

**VILLAGE OF PAW PAW  
ZONING BOARD OF APPEALS**

**November 28, 2016**

PRESENT: Chairperson Julie Pioch, Barb Carpenter, Terry Davis, Marcos Flores, Mary Lou Hartwell

ABSENT: None

ALSO PRESENT: Rebecca Harvey, Village Planning Consultant, Sarah Moyer-Cale, Assistant Village Manager and one (1) member of the public.

CALL TO ORDER

Acting Chairperson Carpenter called the meeting to order at 6:02 p.m.

APPROVAL OF AGENDA

The agenda was reviewed and approved as presented.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of the July 11, 2016 Zoning Board of Appeals meeting. Ms. Hartwell moved to approve the minutes as presented. Mr. Flores seconded the motion. The motion carried unanimously.

The Board then considered the proposed minutes of the November 7, 2016 Zoning Board of Appeals meeting. Mr. Flores moved to approve the minutes as presented. Ms. Carpenter seconded the motion. The motion carried unanimously.

PUBLIC COMMENT REGARDING NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

VARIANCE REQUEST – *Greg's Paw Paw Blend*

The next matter to come before the Board was the request of Greg

Wegeler for Variance Approval from the following standard applicable to a proposed 'drive-in restaurant' (Greg's Paw Paw Blend):

: **Section 42-367 (10) a.** – The main and accessory buildings shall be setback a minimum of 60 feet from adjacent rights of way or residential property lines.

The subject site is located at 804 South Kalamazoo Street (Suite #7) and is within the B-2 General Business District

Greg Wegeler, was present on behalf of the application. Referencing a site plan for the project, he provided an overview of the request, noting the following:

: Greg's Paw Paw Blend is located within an existing retail strip center;  
: Special Use Permit was granted on November 3, 2016 for a proposed drive-thru addition on the suite occupied by Greg's Paw Paw Blend;  
: approval was conditioned upon receipt of variance approval from the 60 ft setback requirement applicable to a 'drive-in restaurant',  
: limited by the existing building location (5 ft setback) and in order to provide for adequate vehicular circulation/stacking, a 10 ft building setback from the right-of-way line of Commercial Avenue is proposed.

Harvey reviewed the decision of the Planning Commission, highlighting the findings of the Commission on the Special Use Criteria and the elements of the site plan as they related to the existing building setback, existing driveway locations and on-site circulation objectives.

*(Chairperson Pioch entered the meeting)*

No public comment was offered on the matter.

The Board then proceeded with a review of the variance criteria set forth in Section 42-66, noting the following findings with respect to the variance request:

1. The subject site is a flag-shaped lot and is only 30 ft in depth (from Commercial Avenue) where the drive-thru addition is proposed; the building on the site is existing and is provided a 0 ft setback from Industrial Avenue and a 5 ft setback from Commercial Avenue preventing expansion in compliance with the 60 ft setback requirement.
2. The proposed 10 ft setback for the drive-thru addition is greater than the setback of the existing building (5 ft) on the site and of the commercial buildings on the surrounding lots; existing drive-thru

restaurants located along the major corridor (Kalamazoo Avenue) are provided setbacks of less than the required 60 ft.

3. An increase in the front yard setback requirement of 0 ft in the B-2 District to 60 ft for a *'drive-in restaurant'* is intended to allow for adequate vehicle stacking space for the drive-thru element and related parking lot maneuverability – both of which are offered in the proposed site design and supported through the grant of the Special Use Permit for the addition; driveway visibility will not be minimized by the location of the proposed building addition.
4. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

Chairperson Pioch then moved to grant variance approval from the 60 ft setback requirement applicable to a *'drive-thru restaurant'* on the subject property based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Ms. Carpenter seconded the motion. The motion carried unanimously.

#### UNFINISHED BUSINESS

No Unfinished Business was scheduled for Board consideration.

#### NEW BUSINESS

No New Business was scheduled for Board consideration.

#### MEMBER COMMENTS

No member comments were offered.

#### VILLAGE MANAGER/PLANNING CONSULTANT COMMENTS

No staff comments were offered.

#### ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 6.22 p.m.