannot be a primary consideration for variance approval or denial.
  - b. Require a 250-foot maximum setback with the option for the Planning Commission to consider relief through the special land use process when it determines that on-site or nearby farmland and nearby residential property will not be affected (current ordinance).
  - c. Require a 250-foot maximum setback with the option for the Planning Commission to consider a general waiver (no hearing) when it determines that on-site or nearby farmland and nearby residential property will not be affected.
  - d. Require a 250-foot maximum setback with the option for the Zoning Administrator to consider a general waiver when it determines that on-site or nearby farmland and nearby residential property will not be affected.
  - e. Delete the 250-foot maximum setback requirement altogether.

Generally, the commission felt that option 1.b was the most reasonable to address concerns for farmland. Mr. Felcyn stated there seems to be an increasing number of 10-acre lots coming up for sale, and this setback discussion will occur more frequently, noting that the concern will be for the integrity of the farming community 80-100 years from now. Generally, Chairman Kerby and Mr. Learned stated that they felt the 250-foot setback would help keep the character of the community. Mr. Felcyn shared that eliminating the 250-foot setback altogether would

negatively impact farming. Mr. Hover shared that option 1.c would eliminate public feedback, which would be undesirable.

2. Gateway PUD. Mr. Jirousek generally discussed the existing Gateway PUD and what the existing ordinance stated. Mr. Jirousek asked if there should be a minimum dwelling area or if the PUD should be eliminated altogether and rezoned to Village Edge.

Ms. Sanders offered that the previous planner suggested the Gateway PUD, but it may not be needed. Mr. Jirousek generally discussed the Gateway PUD being more of a way to address commercial needs. Mr. Learned suggested the PUD area is rezoned to Village Edge, but leaving a longer time between the approval date and the effective date of the rezoning (12 months).

Mr. Jirousek suggested sending a letter to everyone in the area to gather feedback and agreed to begin prepping the change, check for any unforeseen issues, and review dimensional requirements against existing lots and buildings.

3. Waterfront Area District Setbacks. Mr. Jirousek explained that the district requires that “front, side and rear setbacks shall be equal to or greater than the front, side and rear setbacks of adjacent lots.” This requirement does not make sense as it relates to side setbacks. Further, it is unknown if this means that the setback can be both increased and decreased from the district requirement. Typically, zoning practice only considers adjacent or nearby properties in the following manner:
  - a. To decrease front setbacks from street right-of-way if the average established setback of neighboring properties within 200 feet on each side of a lot is less than the required setback for the district.
  - b. To increase waterfront setbacks if the average established waterfront setback of neighboring properties within 200 feet on each side of a lot is greater than the required waterfront setback for the district.

The Planning Commission felt that the averaging provisions discussed for front and rear setbacks can be discussed in the future, but for now, the statement in question should be struck from the ordinance.

4. Parking Lot Surface. Mr. Jirousek explained that the Planning Commission recently approved asphalt millings as an allowable parking lot surface for a project in the HCI zoning district and asked if the ordinance should be revised to specifically reference this surface or if the Township only consider alternative surfaces on a case-by-case basis based on set considerations in the ordinance.

The Planning Commission felt that concrete and paved surfaces should be required but that millings and other alternative surfaces should be allowable if approved on a case-by-case basis based on the character of the area, impact on adjacent properties, and other potential impacts.

5. Recreational Vehicles (RVs). Mr. Jirousek asked the following questions: In what cases, under what conditions, and what in locations would you allow for seasonal or long-term placement of RVs on vacant properties? In what cases, under what conditions, and in what locations would you allow for RVs to be used as temporary accommodations?

Generally, the commission discussed that the Township had received complaints, and while there used to be a requirement to move them every 30 days, now people are living in them. Mr. Learned stated that the size of lot is important, maybe one (1) acre of land minimum, and there should not be RVs on vacant property in residential areas, as it lowers property values. Mr. Jirousek commented that the main issue is addressing vacant properties or those that do not have a dwelling.

Mr. Jirousek continued and referenced that, currently, the Township does not allow an RV to be a dwelling for residence purposes. However, language could be more specific. Mr. Jirousek referenced that the goal is to define temporary vs. long-term RV use on vacant lots or lots without a primary dwelling. Mr. Learned suggested occupancy limited to 30 days or less and one acre or more on a lot without a dwelling (vacant lot or lot with storage building only). The commission requested Mr. Jirousek to draft language on this matter.

6. Green Meadow (Valley Drive). Mr. Jirousek explained that this subdivision is zoned LDR, which requires a two (2) acre minimum lot size, 200-foot minimum lot area, 50-foot front setback, 40-foot side setbacks, and 60-foot rear setback. He stated that most lots are 100-120 feet wide and an average of one-half (1/2) acre, and meeting the deeper setback requirements that are calibrated toward two (2) acre lots is difficult to achieve. Mr. Jirousek asked the following questions:
  - a. Should this area be rezoned?
  - b. Is a new district needed?
  - c. Should there be an allowance for lesser setbacks for nonconforming LDR lots?

Mr. Kerby commented that there have been quite a few additions and renovations to buildings in this subdivision. Mr. Learned asked if Mr. Jirousek could find the most appropriate zoning district for the development, and he suggested it may be Village Edge. Mr. Jirousek said another option would be to make a change to the LDR dimensional requirements to state that any nonconforming lot under one and a half (1.5) acres could be subject to setbacks that match Village Edge requirements so that we do not need to rezone the land. The Planning Commission agreed with this approach.

7. Solar. Mr. Jirousek felt that the solar farm provisions in the ordinance should be strengthened and supplemented and outlined the following deficiencies.
  - a. Setbacks should be greater than principal buildings (i.e. 100+ feet).
  - b. Setbacks should be waived between “participating parcels.”
  - c. Height should be less than for principal buildings (i.e. 16-20 feet).
  - d. Solar installations can also be “accessory” instead of just “principal,” as there can be a dwelling on the property as well.
  - e. The Planning Commission should have the discretion to require screening along right-of-way or near dwellings on “non-participating parcels.”
  - f. There should be a minimum parcel size or minimum size of combined participating parcels.
  - g. The Planning Commission may wish to limit commercial solar installations to areas within a reasonable distance of a transmission line (anything beyond two miles is less feasible).

- h. The concept of “agrovoltatics” should be encouraged and incentivized (keeping farms in production for crops or grazing between or nearby solar arrays).

*The concept of “Agrovoltaic” or “Agrivoltaic” refers to the joint development of the same land area for solar photovoltaic and agriculture, allowing the cohabitation of two key sectors.*

Mr. Hover reported that there may be a Solar installation going in near the elementary school and suggested that the details in the Porter Township Solar ordinance were more specific than the Township’s existing language.

Mr. Learned shared that the transmission lines were of concern for residents that are adjacent to the solar installations.

Mr. Jirousek stated that the decommissioning aspect of the existing ordinance could be more detailed, and the ordinance has very few restrictions. Mr. Jirousek noted that he would send several resources on the matter for further review and discussion.

#### **7. ADDITIONAL PUBLIC COMMENT**

- None

#### **8. ADDITIONAL DISCUSSION**

Mr. Learned suggested that a review of the master plan should occur in 2024 and include a 90-day public comment period so the Planning commission can gather feedback from the community. The commission agreed that this should be the primary goal for 2024.

#### **ADJOURNMENT**

Mr. Felcyn made a motion to adjourn the meeting at 7:36 pm. The motion was supported by Chairman Kerby.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Arbanas, Hover, Learned, Sanders, Felcyn
- Nay: none
- Abstain: none

Prepared by: Kyle Salay and David Jirousek, October 25, 2023

Approved: November 21, 2023