

**PAW PAW TOWNSHIP
PLANNING COMMISSION MINUTES**

Regular Meeting (Rescheduled due to Training) – March 27, 2024

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, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root, Phillip Arbanas

ABSENT: Chad Learned

ALSO PRESENT: David Jirousek of Horizon Community Planning

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. APPROVAL OF THE AGENDA

Sanders stated that the deadline for submitting survey information in tax bills would be mid-November if we plan to do so.

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

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

4. APPROVAL OF MINUTES

A motion was offered by Felcyn to approve the minutes from the regular meeting held on February 20, 2024, as written, but with the note that Sanders abstained from the GPUD to VE rezoning recommendation. The motion was supported by Root.

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

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

- None

6. BUSINESS

a. Public Hearing and Consideration of a Special Land Use and Site Plan: Paul Davis requests approval of an accessory building with a reduced rear/street setback at 44366 Woodman Drive, Paw Paw, MI, 49079 (parcel # 80-14-740-024-10).

Township Planner Jirousek explained that the applicant requested special land use and site plan approval to place a new 936-square-foot accessory building in the yard between the street and the principal building with a reduced setback from the right-of-way. Jirousek stated that the SAFEbuilt report indicated that the proposed site is 27 feet from the right-of-way, but the application materials show a distance of 40 feet from the edge of the pavement. The reason for the discrepancy was unknown, but the location of the septic system and drain field may require the building to be placed closer to the road.

Chairman Kerby opened the public hearing.

Applicant Paul Davis stated that the 27 foot and 40 foot measurement were the same, and the building would be used for personal storage.

Chairman Kerby closed the public hearing.

Jirousek stated that detached accessory buildings closer to the subject property are further away from the road than proposed by the applicant, but it is not uncommon to find accessory buildings with lesser setbacks along Woodman, especially to the west. The Planning Commission members generally agreed that several buildings along Woodman were very close to the road and the proposed placement would not be out of line with the community.

Felcyn checked with a neighboring property owner and learned there was no opposition to the project.

A motion was offered by Hover to approve the special land use and site plan for a new 936-square-foot building to be placed within the rear yard of the property with a 27-foot setback from the public right-of- line in accordance with the submitted plans and contingent upon compliance with all other applicable zoning requirements. This decision is based on the documented findings included within the staff report dated March 21, 2024, 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 unanimously (6-0).
- Aye: Chairman Kerby, Root, Hover, Sanders, Felcyn, Arbanas
- Nay: none
- Abstain: none

b. Public Hearing and Consideration of a Special Land Use and Site Plan: John and Michele Herson request approval for the conversion of a garage into an accessory dwelling unit at 37250 49th Avenue, Paw Paw, MI, 49079 (parcel # 80-14-297-017-01).

Township Planner Jirousek explained that the applicant requested special land use and site plan approval to convert an accessory storage building into an accessory dwelling unit (ADU). Jirousek noted that to convert an accessory building into an accessory dwelling unit, the existing building and the lot would need to be conforming with the zoning ordinance unless waived by the Planning Commission. Jirousek explained that the conversion of the accessory building to a dwelling unit was not anticipated to cause impacts on neighboring property.

Chairman Kerby opened the public hearing.

John and Michele Herson explained that the building once served as living space and that public sewer service was available.

Chairman Kerby closed the public hearing.

Felcyn asked about the nonconforming nature of the building, and it was confirmed that setbacks were non-compliant but the building does not encroach over the property line.

Hover asked if the building was intended for short-term rental, and the applicant stated that this was not the intent.

A motion was offered by Root to waive ADU restrictions related to nonconforming lots, nonconforming buildings, proximity to other dwellings, and to approve the special land use and site plan for the conversion of an existing accessory building to an accessory dwelling unit. This decision is based on the documented findings included within the staff report dated March 21, 2024, provided by the Township Planner, and other findings discussed during the meeting. This approval is contingent upon the principal dwelling or ADU remaining owner-occupied and the following conditions satisfied prior to the issuance of a building permit:

1. Secure approval from the Van Buren Cass District Health Department (well permit).
2. Secure approval from the Fire Department and Building Department.
3. A deed restriction that runs with the land must be filed with the Register of Deeds that incorporates the requirements of Section 42-8.01.1 B.17.

The motion was supported by Sanders.

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

c. Public Hearing and Consideration of a Special Land Use and Site Plan Amendment: Tyler Cravens on behalf of Thomas Farrell/The Refinery, requests an amendment to the special land use permit and a site plan amendment for an additional indoor commercial marihuana growing building at 43239 Red Arrow Highway, Paw Paw, MI, 49079 (parcel # 80-14-017-017-00).

Township Planner Jirousek explained that the applicant requested a special land use and site plan amendment for an expansion to the commercial marihuana-growing building. Township approval of the application will authorize a 12,017-square-foot building with a connecting corridor to the existing grow building. Jirousek explained that additional information was needed concerning odor control, light fixture specifications, number of employees, dumpster service, energy and waste, and a landscaping replacement plan.

It was clarified that the project would be subject to an annual review.

Chairman Kerby opened the public hearing.

The applicant's engineer spoke about the order control plan and that lighting and landscaping responses would be prepared based on the planner's report.

Chairman Kerby asked about the separation from the power line and the need for the separation from the existing building. The applicant's engineer spoke about the general placement of the building as it related to the location of the retention area and the drain field.

The applicant's engineer mentioned that there would be four employees, which is not an increase, and that nine existing spaces would be sufficient parking.

Chairman Kerby closed the public hearing.

Chairman Kerby asked about drainage, and the engineer stated that retention would be located to the south of the building. Chairman Kerby asked about fencing, transportation, and power to the building. The applicant gave a general overview and stated that no fencing was proposed and all transportation would be done through a secure transport service.

Felcyn asked about contamination of plants and whether that was the reason for the building separation. The applicant stated that contamination was handled through their normal procedures and practices.

The Planning Commission acknowledged that the odor control plan would be consistent with the previous approval, and lighting and landscaping were the only remaining concerns.

A motion was offered by Root to approve the special land use and site plan amendment for an additional indoor commercial marihuana growing building (last revised January 12, 2024), including the plans and supplemental materials provided by the applicant. This motion is based on the documented findings included within the staff report dated March 21, 2024, provided by the Township Planner, and the following conditions were applied:

1. Provide wall-pack light fixture specification sheets and a photometric plan indicating light levels on the site and along property lines.

2. Provide a landscaping plan demonstrating east-side tree replacement or relocation on a one-to-one basis.
3. Secure approvals from the following agencies and provide copies to the Township:
 - a. Van Buren County Road Commission (driveway permit for expansion of use)
 - b. Van Buren Cass District Health Department (well and septic permits- use of existing system for expanded operations)
 - c. Van Buren County Drain Commission (stormwater retention and SESC)
 - d. Fire Department
4. Improvements to the air filtration and odor control system shall be implemented if there are complaints from neighboring property owners if required by the Township.
5. The use must remain compliant with the annual Township marihuana permit and State Rules promulgated under the respective statutes. Marihuana growing operations associated with the special land use approval shall not commence until permitted by the State of Michigan.
6. The facility shall be subject to an annual review by the Planning Commission to confirm compliance with the special land use permit and the provisions of the Zoning Ordinance.
7. All site improvements shall be finalized and inspected prior to building occupancy.

The motion was supported by Sanders.

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

8. ADDITIONAL PUBLIC COMMENT

None.

9. ADDITIONAL DISCUSSION

Planning commissioners strongly felt that the short-term rental ordinance should involve more public input.

There was a general discussion about work on the solar ordinance and master plan in 2024 and what level of public involvement would be incorporated into the master planning process.

Jirousek stated that the master planning process could take anywhere from 6 to 12 months, depending on the scope of work. The Planning Commission members felt that the survey design was especially important to the project.

The Planning Commission members agreed to review the master plan for the upcoming meeting.

Hover suggested reviewing Porter Township solar ordinance. The general thought was that we should continue to regulate large scale solar projects over 50 MW even though the state legislation had significantly reduced local control.

There was a general conversation concerning the village lift station and the condition of roadways.

10. ADJOURNMENT

Felcyn made a motion to adjourn the meeting at 7:20 pm. The motion was supported by Root.

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

Prepared by: David Jirousek on April 17, 2024

Approved: April 24, 2024