

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

Regular Meeting – September 20th, 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, Neil Boff, Nate Smallcombe, Steve Richardson

Members Absent: Trish Downard

APPROVAL OF THE AGENDA:

A motion was offered by Neil Boff to approve the agenda as published. The motion was supported by Steve Richardson. The motion passed 4-0.

APPROVAL OF MINUTES:

A motion was offered by Neil Boff to approve the minutes from the meeting held on June 21st, 2023. The motion was supported by Nate Smallcomb. The motion passed 4-0.

PUBLIC COMMENT ON NON-AGENDA ITEMS:

Chairman Arbanas called for public comment on non-agenda items.

- No public comments

NEW BUSINESS:

1. Public Hearing and Consideration of Variance: Caitlin Gurra, on behalf of Gregory Klos, requests a variance to reduce the required waterfront setback for a proposed replacement deck from 50 feet to 10 feet. The variance relates to Chapter 42, Article 6, Attachment 3, of the Paw Paw Township Zoning Ordinance. The subject property is located at 52325 Sheridan Road, Paw Paw MI 49079 (parcel #80-14-400-009-00).

Chair Arbanas summarized the application and opened the public hearing at 7:05 pm.

Applicant Caitlin Gurra, representing her family, generally discussed the plan to remove and replace a 30-year-old deck, which she mentioned is non-conforming as it currently sits. In the application, she confirmed that the family had supplied letters from neighbors on either side of the property stating their support. The owners have been visiting the lake and have been a part of the community for 30 years.

Chair Arbanas called for public comments, and there were none.

Chair Arbanas closed the public hearing at 7:06 pm.

The Board members generally discussed the deck layout and that there are a lot of similar homes with similar decks on that lake. Generally, the board felt the deck replacement was warranted and reasonably designed to be within the same footprint.

A motion was made by Neil Boff and seconded by Steve Richardson to approve a variance allowing a replacement deck with a 10-foot front setback 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: Strict compliance would require the applicant to place the new deck at least 50 feet from the front property line (water line) and 10 feet from each side lot line. The proposed deck is compliant with the side setback requirements. Strict compliance with the Zoning Ordinance would not allow the applicant to remove and replace in its same location. The applicant has demonstrated that there are no other options for a replacement deck.

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

Finding: The current deck has existed for many years, and a variance will allow for a needed replacement. The request is reasonable as the applicant only wishes to replace the deck in its general location at a comparable size.

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: A lesser variance, or no variance, would not provide additional justice to the applicant or nearby property owners. A lesser variance would narrow the allowable deck footprint, making the construction unreasonably narrow. It should be noted that the new deck is slightly further from the waterfront line than the existing deck.

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: Due to the location of the home on the lot, there is no way a deck could be added to and still comply with the 50-foot front setback requirement. The parcel itself is wider than it is deep, and front and rear setback requirements typically assume that a lot is deeper than it is wide. As such, the lot is a unique configuration as it relates to its dimensions and shape.

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

Finding: The problem is not self-created by the applicant. The front setback requirement was believed to be changed after the original home and deck were built. The applicant was not involved with platting the property in this configuration.

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. It is common and appropriate for reasonable variances to be granted when the characteristics of the lot or land are unique. In this situation, there are no other options for a replacement deck, and the scope of the project does not expand the total area. Granting a variance would be consistent with the spirit of the Zoning Ordinance.

The motion was supported by Neil Boff and the motion passed (4-0).

2. Interpretation of the Zoning Ordinance: Is there a minimum square footage for dwellings within the Gateway Planned Unit Development District? This question relates to Chapter 42, Article 6, Attachment 3.

The Board members generally discussed that there should be a minimum square footage if there was not one and felt that the topic should be addressed by the Planning Commission. The Board agreed that there was no enforceable minimum dwelling size currently noted in the Zoning Ordinance.

OLD BUSINESS: None

OTHER BUSINESS: None

ADDITIONAL PUBLIC COMMENT: None

ADJOURNMENT:

A motion was offered by Neil Boff to adjourn the meeting at 7:15 pm. The motion was supported by Steve Richardson. The motion passed (4-0)

Prepared by: Kyle Salay and David Jirousek, September 22, 2023

Approved: May 22, 2024