

**VILLAGE OF PAW PAW PLANNING COMMISSION
MEETING MINUTES
REGULAR MONTHLY MEETING
THURSDAY, JUNE 1st, 2023, 7:00 pm**

The regular monthly meeting of the Paw Paw Planning Commission was held at the Paw Paw Township Hall Chamber located at 114 N. Gremps Street, Paw Paw, Van Buren County, Michigan.

I. CALL TO ORDER:

The meeting was called to order by Chair Larson at 7:00 pm.

II. ROLL CALL:

MEMBERS PRESENT: KATHLEEN LARSON – CHAIR
 ASHLEY NOTTINGHAM – VILLAGE TRUSTEE
 DAVE BOGEN
 TOM PALENICK
 MICHAEL PIOCH

NOT PRESENT: EMILLY HICKMOTT – SECRETARY
 JEFF BROWN

OTHERS PRESENT: WILLIAM JOSEPH – VILLAGE MANAGER
 TRICIA ANDERSON – VILLAGE PLANNER, WILLIAMS & WORKS

III. APPROVAL OF THE AGENDA: MOTION

Chair Larson indicated she would like to add the Planning Commission annual meeting calendar to the agenda, as well as the Planning Commission work plan. Commissioner Pioch moved to accept the agenda submitted for the June 1, 2023, regular Planning Commission meeting, subject to the addition of the annual meeting calendar and Planning Commission work plan, seconded by Commissioner Nottingham. Motion passed.

IV. MINUTES: MOTION

Chair Larson asked if there were any changes, additions, or corrections to the May 4, 2023, regular Planning Commission DRAFT MEETING MINUTES. Commissioner Bogen moved, with support from Commissioner Pioch, to accept the May 4, 2023, meeting minutes, subject to the change to Commissioner Nottingham's title. Motion passed.

V. PUBLIC COMMENT – NONE.

VI. NEW BUSINESS

A. 148 EAST MICHIGAN STREET – ROOFTOP STRUCTURE AND DECK – SITE PLAN REVIEW – HOLLY HAMILTON

Chair Larson asked Ms. Anderson to provide background information and her analysis of the request. Ms. Anderson presented some highlights from her memorandum dated May 25, 2023. She indicated that the request was for a structure and deck that is proposed to be situated atop the roof of the existing building located at 148 E. Michigan Street. Ms. Anderson added that the proposed rooftop structure and deck project received approval from the Planning Commission on May 9, 2018, and since that time, no action has taken place on the construction of the rooftop deck and the approval has since expired. She noted that the subject parcel is zoned CBD, Central Business District, and also lies within the Form-Based Code Overlay, being at the corner of Kalamazoo St. and E. Michigan Avenue, and is designated Mixed-Use 1 zone. Ms. Anderson informed the Planning Commission that the current request differs from what was proposed in 2018 in size and scope and that the previous plan was for a 174-square-foot structure that would essentially serve as a structure to cover the top of the stairs, and that the current request is for a structure that would span across the entire width of the roof at 616 square feet.

Ms. Anderson summarized some of the concerns expressed in 2018 as it pertained to whether the structure on top of the roof would constitute a fourth story, the total height exceeding what was permitted in that zoning district, visibility of the fence and structure from the street, fence wind loads, etc. She spoke to the current request posing some of the same challenges and concerns with meeting the letter of the ordinance and the application missing some key elements, such as a site plan. She added that if all the standards for approval as indicated in Section 42.402(4) could not be met, then she would recommend that the Planning Commission postpone any action on the item or deny the request. She noted that there is no question that the structure is aesthetically pleasing, however, the ordinance, as written, does not permit such a design unless the Planning Commission were to determine that it was considered a “height projection incorporated into a design feature”, which is permitted on corner buildings up to ten feet in exceedance of the maximum height. She asked the Planning Commission to consider the option of perhaps modifying the zoning ordinance to allow for these types of roof-top structures if they do not pose a detriment to the surrounding character of the downtown area.

Commissioner Pioch spoke about projections and whether the project can be deemed a projection. He indicated that architectural projections are normally not spaces that people would occupy. He added that the fence is not in line with the character of the downtown overlay district. He agreed with Ms. Anderson because he feels that the applicant could make this a nice space but it has to fit within the ordinance.

Commissioner Bogen noted that he feels that the height is definitely considered another story. He said that a precedent may be set with fourth-story apartments. He believes that the concept of living space is a good idea.

Ms. Hamilton wanted to express her frustration with the ground-level fences and materials in the downtown district and wanted to share photos with them of these in the downtown area.

Ms. Anderson asked Chair Larson to have the applicant wait until the PC was done with their comments.

Commissioner Bogen was concerned with the fence that the applicant proposed may have a problem with the wind loads without a foundation. He indicated that there is a bathroom in the proposed rooftop structure. Ms. Hamilton relayed that it is currently several stories downstairs to use the bathroom. Ms. Hamilton added that without any sun protection, the space would not be used. Umbrellas would not be feasible because of the wind. She expressed her frustration with not being able to go outside and enjoy coffee in her pajamas. She noted that the lack of outdoor space has had a negative effect on her. She added that she spent a significant amount of money to bring stairs to the roof area because she had the approval in 2018. Mr. Dorgan indicated that he spent over \$20,000 restoring historical windows. He offered to replace the fence with brick and extend the parapet. He feels that the materials could be changed to meet the needs of the Planning Commission. Ms. Hamilton indicated that the wind was something that needed to be addressed with a solid fence and that her main goals were the sunshade and windbreak. She wants people to be able to make improvements like this and see others invest in the downtown overlay area.

Chair Larson noted that the fourth story is not permitted. She asked why the roof structure could not be built similarly to the previous design. She noted that she does like the idea, however, it just doesn't fit within the ordinance.

Ms. Hamilton indicated that she met with Mr. Joseph and Mr. Lux, and said their concerns relayed to her were with the wind load and materials, and so that is how they proceeded with the drawings they had done.

Commissioner Pioch asked Ms. Anderson about the statement in her memorandum related to requesting a variance and if the variance would apply to all the buildings in the downtown area or only the subject property. Ms. Anderson relayed that it would only be the subject property. Chair Larson was concerned with a variance setting a precedent. Ms. Anderson said that yes, a precedent could be set with a variance being granted without any demonstration of practical difficulty and that if the desire is to allow the rooftop structure, then the zoning ordinance should be amended to allow it.

There was a discussion about the Village having a need for additional housing stock. Ms. Anderson encouraged the Planning Commission to have a discussion about potential policy changes that could open the door to more opportunities for housing, such as allowing 4th-story accessory dwelling units.

Chair Larson asked for a motion.

Commissioner Bogen moved, with support from Commissioner Pioch to postpone the Planning Commission's action on the item, based on the findings presented in Ms. Anderson's memorandum.

Chair Larson asked if there was any further discussion. Ms. Hamilton said that everyone likes the idea but that the structure is considered another story, and the fencing and materials used are an issue. Ms. Hamilton asked the Planning Commission why the 2018 design was not considered a fourth story. Chair Larson indicated that the newly proposed design is a structure that spans the width of the building.

The Planning Commissioners spoke more about the structure being deemed a "projection" permitted on corner buildings and agreed that it is not defined in the ordinance and the language within the ordinance proves to be very vague.

The Planning Commission advised the applicant to explore the idea of modifying the design so that it may fit better with what the ordinance deems an “occupiable height projection” .

Motion carried by roll call vote.

Ms. Anderson noted that the zoning ordinance is somewhat vague regarding the architectural feature and what that might look like. She encouraged the applicant to have her architect review the language and perhaps design something that may meet the intent of that language.

B. Planning Commission Meeting Calendar

Mr. Joseph and Commissioner Bogen noted that the meeting Calendar was already adopted in April of this year. No further discussion was held on this item. Chair Larson indicated she still wanted to go through the work plan with the other commissioners. Ms. Anderson asked what specifically was in the work plan. Ms. Larson provided her with a copy.

C. Food Truck Ordinance Discussion

Mr. Joseph explained that there was an issue at the Auto Zone where a food truck was stationed and Mr. Lux asked the food truck operator to apply for a permit, however, there were no regulations that could be applied from the zoning ordinance or the code of ordinances. He noted that the Village needs to adopt a zoning ordinance that gives regulatory authority over things like location, time, and other regulations.

Chair Larson asked if it could be considered a peddler. Mr. Joseph noted that he believes food trucks have previously been approved as open-air businesses and identified the distinctions between the two. Planning Commissioners recalled the recent instances of food trucks being stationed throughout the Village. They agreed that there should be some written regulations for staff and food truck operators to follow. Commissioner Nottingham indicated that the complexity is more than just issuing a permit because the purpose of regulations would be for food trucks to follow safety rules and regulations, as well as not constitute as a nuisance by way of smoke, odor, or noise.

The Planning Commissioners came to the consensus that they want an ordinance to be simple to administer. Commissioner Pioch would like to see areas that are designated as food truck areas, sort of like parking spaces that can be rented and there will be a limit to the number that can be operated and they get reserved. Commissioner Nottingham noted that there are special events or parties on private property that should be allowed to have a food truck as well. She likes Commissioner Palenek’s idea, but the spaces would have to be on private property, otherwise, they must be maintained by the Village.

Ms. Anderson walked through the different routes the Planning Commission can take to adopt regulations. She added that some communities keep it simple and allow food trucks subject to a zoning permit and site plan indicating where they would be located and when. Other communities wish to have more control over the land use and require much more in terms of licensing and supplemental documentation. She indicated that she’s seen the process be overbearing to the point where mobile food vendors choose not to go through the trouble of applying for a permit when there’s too much red tape.

Commissioner Bogen asked about wine and harvest and how that’s handled. Mr. Joseph indicated it was under an outdoor festival-type ordinance.

Chair Larson noted that social media posts are sometimes helpful in getting the pulse of the community.

Commissioner Nottingham suggested restaurants may not want food trucks right outside their door, and they may not be looking for competition from food trucks when they could come in from anywhere, including outside the Village limits. She encouraged the PC to think about placement. She agreed that a designated area might be a good idea so that the location is always guaranteed. Chair Larson quoted the Ionia sample ordinance with the specified distance from a brick-and-mortar restaurant. Commissioner Nottingham noted that sometimes food trucks have the effect of attracting more customers to businesses that don't serve food. They discussed some areas that hold food truck events on a regular basis. They discussed a model in Kalamazoo that seemed to work well.

Chair Larson noted that it must be manageable from an enforcement perspective. Commissioner Palenек indicated he doesn't foresee a surplus of food trucks once an ordinance is enacted.

Chair Larson asked the PC to decide what they like about the different ordinances that Ms. Anderson provided from other communities.

Ms. Anderson was asked to draft an ordinance that was simple and to the point that would bring in the ideas and comments and concerns expressed by the Planning Commission. The Planning Commission agreed that simple and enforceable should be the themes.

VII. OLD BUSINESS

A. Commission Work Plan 2023-2024

The Planning Commission elected to take up this discussion at the July meeting.

B. Master Plan Update

The Planning Commission elected to take up this discussion at the July meeting.

VIII. PLANNING COMMISSION MEMBER COMMENTS – None.

IX. STAFF/CONSULTANT COMMENTS - Chair Larson asked Mr. Joseph about the road adjacent to Hazen St. Mr. Joseph briefed the PC on the status and that the county needs to do some survey work and perhaps some rezoning. And the funding would be through a TIF.

X. ADJOURNMENT – 9:05 PM



Tricia Anderson, AICP, Village Planning Consultant
Planning Commission Recording Secretary

Approved 7/6/23