

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

**Special Meeting – May 22, 2024**

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, Trish Downard, Steve Richardson, Nate Smallcombe

Members Absent: Neil Boff

**APPROVAL OF THE AGENDA:**

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

**APPROVAL OF MINUTES:**

A motion was offered by Trish Downard to approve the minutes from the meeting held on September 20, 2023. The motion was supported by Steve Richardson. 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: Bradley Kincade requests a variance variance to reduce the required front setback for a proposed building addition from 50 feet to 37 feet. The variance relates to Chapter 42, Article 6, Attachment 3 (note 6) of the Paw Paw Township Zoning Ordinance. The subject property is located at 67071 39th Street, Paw Paw, MI 49079 (parcel #80-14-027-021-00).**

Chair Arbanas summarized the application and variance request. The Applicant was not present at the meeting.

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

Chair Arbanas called for public comments.

- Rob and Bob Egly the adjacent property owners at 66645 39<sup>th</sup> Street shared that they supported the addition that Mr. Kincade was requesting. They also noted that they were attending on behalf of the applicant and stated that the Kincade's planned on retiring and living at this property and in the community full-time in the future despite living in Maryland right now.

Chair Arbanas closed the public hearing at 7:08 pm.

The Board members generally discussed the variance request and the existing structure, such as when it was originally built and how the new addition would be further back than the existing structure.

Generally, the board felt that the request was reasonable and the discussion was limited. However, Chairman Arbanas reviewed all standards noted in the Planner's review memo, which were the following:

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 building at least 50 feet from the right-of-way and 40 feet from the North property line. Strict compliance would require the owner to add an addition to the home that would be significantly offset, and the new footprint would be oddly shaped and visually unappealing. Construction with an offset of this nature may not be reasonable or feasible.

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

Finding: The existing home is non-conforming to the required 50 foot setback. Granting this variance would allow the applicant to place the addition to the original 1912 structure in a reasonable and sound manner and would not negatively impact adjacent property owners. The request would not allow the building to be any closer to the right-of-way than the current placement.

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 variance is required to provide substantial relief to the applicant. There are no other options for a lesser variance as the existing structure is non-conforming, and a greater setback would not be reasonable.

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: The subject 20-acre property is a conforming parcel that is approximately 660 feet wide and 1,315 feet deep. The lot size and width are far beyond the minimum requirements for the properties in the AGR zoning district. However, the applicant has demonstrated that there are unique circumstances related to the setback and dimensions of the existing nonconforming home.

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, the exiting home built in 1912 and became nonconforming through the Township's approval of the Zoning Ordinance and setback requirements.

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. Because the current placement of the building is nonconforming, granting a variance would be consistent with the spirit of the Zoning Ordinance because the location of the addition is reasonable and does not lessen the existing setback.

A motion was offered by Trish Downard to approve the variance request to reduce the required front setback for a proposed addition to the dwelling from 50 feet to 37 feet. The Planner's findings are the basis for this approval, and the record shall reflect these findings.

The motion was supported by Nate Smallcombe, and the motion passed (4-0).

**OLD BUSINESS:** None

**OTHER BUSINESS:** None

**ADDITIONAL PUBLIC COMMENT:** None

**ADJOURNMENT:**

A motion was offered by Chairman Arbanas to adjourn the meeting at 7:20pm. The motion was supported by Nate Smallcombe. The motion passed (4-0)

Prepared by: Kyle Salay, May 29, 2024

Approved: September 18, 2024