

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

Regular Meeting – September 18, 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, Nate Smallcombe, Neil Boff

Members Absent:

APPROVAL OF THE AGENDA:

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

APPROVAL OF MINUTES:

Chairman Arbanas made a note that the previous minutes stated it should have been Steve Richardson- Not Phil Richardson.

A motion was offered by Neil Boff to approve the minutes from the meeting held on May 22, 2024. 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.

- None

NEW BUSINESS:

1. Public Hearing and Consideration of Variances: Tim and Holly Harris request variances to reduce the required minimum side setback from 10 feet to 5 feet and to reduce the required minimum rear setback from 50 feet to 29 feet for a proposed deck. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The subject property is located at 51353 Summit Street, Paw Paw, MI 49079 (parcel #80-14-171-003-00).

Chair Arbanas summarized the application and variance request. The applicants request variances to reduce the required minimum side setback from 10 feet to 5 feet and to reduce the required minimum rear waterfront setback from 50 feet to 29 feet for a proposed deck. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The property is zoned Village Edge (VE). The applicant proposes to construct a deck on the back of the house to replace the existing concrete porch. The existing porch is in poor condition and must be replaced for safety reasons. Additionally, the applicant desires a reasonable expansion to the porch area.

Chair Arbanas stated that the lot is 0.15 ac. (6,446 s.f.) in size and approximately 140 feet in depth. At the existing porch area, the lot is approximately 50 feet deep. It appears that the current building does not conform to the east side setback and is approximately 5 feet from the side lot line. The building also falls within the 50-foot waterfront setback, measuring approximately 42 feet from the shoreline. The entire lot is nonconforming as it does not conform to lot size (10,000 s.f.) and width (80 ft.) requirements.

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

Chair Arbanas called for public comments.

Holly Harris described the project and also offered photos of the project area to the board members.

Chair Arbanas closed the public hearing at 7:10 pm.

The Board members generally discussed the variance request stating that the request was reasonable and would not impact adjacent property owners. Neil previously visited the site and stated that the project would tie well with the home. Chairman Arbanas noted the shallow and narrow lot that was previously split before the current owner owned the property. Chairman Arbanas also read a letter of support from next-door neighbors Frank and Penny Stout.

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.*

Comment: Strict compliance would eliminate all possibilities for a reasonably sized low-level waterfront deck. Based on the size and narrow nature of the lot, there are no other options for a compliant deck.

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

Comment: The request will do substantial justice to the applicant, as a variance will allow a modest deck to replace the existing concrete porch. The proposal will do substantial justice to neighbors as the deck will be low-level, no closer to the east property line than the existing building, and close to the same distance from the water as the existing porch.

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 applicant has applied for the least relief necessary to build a modest and reasonably sized deck to enjoy their waterfront property.

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 VE zoning district.

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

Comment: The problem is not self-created. The applicant recently purchased the property and did not design the original lot or building placement.

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 relief requested will allow for reasonable use of the property by allowing a deck that will have minimal impact on adjacent properties and will respect the intent and spirit of the 50 ft. waterfront setback requirement.

A motion was offered by Neil Boff to approve the variance requests to reduce the required minimum side setback from 10 feet to 5 feet and to reduce the required minimum rear setback from 50 feet to 29 feet for a proposed deck. The Planner's findings are the basis for this approval, and the record shall reflect these findings.

The motion was supported by Trish Downard, and the motion passed (4-0).

2. Public Hearing and Consideration of Variances: Nicole Cox requests variances to reduce the required minimum side setbacks for a proposed deck from 15 feet to 12 feet and 3 feet per side. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The subject property is located at 49431 Hillcrest Avenue, Paw Paw, MI 49079 (parcel #80-14-637-007-00).

Chair Arbanas summarized the application and variance request. The applicant requests variances to reduce the required minimum side setbacks for a proposed deck from 15 feet to 12 feet and 3 feet per side. The variances relate to Chapter 42, Article 6, Attachment 3 of the Paw Paw Township Zoning Ordinance. The property is zoned Waterfront Area (WFR). The applicant proposes to construct a replacement deck on the back of the house.

Chair Arbanas stated that the lot is 0.20 ac. (8,508 s.f.) in size and approximately 210 feet in depth. At the rear of the building, the lot is approximately 42 feet deep. The current building does not conform to both 15-foot side setbacks, as it currently measures 12 and 3 feet. The entire lot is non-conforming as it does not conform to the lot size (30,000 s.f.) and lot width (100 ft.) requirements.

Chair Arbanas opened the public hearing at 7:17 pm.

Chair Arbanas called for public comments.

Nicole Cox described the project and reported that they have been working on this for some time to gain approval.

Chair Arbanas closed the public hearing at 7:19 pm.

The Board members generally discussed the variance request and noted that it was very similar to the previous applicant's request. Trish had visited the site and stated that the request from the applicant was reasonable based on the lot dimensions. Chairman Arbanas stated that the lot had previously been split prior to this owner as well and that the project would not impact neighbors.

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.*

Comment: Strict compliance would eliminate the possibility of having a reasonably sized waterfront deck. For instance, with 42 feet of lot width and 30 feet total of side setbacks, a 12-foot area would be allowed for the deck, which is far narrower than the rear building elevation. Although a small compliant deck could be built, it would not match the rear elevation, and it would be unnecessarily burdensome to build it at a compliant width (12 feet).

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

Comment: The request will do substantial justice to the applicant, as a variance will allow a modest deck replacement. The proposal will do substantial justice to neighbors as the deck will be no closer

to the side lot lines than the existing building. Additionally, the deck is proposed to comply with the minimum waterfront setback.

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 applicant has applied for the least relief necessary to build a modest and reasonably sized deck to enjoy their waterfront property.

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 zoning district. The minimum lot width in WFR is 100 feet, while the actual lot width is 42 feet. The side setbacks were calibrated with the assumption that the lot would be 100 feet in width or greater, so applying 15-foot side setbacks creates a unique problem.

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

Comment: The problem is not self-created. The applicant recently purchased the property in 2023 and did not design the original lot or original building placement.

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 relief requested will allow for reasonable use of the property by allowing a deck that will have minimal impact on adjacent properties. Further, the deck will be no closer to the lot lines than the current building.

A motion was offered by Trish Downard to approve the variance requests to reduce the required minimum side setbacks for a proposed deck from 15 feet to 12 feet and 3 feet per side. The Planner's findings are the basis for this approval, and the record shall reflect these findings.

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

OLD BUSINESS: None

OTHER BUSINESS: None

ADDITIONAL PUBLIC COMMENT: None

ADJOURNMENT:

A motion was offered by Neil Boff to adjourn the meeting at 7:23 pm. The motion was supported by Trish Downard. The motion passed (4-0)

Prepared by: Kyle Salay, September 25, 2024

Approved: July 16, 2025