

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

June 1, 2015

PRESENT: Chairperson Pioch, Barb Carpenter, Marcos Flores, Wayne Wilhemi (Alternate)

ABSENT: None

ALSO PRESENT: Rebecca Harvey, Village Planning Consultant and five (5) members of the public.

CALL TO ORDER

Chairperson Pioch called the meeting to order at 7:03 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 August 4, 2014 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 – *Dacoba*

The next matter to come before the Board was the request of Tony Dacoba for Variance Approval from the 66 ft minimum frontage requirement established by Section 42-363, Zoning Ordinance. The subject property is located on the east side of South LaGrave Street in the NE ¼ of Section 13 (825/827 LaGrave Street) and is within the R-M Multiple Family District.

Tony Dacoba was present on behalf of the application. He provided an overview of the proposed land division/combination, noting the following:

- Parcel A consists of approximately .7 acres and is provided 0 feet of roadway frontage.
- Parcel A is currently provided access through an existing 33 ft wide easement extending from LaGrave Street.
- Parcel A is proposed to be combined with the parcel immediately adjacent to the northeast.

- Parcel B consists of approximately .42 acres and is provided 0 feet of roadway frontage.
- Parcel B is proposed to be provided access through a 33 ft wide easement extending from LaGrave Street.
- Parcel B is proposed to be combined with the parcel immediately adjacent to the northeast.

Variance approval from the 66 ft road frontage requirement is requested to permit the establishment of a modified Parcel A and a modified Parcel B in that neither will be provided any roadway frontage. He distributed photos of the subject properties.

Mr. Dacoba explained that the 'parent parcel' over which the 33 ft wide access easement is located and the adjacent parcels to the northeast proposed for combination are all family-owned. He explained that Parcels A and B are currently vacant and are proposed for combination with the adjacent parcels so as to increase the buildable area of the adjacent parcels.

In response to Board questions, Mr. Dacoba explained that the buildable area of the adjacent parcels is minimized due to their proximity to the Paw Paw River (ie. topography, wetlands) and that adding land area (Parcels A and B) will improve building options on the properties.

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:

1. The division of the parent parcel that created the subject properties and the subsequent development of same has created the inability to provide the requisite 66 ft of road frontage for the rear parcels and is not generally considered a unique circumstance of the property.
2. The proposal constitutes a minor reconfiguration of existing property boundaries and will not serve to create additional building sites nor change the existing access arrangement to the parcels.

3. The parent parcel will continue to comply with all applicable dimensional requirements; the proposal will not create additional building sites, alter current density patterns, nor change the frontage currently provided to each parcel; the access arrangements to the rear properties will be improved; and, will not create any nonconformities with existing building locations.
4. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

Board members noted that the importance of the findings on Criteria #2, #3 and #4 outweigh the finding that no unique physical circumstance of the property exists.

Ms. Carpenter then moved to grant variance approval from the 66 ft minimum road frontage requirement to allow the proposed land division/combination resulting in two lots that will continue to not be provided any frontage on a public/private road. The variance is granted based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Mr. Flores seconded the motion. The motion carried unanimously.

VARIANCE REQUEST – Village Pharmacy

The next matter to come before the Board was the request of James Clark, representing Village Pharmacy Properties, LLC, for Variance Approval from the following standards of the Downtown Overlay District for the proposed expansion of the Village Pharmacy and related site improvements:

- Section 42-254 A. – 0 ft maximum front yard setback from LaGrave Street
- Section 42-254 A. – 100% building frontage along East Michigan and LaGrave Street
- Section 42-254 E.3. – 60 ft maximum parking lot frontage along East Michigan and LaGrave Street

The subject property is located at 320 East Michigan and is within the Downtown Overlay District.

Ms. Carpenter stated that she will be abstaining from consideration of the request by Village Pharmacy due to a conflict of interest. She explained that she owns property within 300 ft of the subject site. The Board acknowledged Ms. Carpenter's declaration.

(Ms. Carpenter exited the meeting)

Kris Nelson, Schley Architects and Jim Clark and Joe Romph, Village Pharmacy Properties LLC, were present on behalf of the application. Mr. Clark stated that the pharmacy is doing well and has outgrown the existing building. He noted that the proposed development plans were designed pursuant to the recently adopted Downtown Overlay District and that they understand that the project has the ability to serve as a model and stimulant for the area. With that said, Mr. Clark explained the economic need to renovate the existing building rather than to build a new building . . . and the inherent difficulties in meeting some of the design standards of the new district by using the existing building. He stressed the need to offer a drive-thru element at the site.

Mr. Nelson then provided an overview of the project, noting the following:

- the proposed additions will serve to double the size of the building;
- additional property has been obtained from Berkshire to accommodate proposed site improvements;
- the overall floor plan – noting an increase in retail area and the location of the drive-thru element; and,
- use of the building form and façade details to meet the intent of the 2-story and transparency requirements of the DOD.

Mr. Nelson stated that the proposed building expansion and related site improvements will require the following variances:

Section 42-254 A. requires a 0 ft front yard setback from LaGrave Street; a 10 ft setback from LaGrave Street is proposed consistent with the setback of the existing building and in consideration of the existing drive-thru element of the facility.

Section 42-254 A. requires 100% building frontage along East Michigan and LaGrave Street;

- 35% building frontage along East Michigan is proposed to allow side yard parking in conjunction with the Berkshire site design.
- 0% frontage along LaGrave Street is proposed given the proposed 10 ft setback and drive-thru element.

Section 42-254 E.3. allows a maximum 60 ft parking lot frontage along East Michigan and LaGrave Street;

- 61 ft side yard parking lot frontage is proposed along East Michigan
- 73 ft side yard parking lot frontage is proposed along LaGrave Street

He stated that the proposed site improvements will include the closure of three existing driveways; the use of a shared access with Berkshire; and a cross-parking agreement with Berkshire. He noted that the proposed landscape arrangement is designed to create a positive pedestrian realm, especially for pedestrian traffic between the pharmacy and Berkshire properties.

Mr. Nelson summarized that the requested variances are necessary to allow for the continued use of the existing building and to facilitate compatibility of design with the Berkshire site improvements.

No public comment was offered on the matter.

General Board discussion ensued. Chairperson Pioch noted that the Downtown Overlay District employs requirements specific to corner parcels to ensure that corner property is designed effectively. Mr. Nelson stated that the site was designed to consider those 'corner property' objectives through driveway placement and landscaping. He acknowledged the limitations of using the existing building. Chairperson Pioch stated that the subject site is at the end of the Downtown Overlay District and recognized the design logic behind locating the building entrance on the corner closest to Berkshire and providing a transition to the residential land use to the east.

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

1. The existing building location provides the framework for the two building additions; the subject site is on the end of the block - - the proposed building and site design will serve as a compatible transition from the residential building patterns to the east and the downtown building pattern to the west; and, the site design recognizes and is consistent with the adjacent Berkshire site layout.
2. The subject site is on the end of the block - - the proposed building and site design will serve as a compatible transition from the residential building patterns to the east and the downtown building pattern to the west; denial of the setback/frontage variances will prevent use of the existing building; and, as a corner lot, the pharmacy will constitute the only commercial building on the block along LaGrave.
3. The proposed architectural design and building placement along East Michigan is consistent with existing downtown buildings; the site design recognizes and is consistent with the adjacent Berkshire site layout; the proposed site improvements will include the closure of three existing driveways; the use of a shared access with Berkshire; and a cross-parking agreement with Berkshire; and, the proposed landscape arrangement is designed to create a positive pedestrian realm.
4. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

Mr. Flores then moved to grant variance approval from the 0 ft setback

requirement from LaGrave; the 100% building frontage requirement along East Michigan and LaGrave; and, the 60 ft maximum parking lot frontage requirement along East Michigan and LaGrave for the proposed expansion of the Village Pharmacy and related site improvements. The variances are granted based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Mr. Wilhemi seconded the motion. The motion carried unanimously.

(Ms. Carpenter re-entered the meeting)

VARIANCE REQUEST – Maple Lake Assisted Living Facility

The next matter to come before the Board was the request of Leisure Living Management, representing Maple Lake Assisted Living Facility, for Variance Approval from the parking requirements applicable to ‘housing for the elderly’ established by Section 42-404, Zoning Ordinance. The subject property is located at 677 Hazen Street and is within the R-M Multiple Family District.

Neil Kraay was present on behalf of the application. He stated that Phase II of the Maple Lake Assisted Living Facility received Planning Commission approval on May 13, 2015, ‘subject to receipt of variance approval from the parking requirement.’ He provided an overview of the request, noting that the Ordinance requires the establishment of 109 parking spaces for build-out of the facility. Specifically, 1 parking space per 600 sq ft of gross floor area is required - or 109 parking spaces are required for the proposed 60,415 sq ft total floor area for Phases I, II and III.

Mr. Kraay noted that a total of 66 parking spaces is proposed to serve the facility at build out. He explained that 36 spaces were provided with Phase I and an additional 30 spaces are proposed to be established with the development of Phase II. He detailed the following parking proposal:

Phase I	26 units	41 spaces required	36 spaces provided
Phase II	20 units	40 spaces required	30 space proposed
Phase III	22 units	28 spaces requires	
		109 space required	66 space proposed

Mr. Kraay stated that they desire to provide adequate parking but can report that Phase I only currently uses approximately one half of the established parking spaces. He noted further that Phase II will constitute largely ‘memory care’ units and will primarily only require parking for visitors and staff.

In response to Board questions, Mr. Kraay explained that Phase II will consist of 14 memory care units and 6 independent care units; Phase III will be

all assisted-living units. He noted that the adjustments made to the size of the phases since the approval of Phase I are not a result of larger buildings or more units but rather a resizing of the units within each phase.

Mr. Kraay added that current industry standards suggest the provision of one parking space per unit. He suggested that such a parking ratio would be found in most communities developed today. He added that a review of the parking situation could be employed during site plan review of Phase III to confirm that parking demand is being met.

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:

1. The site plan does not reveal any unique physical circumstances of the property preventing compliance.
2. A *'senior citizen apartment'* development containing 68 units in the R-M District would be allowed and would only require the provision of 68 parking spaces (1 space/dwelling unit); and, pursuant to representations by the applicant, the parking standards applicable to *'housing for the elderly'* are not representative of typical parking demand related to such a use.
3. The proposed parking reduction will serve to reduce the paved area on the site and provide additional green space for storm water management; the proposed parking reduction is based upon the applicant's demonstrated parking demand; and, *'assisted living facilities'* may not be well-represented by the older parking standards typically applied to senior citizen care facilities.
4. In recognition of the potential inconsistency between the parking standard and typical parking demand related to *'housing for the elderly'*, an amendment of the parking standard should be considered.

Board members noted that the importance of the findings on Criteria #2, #3 and #4 outweigh the finding that no unique physical circumstance of the property exists.

Chairperson Pioch then moved to grant variance approval from the parking requirement applicable to *'housing for the elderly'* to allow the proposed establishment of 66 parking spaces to serve the 68 units of the proposed facility. The variance is granted based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Mr. Flores 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

Ms. Carpenter inquired as to the status of the November 4, 2013 minutes. Specifically, she noted that the attorney representing the application considered on November 4, 2013 had requested that approval of the minutes be postponed so as to delay the start of the 21-day appeal process until after the Planning Commission had the opportunity to resolve the applicant's matter legislatively (text amendment request). She stated that the Board had acquiesced and postponed action on the minutes. . but believes they were never rescheduled for consideration.

Board members agreed that the November 4, 2013 minutes were ready for approval. Chairperson Pioch then moved to approve the minutes of the November 4, 2013 minutes as presented. Ms. Carpenter seconded the motion. The motion carried unanimously.

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 8:50 p.m.