

**PAW PAW TOWNSHIP  
PLANNING COMMISSION MINUTES**

**Regular Meeting – November 21, 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, Mark Root

**ABSENT:**

**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. Arbanas.

- Chairman Kerby called for the vote, and the motion passed unanimously (7-0).
- Aye: Chairman Kip Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Chad Learned, Mark Root
- 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 October 17th, as presented. The motion was supported by Mr. Root.

- Chairman Kerby called for the vote, and the motion passed unanimously (7-0).
- Aye: Chairman Kip Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Chad Learned, Mark Root
- Nay: none
- Abstain: none

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

- None

**6. GENERAL ZONING DISCUSSION**

- None

The Commission then moved to agenda items.

**A. Public Hearing and Consideration of a Special Land Use and Site Plan: Magnuson Build & Design requests approval of a new dwelling beyond the maximum AGR 250-foot front setback at 45152 56th Avenue, Paw Paw, MI 49079 (parcel # 80-14-007-004-32).**

**PUBLIC HEARING**

Chairman Kerby opened the public hearing.

Eric Magnuson with Magnuson Building and Design gave a general description of the project and information on the property. He reported that all the land is heavily wooded, and due to elevation changes and ravines, it is not suitable for farming. Mr. Magnuson assured the Commission that their work building the home would not disturb any other houses. Mr. Magnuson said that there was recently a Planning Commission meeting in which a similar project was approved.

Mr. Kisler- owner of Mandigo Farms, informed the Commission that the grapes are leased by someone who leases the corn on his side of the property. Mr. Kisler expressed concern of “the easement” for the driveway the farmers use.

Ms. Sanders- Asked if the property was staked, Magnuson explained that it was staked, and it was wooded and hard to see, but that it was staked.

Mr. Kanwischer- Shared that he does not believe the driveway in question is an easement.

Brook Jacobs- Shared her concerns for her mother’s property, mainly the access to the farmland and, if any farmland would have to be removed. She also asked why it is better to come from the south instead of the north to access the home build site.

Mr. Magnuson said their client’s property only includes the 33 foot wide strip south from the road, and that is the only access.

Amy Jacobs- Shared that she owns the grapes and is concerned about the driveway and whether they will still have access to use it, she also advised that she owns the property across the road next to Mr. Kanwischer. She was also concerned that there was a zoning change occurring affecting existing farmland and future farmland.

Mr. Magnuson stated that he is very willing to work with the grape owners to try and not damage or disturb anything with the 14-foot-wide driveway.

## PLANNING COMMISSION COMMENTS

Generally, the Commission discussed the concerns of the adjacent farmland owners and confirmed that there is no change in zoning being considered and that the Planning Commission is only addressing the special land use request, which is, in this case, addressing maximum setback requirements.

Chairman Kerby asked several times for order in the room so the Board could continue their discussion.

Chairman Kerby allowed Brooke Jacobs the opportunity to ask the property owner a question about whether he owned the property to the north.

Mr. Popp confirmed he did, but that land had no road or any type of access through it and the use for the property would be up to his son.

Mr. Learned asked if Mr. Magnuson had reviewed the site plan with the drain commissioner to ensure the amount of dirt being brought in would not cause any issues with runoff into the pond.

Mr. Magnuson said they have spoken to the drain commission, and they have turned in a drainage plan that shows where silt fences are going and where erosion blankets will be installed and confirmed that fill for the ravines will not affect the pond.

Mr. Root made the motion to approve the special land use and site plan for a new single-family dwelling that exceeds the 250-foot maximum front setback required by the AGR Zoning District, allowing the proposed building to be placed approximately 2,500 feet from the road and adhere to all other zoning requirements. This decision is based on the documented findings included within the staff report dated November 15, 2023, provided by the Township Planner, and other findings discussed during the meeting.

- Chairman Kerby called for the vote, and the motion passed unanimously (7-0).
- Aye: Chairman Kip Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Chad Learned, Mark Root
- Nay: none
- Abstain: none

Mr. Felcyn asked Mr. Popp if he would work with the owners of the two farms regarding their concerns about crop loss and access via Mr. Popp's driveway, Mr. Popp said yes, he would work with the two sets of landowners regarding their concerns.

**B. Zoning Map and Text Amendments: Gateway PUD rezoning to Village Edge, Water Front Area District Setbacks, Low Density Residential District Setbacks, Alternative Parking Lot Surfaces, and Recreational Vehicles (hearing required at future meeting).**

a. Gateway PUD change to Village Edge:

Mr. Felcyn suggested there should be a 1-year buffer so that any projects that were in process would be able to continue and move forward. Generally, the Commission members agreed. Mr. Learned suggested that the text be changed from 7 days to 365 days for the effective date. Generally, the Commission all agreed on the recommended Gateway PUD changes as written and suggested the ordinance effective date be changed from 7 to 365 days in the final version.

b. Waterfront Area District Setbacks

The Commission generally agreed on the revised text as written.

c. Recreational Vehicles

The Commission discussed the recreation vehicle amendment and had the following suggestions for revisions. Mr. Learned suggested language be added so that a zoning administrator would be able to make exceptions to the new section 9.24 for home rebuilding/restoration.

- A. Accepted as written.
- B. Accepted as written.
- C. Suggested if there was less than 1 acre, language should be added that only one RV can be on that size of land and that any RV's stored must be the landowner's and or immediate family members and that they must be licensed and insured.
- D. Would like the phrase "principal building" removed from the text.

The Commission discussed reviewing a revised version of the draft in the next meeting and scheduling any necessary public notices for January.

**7. DISCUSSION SOLAR FARMS**

Generally, the Commission discussed the need for a refined plan and further understanding of the new legislation that was recently signed.

Mr. Hover added that he would like to build a stronger ordinance to ensure there is a defined plan on how the Planning Commission can address solar screening, site work etc.

Mr. Learned would like to make sure that post-solar farm service life clean-up and restoration is a focus along with setbacks to ensure it is not detrimental to adjacent landowners.

Ms. Sanders asked if the Township had any control over wind farms.

## 8. ADDITIONAL PUBLIC COMMENT

Mr. Wegler- Suggested that if the RV's are licensed, insured, and you own it, you can have as many as you want if it isn't an RV storage business. Mr. Wegler also offered the definition of "Principal Building."

## ADDITIONAL DISCUSSION

Mr. Felcyn stated that the Chairman handled the concerns well from the farmers and the land/driveway concerns, and it was a positive situation that resulted from the discussion, and it appears that the two parties are going to work together to work through the concerns.

Mr. Felcyn brought up a hypothetical situation for discussion: The Planning Commission has an applicant that comes in with a special land use request for approval (office, storage etc.), and as soon as the building is going up, they change what they are using it for. Mr. Felcyn wondered what the enforcement mechanism is for when developers or applicants change the use for the building after receiving Planning Commission approval.

Generally, the Commission discussed that Safebuilt would be initially involved with enforcement if it is prior to the Certificate of occupancy, and the Chairman offered that if there is a complaint, the complaints will go to the Township for enforcement.

Mr. Learned- The Planning Commission motions always say the building can be used for a specific purpose, if the purpose changes, same thing happens with businesses, a person would need to bring a complaint, and a private citizen can bring a complaint, and then a suit can be brought. Mr. Learned suggested possibly adding language to state that the use cannot change, and perhaps if there is a thought they would change the use of the building/project, require the additional site plan approval formal process.

## ADJOURNMENT

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

- Chairman Kerby called for the vote, and the motion passed unanimously (7-0).
- Aye: Chairman Kip Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Chad Learned, Mark Root
- Nay: none
- Abstain: none

Prepared by: Kyle Salay and David Jirousek, November 29, 2023

Approved: December 19, 2023