

**PAW PAW TOWNSHIP  
ZONING BOARD OF APPEALS**

**MEETING AGENDA**

**August 20, 2025**

**7:00 pm**

**Call to Order and Roll Call**

**Approval of Agenda**

**Approval of Minutes- July 16, 2025**

**Public Comment on Non-Agenda Items**

**New Business:**

1. Public Hearing and Consideration of Variances: Dwayne A. Herd requests a variance for a replacement deck to be placed six feet from the side property line instead of the required 15-foot setback and a variance for a replacement sunroom to be placed 14 feet from the side property line instead of the required 15-foot setback. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The subject property is located at 68124 Park Drive, Paw Paw, MI 49079 (parcel #80-14-660-032-01).

**Old Business:** None

**Other Business:** None

**Additional Public Comment**

**Adjournment**

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

**Regular Meeting – July 16, 2025**

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, Nate Smallcombe, Neil Boff

Members Absent: Tom Beam

**APPROVAL OF THE AGENDA:**

A motion was offered by Boff to approve the agenda as published. The motion was supported by Downard, and the motion passed 4-0.

**ELECTION OF OFFICERS:**

A motion was offered by Boff to reappoint Arbanas as Chair and Boff as Vice Chair. The motion was supported by Downard, and the motion passed 4-0.

**APPROVAL OF MINUTES:**

A motion was offered by Downard to approve the minutes from the meeting held on September 18, 2024. The motion was supported by Boff, and the motion passed 4-0.

**PUBLIC COMMENT ON NON-AGENDA ITEMS:**

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

- None

**NEW BUSINESS:**

**1. Public Hearing and Consideration of Variances:** James Van Horn on behalf of Dale Schuring requests a variance to reduce the required minimum side setback from 15 feet to approximately 2 feet on the west side for a new attached carport; a variance to reduce the required minimum side setback from 15 feet to approximately 3 feet and 4 inches on the east side for an addition; a variance to reduce the required minimum front setback from 50 feet to approximately 8 feet from the street easement for the new attached carport; and a variance to increase the maximum lot coverage from 30% to approximately 40%. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning

Ordinance. The subject property is located at 49404 Fairbanks, Paw Paw, MI 49079 (parcel #80-14-635-002-00).

Chair Arbanas summarized the application and variance request. Applicant Jim Van Horn generally described the proposed improvements to the house, which include an east side addition and a south/front carport.

Chair Arbanas opened the public hearing, and there were no comments.

Township Planner David Jirousek explained the discrepancy between the application and the Zoning Administrator's measurements, and stated that all fire and building code requirements must be met.

Smallcombe expressed concern with the narrow setbacks, and Downard said it seems acceptable, as the east side addition was within the same footprint as the deck. Boff noted how close dwellings were in this area. Arbanas was concerned that the buildings were too close. However, the group generally felt the open nature of the carport was less concerning, and they felt that the addition within the existing deck footprint was not unreasonable.

The Board members generally discussed the variance and the comments from the Planner's report from July 7, 2025.

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.*

**Comment:** Strict compliance would eliminate all possibilities for sheltered parking, and it would significantly limit the possibility of expanded living space.

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

**Comment:** Nearby homes are also nonconforming to side setback requirements, and it appears that several encroach on the front/street setback area. Allowing reasonable expansion will allow the building to be consistent with other property owners.

3. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*

**Comment:** The variance requests are already limited, and variances of lesser degrees would not give substantial relief.

4. *That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.*

**Comment:** The property is unique because of its exceptionally narrow nature and size compared to the requirements of the WFR district. For instance, the minimum lot width is 100 feet while the lot is

40 feet wide. The minimum lot size is 30,000 s.f., while the lot is 4,494 s.f. Setbacks and lot coverage are typically calibrated based on the minimum lot dimensions within the district. As such, when the lot is exceptionally nonconforming, it is unique.

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

**Comment:** Although the applicant desires to expand the house for year-round living, they did not create the lot in its current dimensions.

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.*

**Comment:** The intent of the Zoning Ordinance is to enforce the requirements in a fair and equitable manner. The requested relief will enable the reasonable use of the property. The building areas within the setback areas are limited in size and scale.

A motion was offered by Downard to approve the following variance requests:

- Reduce the required minimum side setback from 15 feet to 2 feet on the west side for a new attached carport;
- Reduce the required minimum side setback from 15 feet to the lesser of 3 feet and 4 inches or 2 feet for the east side for an addition (noting the discrepancy between the application and the Zoning Administrator's measurement);
- Reduce the required minimum front setback from 50 feet to approximately 8 feet from the street easement for the new attached carport;
- Increase the maximum lot coverage from 30% to 40%; and
- Allow a 12-inch overhang was approved beyond the setbacks noted above.

Downard stated that the Township Planner's findings were the basis for the motion, and the record shall reflect these findings.

The motion was supported by Boff, and the motion passed 3 (Downard, Smallcombe, Boff) to 1 (Arbanas).

**OLD BUSINESS:** None

**OTHER BUSINESS:** None

**ADDITIONAL PUBLIC COMMENT:** None

**ADJOURNMENT:**

A motion was offered by Boff to adjourn the meeting at 7:33 pm. The motion was supported by Smallcombe, and the motion passed 4-0.

Prepared by: David Jirousek, July 17, 2025

Approved:

DRAFT

# PAW PAW TOWNSHIP

PAWPAWTOWNSHIP.ORG

114 N GREMPS

PAW PAW, MI 49079

269-657-4340

RECEIVED OF:

DATE: 07/17/25

RECEIPT: 67064

AMOUNT \$475.00

RECEIPT TYPE

DESCRIPTION

ZBA

ZONING, SITE PLAN, SPECIA

475.00

ADDITIONAL DETAIL

DWAYNE HERD

68124 PARK DRIVE

VARIANCE

TENDERED:

CHECKS

1786

475.00

Signed: \_\_\_\_\_

TREASURER'S OFFICE

## Paw Paw Township Variance Application

114 N. Gremps Street  
Paw Paw, Michigan 49079  
269-657-4340  
269-657-5683 (fax)  
pawpawtownshipmi.gov



### Checklist

These materials shall be submitted in complete form to the Township no later than 30 calendar days prior to the Zoning Board of Appeals (ZBA) meeting at which the review is requested. Please plan ahead at least two weeks to complete the Zoning Permit process prior to submitting this application. ZBA meetings are typically held on the 3<sup>rd</sup> Wednesday of each month at 7:00 PM.

- Zoning Permit Inspection Form ☐
- One completed and signed copy of the application ☐
- Three individually folded and one digital copy of all plot plans, studies, photographs, and other information and data to be relied upon by the applicant ☐
- Proof of property ownership or control ☐
- The required application fee of \$475 ☐; special meeting \$675 ☐

A plot plan shall be required with all variance requests. The plan, which shall accompany all variance requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. A plot plan should show lot lines, existing and proposed buildings, driveways, any unique physical features of the site, and proposed dimensions and setbacks.

### Applicant

Name: DWAYNE A. HERD

Address: 68124 PARK DR. PAW PAW, MI. 49079

Email Address: classicro.2024@gmail.com

Phone Number: 269-271-26568

Signature: [Handwritten Signature]

**Landowner**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

*If the property is under contract, the landowner's signature is not required. However, the applicant must provide a copy of the contract.*

**Property Information and Project Proposal**

Project Name: HERDS DECK AND SUNROOM REBUILD

Address: 68124 PARK DR. PAW PAW, MI. 49079

Property Tax ID Number: 80-14 660 032-01

Acreage: .24

Dimensions of land: 80' WIDE

Current Zoning Designation: WATER FRONT ZONING DISTRICT

Current Use: RESIDENTIAL

Proposed Use: RESIDENTIAL

Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project:

SILAS MULDER CONSTRUCTION 269-217-9858

**Description of Variance Request**

SEEKING TO REBUILD IN THE SAME FOOTPRINT,  
EVEN THOUGH IT IS WITHIN THE 15' SET-BACK,  
DUE TO AGE.

ALSO, SEEKING TO REBUILD THE SUNROOM  
14' FROM PROPERTY LINE.



### Standards of Approval

The ZBA may grant a requested "non-use" (dimensional) variance only upon a finding that practical difficulties exist. In determining whether practical difficulties exist, the ZBA shall consider the following factors. Please respond to each factor in writing to justify your request.

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.*

SEEKING TO REBUILD DECK IN THE SAME FOOTPRINT  
DUE TO AGE. SETTING THE DECK BACK 15' WOULD  
CHANGE THE BUILD OF THE HOUSE AND THE ACCESS  
TO THE SIDE OF THE HOUSE.

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

A 15' SET-BACK FOR THE NEW DECK WOULD  
TAKE AWAY DECK SPACE,  
CURRENT

3. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*

DECK SIZE CURRENTLY ALLOWS ACCESS TO THE  
WEST SIDE OF THE HOUSE, SO SHRINKING THE  
DECK WOULD STOP ACCESS AND HAVE A LOSS  
OF USE.

4. That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.

THE 15' REQUIRED SIDE SET-BACK IS MEANT TO BE  
FOR CURRENT 100' WIDE LOTS, WE HAVE AN 80' LOT.

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

THE DECK AND HOUSE DESIGN WAS ALREADY IN-  
PLACE WHEN WE TOOK OVER THE PROPERTY.

**OFFICE USE ONLY- ONLY SEND TO TOWNSHIP PLANNER IF COMPLETE**

Date received in complete format: \_\_\_\_\_

Check #: \_\_\_\_\_

Amount received: \_\_\_\_\_

Accepted by: \_\_\_\_\_



# SAFEbuilt®

## ZONING INSPECTION REPORT

PERMIT# 25-PAWT-Z00020 JURISDICTION PAW PAW TWP.  
Date of Inspection 6-30-25 Inspector ALTON DEAL Phone No. (269) 729-9244  
Property Address 68124 PARK DRIVE  
Owner ANTHONY HERRND TRUSI Phone No. 269-271-6565 Contractor MULDER GLASS INC. Phone No. 269-217-9858

☐ COMMERCIAL ☒ RESIDENTIAL ☐ AGRICULTURAL

- ☐ New Structure  
☐ Accessory Structure  
☒ Addition/Alteration  
☐ Change of Use  
☐ Sign  
☐ Fence  
☐ Ordinance Violation  
☐ Pool/Hot Tub  
☐ Other DECK

- ☐ Approved  
☒ Not Approved  
☒ Refer to ZBA  
☐ Refer to Planning Comm.  
☐ Other  
☐ See Notes Below

- ☒ Non Conforming  
☐ Corner Lot  
☒ Waterfront  
☐ Re-Inspection

Required \$ \_\_\_\_\_

PAYABLE PRIOR TO  
SCHEDULING THE  
RE-INSPECTION.  
MAKE CHECK PAYABLE  
TO THE JURISDICTION.

Zoning District WFR

### REQUIRED SETBACKS

WATER Front 50'  
Left Side 15'  
Right Side 15'  
ROAD - Rear 50'  
Max Height 35'  
Max Lot Coverage 30%

### PROPOSED SETBACKS

Front 100'+  
Left Side 6'  
Right Side 45'  
Rear N/A  
Proposed Height 15'  
Proposed Lot Coverage 20%

### NOTES:

THE PROPOSED NEW DECK AFTER DEMOLITION OF OLD DECK IS  
"NOT APPROVED" FOR ZONING SETBACKS.

ZONING

PLEASE SEE SEC. 42-11.03 - SEE IF YOU MEET THE GUIDELINES BEFORE  
APPLYING FOR A VARIANCE.



# SAFEbuilt®

## ZONING INSPECTION REPORT

PERMIT# 25-PAWT-Z00021 JURISDICTION Paw Paw Twp.  
Date of Inspection 6/30/25 Inspector ALTON NEAL Phone No. (269) 729-9244  
Property Address 68124 PARK DRIVE  
Owner ANTHONY HEARD TRUST Phone No. 269-271-6565 Contractor MULLEN GLASS INC. Phone No. 269-217-9858

☐ COMMERCIAL ☒ RESIDENTIAL ☐ AGRICULTURAL

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> New Structure                  | <input type="checkbox"/> Approved                   | <input type="checkbox"/> Non Conforming  |
| <input type="checkbox"/> Accessory Structure            | <input checked="" type="checkbox"/> Not Approved    | <input type="checkbox"/> Corner Lot  |
| <input checked="" type="checkbox"/> Addition/Alteration | <input checked="" type="checkbox"/> Refer to ZBA    | <input checked="" type="checkbox"/> Waterfront   |
| <input type="checkbox"/> Change of Use                  | <input type="checkbox"/> Refer to Planning Comm.    | <input type="checkbox"/> Re-Inspection   |
| <input type="checkbox"/> Sign                           | <input type="checkbox"/> Other                      | Required \$ _____  |
| <input type="checkbox"/> Fence                          | <input checked="" type="checkbox"/> See Notes Below | PAYABLE PRIOR TO SCHEDULING THE RE-INSPECTION. MAKE CHECK PAYABLE TO THE JURISDICTION. |
| <input type="checkbox"/> Ordinance Violation            |   |  |
| <input type="checkbox"/> Pool/Hot Tub                   |   |  |
| <input type="checkbox"/> Other <u>SUN ROOM</u>          | Zoning District <u>WFR</u>                          |  |

### REQUIRED SETBACKS

Front	<u>50'</u>
Left Side	<u>15'</u>
Right Side	<u>15'</u>
Rear	<u>50'</u>
Max Height	<u>35'</u>
Max Lot Coverage	<u>30%</u>

### PROPOSED SETBACKS

Front	<u>100' +</u>
Left Side	<u>14'</u>
Right Side	<u>51'</u>
Rear	<u>N/A</u>
Proposed Height	<u>23'</u>
Proposed Lot Coverage	<u>20%</u>

NOTES: THE SUN ROOM IS "NOT APPROVED" FOR ZONING SETBACKS AFTER DEMOLITION OF OLD SUN ROOM.  
\* PLEASE SEE SECTION 42-11.03 IN ZONING TO SEE IF YOU MEET THE GUIDELINES BEFORE APPLYING FOR A VARIANCE.

**CERTIFICATE OF  
TRUST EXISTENCE AND AUTHORITY**

STATE OF MICHIGAN            )  
  ) ss:  
COUNTY OF KALAMAZOO        )

On 10/26, 2017, **Dwayne Herd**, having been first duly sworn, says that:

1. On July 31, 2012, Anthony W. Herd established the Anthony W. Herd Revocable Trust Agreement. On September 2, 2016, Anthony W. Herd created the Anthony Wayne Herd Living Trust. On March 7, 2017, Anthony W. Herd amended and restated in its entirety both the Anthony W. Herd Revocable Trust Agreement dated July 31, 2012 and the Anthony Wayne Herd Living Trust dated September 2, 2016, combined into the Anthony W. Herd Trust as amended and restated in its entirety on March 7, 2017, and amended by order of the Van Buren County Probate Court in part on October 13, 2017.

Anthony W. Herd died on April 5, 2017. **I am the Trustee.** This Trust is irrevocable.

2. My current mailing address is 1321 Kingston Ave., Kalamazoo MI 49001.

3. The ownership designation to be used on assets transferred to this Trust is:

Dwayne Herd, Trustee of the Anthony W. Herd Trust dated July 31, 2012, as amended and restated in its entirety on Mary 7, 2017, and his successors.

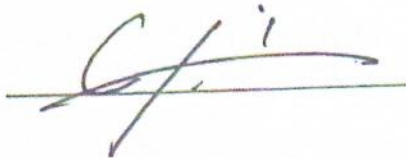
4. The following provisions are found in the Trust Agreement and may be relied upon as a full statement of the matters covered by those provisions by anyone dealing with me or with any Successor Trustees:

**PLEASE SEE EXHIBIT "A" ATTACHED**

5. Any person dealing with the Trustee is entitled to rely on a Certificate of Trust Existence and Authority signed and acknowledged by me, by the Trustee or by the Trustee's or my attorney which appears to contain a verbatim recital of pertinent provisions of the Trust. This person need not verify its accuracy or whether it is in fact a full statement of the pertinent provisions of



Witnesses:



Adam J. Kaiken  
Printed Name



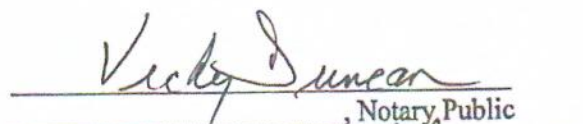
Benjamin J. Herbert  
Printed Name

  
Dwayne Herd, Trustee

STATE OF MICHIGAN           )  
  ) ss:  
COUNTY OF KALAMAZOO    )

Acknowledged before me in Kalamazoo County, Michigan, on October 26, 2017 by  
Dwayne Herd.

VICKY DUNCAN  
Notary Public - State of Michigan  
County of Kalamazoo  
My Commission Expires 01/31/2021  
Acting in the County of Kalamazoo

  
\_\_\_\_\_, Notary Public  
State of Michigan, County of Kalamazoo  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

This instrument drafted by:  
**Benjamin J. Herbert, J.D.**  
141 E. Michigan Ave. Suite 602  
Kalamazoo, Michigan 49007  
Telephone 269-459-1432

## PAW PAW, MI 49079

**Jurisdiction:** Paw Paw Township

[bsaonline.com/SiteSearch/SiteSearchDetails?](http://bsaonline.com/SiteSearch/SiteSearchDetails?)



68124 PARK DRIVE DECK + SUNROOM REBUILT - SITE PLAN 6-18-25



22





## Paw Paw Township

**To:** Paw Paw Township Zoning Board of Appeals  
**Date:** August 12, 2025 (August 20 meeting)  
**Topic:** Dwayne A. Herd, 68124 Park Drive: Variance Requests  
**Parcel:** 80-14-660-032-01  
**From:** David M. Jirousek, AICP – Horizon Community Planning

### Overview

The applicant requests a variance for a replacement deck to be placed six (6) feet from the west side property line instead of the required 15-foot setback. Additionally, the applicant requests a variance for a replacement sunroom to be placed 14 feet from the west side property line instead of the required 15-foot setback.

The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The property is zoned Waterfront Area (WFR).

*Proposal and Background:* The applicant proposes to remove and replace an existing sunroom and deck within the same footprint and in the same dimensions.

*Existing Conditions:* The property consists of two waterfront lots with a single dwelling spanning over both properties. The combined lot width is approximately 80 feet and approximately 16,420 square feet in size.



Requirement	WFR District	Combine Lots
Min. Lot Area	30,000 s.f.	16,420 s.f. (55% of the required area)
Min. Lot With	100 ft.	80 ft. (80% of the required lot width)

## Standards of Review

The Zoning Board of Appeals has the authority to grant dimensional or "non-use" variances from the strict letter and terms of the Zoning Ordinance only upon a finding that practical difficulties exist. In determining whether practical difficulties exist, the ZBA shall consider the following factors. Findings were prepared for your consideration.

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.*

**Comment:** Strict compliance would eliminate the possibility of rebuilding a sunroom and deck in the same footprint and by the exact dimensions as the existing arrangement. Requiring compliance could be considered unnecessarily burdensome, as it would prevent the reconstruction of the aging portions of the dwelling.

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

**Comment:** Nearby homes are also nonconforming to side setback requirements. Allowing the reconstruction of the sunroom and deck would do substantial justice to the applicant by enabling reasonable repairs and rebuilding within the exact location of the existing components of the home. Options for compliant rebuilding are not considered reasonable and would not impact the adjacent property owners more than the current arrangement.

3. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*

**Comment:** The variance requests are limited so as not to increase the existing degree of nonconformity with the Zoning Ordinance, and variances of lesser degrees would not give substantial relief.

4. *That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.*

**Comment:** The combined property is unique as it is narrower than required by the WFR zoning district. The lot width is 80% of the required width, resulting in increased difficulty meeting the 15-foot side setbacks.

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

**Comment:** Although the applicant desires to improve their home, they did not create the lot in its current dimensions. The nonconforming dwelling was built before the WFR zoning district side setbacks became stricter.

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.*

**Comment:** The Zoning Ordinance intends to enforce the requirements fairly and equitably. The requested relief will enable the reasonable use of the property, including rebuilding an aging sunroom and deck in the same location.

### **Recommendation**

The ZBA must prepare findings for all standards to grant the variances. The meeting minutes and written record of the decision must document the findings and conclusions. As such, it is recommended that all findings be read aloud or that the findings in this report be referenced explicitly as part of the record.

Positive findings have been included in this report. If the ZBA is not supportive, the ZBA's negative findings must be on the record. If there is a motion to approve the request as recommended, an example motion is included below:

*Based on the positive findings in the Township Planner's memo, dated August 12, 2025, I move to approve the variance requests to:*

- *Reduce the west side setback for the deck from 15 feet to six (6) feet.*
- *Reduce the west side setback for the replacement sunroom from 15 feet to 14 feet.*

*The Planner's findings are the basis for this approval, and the record shall reflect these findings.*