

**OSHEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A VIRTUAL MEETING HELD DECEMBER 16, 2021

Agenda

PUBLIC HEARING: Home Occupation, Paw Paw Upholstery

The owners of Paw Paw Upholstery were requesting Special Use Approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. The home occupation was proposed to take place entirely within an existing accessory building on-site.

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, December 16, 2021, commencing at approximately 6:00 p.m.

<u>MEMBERS PRESENT:</u>	<u>MEETING LOCATION</u>
Bruce VanderWeele, Chair	Oshtemo
Micki Maxwell, Vice Chair	Oshtemo
Kizzy Bradford (joined late)	Oshtemo
Deb Everett	Oshtemo
Alistair Smith	Oshtemo
Chetan Vyas	Oshtemo

MEMBER ABSENT:

Anna VerSalle

Also present were Iris Lubbert, Planning Director, Colten Hutson, Zoning Administrator, Jim Porter, Township Attorney, Martha Coash, Recording Secretary and guest Todd Kocian, Owner of Paw Upholstery.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m. and those in attendance joined in reciting the Pledge of Allegiance.

Approval of Agenda

Hearing no changes, the Chair let the agenda stand as published.

Approval of the Minutes of the Meeting of November 18, 2021

The Chair asked if there were additions, deletions, or corrections to the Minutes of the Meeting of November 18, 2021. Hearing none, he asked for a motion.

Mr. Smith **made a motion** to approve the Minutes of November 18, 2021, as presented. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Mr. Hutson for his report.

PUBLIC HEARING: Home Occupation, Paw Paw Upholstery

The owners of Paw Paw Upholstery were requesting Special Use Approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. The home occupation was proposed to take place entirely within an existing accessory building on-site.

Mr. Hutson reported the owners of Paw Paw Upholstery were requesting Special Exception Use approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. The Home Occupation was proposed to take place entirely within an existing accessory building on-site. Paw Paw Upholstery is a furniture repair and upholstery business located at 166 S Kalamazoo Mall in Kalamazoo. It provides custom upholstered furniture, consignment, re-upholstering, home decorating accessories, pillows, window coverings, blinds, sun-room and outdoor cushions. The proposed home occupation entails the manufacturing component of Paw Paw Upholstery's business operations; specifically, the processing of furniture.

He said Home Occupations are a permitted use in the R-2: Residence District subject to the regulations in Section 48.60 of the Zoning Ordinance. If the use satisfies the criteria in Section 48.60, it is permitted and no approvals from a reviewing body are necessary. However, if the home occupation exceeds the stated criteria in Section 48.60, the applicant may request a Special Exception Use approval from the Planning Commission through Section 49.120 of the Zoning Ordinance which provides some flexibility to home occupations. In this instance, the home occupation criteria in Section 48.60 does not allow for accessory buildings to be used as part of a Home Occupation. However, Section 49.120 of the Zoning Ordinance identifies the use of an accessory building for a home occupation as a standard that can be exceeded through the Special Exception Use process, provided that all other requirements mentioned therein are met.

Mr. Hutson indicated the subject property is zoned R-2: Residence District. Uses permitted in the R-2: Residence District are outlined in Article 7 of the Township's Zoning Ordinance. Home Occupations are a permitted use, as long as they meet the requirements of Section 48.60. Home Occupations which take place within an accessory building are identified as a Special Exception Use by Section 49.120. When reviewing a Special Exception Use, there are two sets of criteria that need to be considered: 1) the general Special Use review criteria outlined in Section 65.30, and 2) the specific requirements for the use in question outlined under Section 49.120. He provided an analysis of the proposal against these two Sections and indicated the proposal satisfied all requirements.

Mr. Hutson said Planning Department staff recommended approval of the proposed Special Exception Use for the home occupation at 6335 Killington Drive with the following conditions.

1. The upholstery workshop for Paw Paw Upholstery shall be conducted within the existing accessory building on-site. At no point shall that upholstery workshop utilize more than 500 square feet in area within the accessory building.
2. The number of nonresident employees working on-site shall not exceed one (1) at any one time.
3. All other requirements stated within Section 48.60.A of the Township Ordinance shall be met at all times. If any complaints are received and verified by the Township regarding the subject home occupation that violate the other requirements of Section 49.60 this approval will be voided; the Home Occupation will cease immediately and become an Ordinance Enforcement matter to resolve.
4. The home occupation shall only operate between the hours of 7:00am and 7:00pm.
5. The incidental residential activities shown on the floor plan shall be permitted.

He noted the owner was present. Two communications were received prior to distributing the meeting packet and were enclosed with same. Five more written public comments were received from neighbors after the packet was distributed. He indicated he would read all seven during the public comments section of the agenda.

Chairperson VanderWeele thanked Mr. Hutson for his presentation and asked if Commissioners had questions for him. There were no questions.

Mr. Kocian, the owner, had no comments.

The Chair moved to Public Hearing and Mr. Hutson read the seven written comments in their entirety from neighbors. All seven were in opposition to approval of the special use request, citing a number of reasons, including questioning the applicant's representation of the current number of employees listed, increase in traffic, the desire to limit the neighborhood to residences, a decrease in the quality of life, the precedent that may be set for future home business requests, the large number and size of parties and events held on site and whether they may be business related, unsafe conditions from parking vehicles on the street and possible increases in noise. All seven written comments are appended to these Minutes.

Mr. Bob Samples, 1792 Killington Drive, spoke expressing his concerns regarding extra traffic. He noted the high density of trees in the neighborhood, except for this property, and noted there is no fence around the swimming pool.

As there were no further comments, Chairperson VanderWeele closed the Public Hearing and moved to Board Deliberations.

Ms. Everett asked what the enforcement history was for complaints and how the applicant knew a special exemption was needed for Home Occupation.

Ms. Lubbert explained there is a history of concern related to parties and events at this site. A follow up indicated the parties and events were family gatherings. During inspection it was found upholstery business was being conducted, which triggered this Special Use Approval Request.

Mr. Vyas was concerned that the home business would increase traffic, which could cause accidents and be dangerous for neighborhood children. The Township does not have the means to police activity, and he felt the residential character of the neighborhood would be destroyed.

Ms. Maxwell asked what the difference is between commercial and home businesses.

Attorney Porter said Home Occupation businesses should not be noticeable and should have a minimum effect on the neighborhood. The Ordinance says what *shouldn't* be, a nuisance, for example. The activity originally took place in the house. Now that it is occurring in the accessory building it becomes a special use. It has to be harmonious and minimal. He said he is troubled by the factual statements brought forward regarding the number of people working at the site.

Ms. Lubbert said the pertinent Ordinance is 48.60, which outlines regulations for Home Occupation businesses. She reiterated that they are required to blend in, not stand out, and not increase traffic. She said she also is concerned by the received public comments. She noted Commissioners have the authority to add conditions if the request is approved.

Attorney Porter said the current traffic and number of employees should be considered first before considering the accessory building. There are specific, concrete examples of how the Ordinance has not been complied with for a number of years in the letters received, which is very serious.

Ms. Lubbert asked if Mr. Kocian wanted to speak to these issues.

Mr. Kocian indicated they do have additional employees during busy periods and confirmed business has taken place on site for some time now. He said due to the crumbling driveway that parking has had to take place on the street. A new parking area is being developed on the property and there has been traffic from workers who are addressing that as well as new siding and landscaping. The Cadillac cited in some of the neighbor comments belongs to his wife's mother who visits often. The frequent large parties and events referred to are strictly family related. A fabric delivery van stops by about once a month. They have two employees, one that lives on the premises and another who drives a truck.

Ms. Lubbert said the employees as described meet 49.120 Ordinance requirements. Non-resident employees cannot exceed one on site at any time; what is being done currently meets the requirement.

Mr. Kocian addressed the concern expressed in one letter regarding advertising their business, saying he had utilized the neighborhood website in the past when he was not aware that the Ordinance prohibited that; he no longer advertises there. He said additional traffic is from family coming to visit and to use the swimming pool. In 2019 the accessory building was started; it was completed at the end of 2020. Landscaping work and the area around the pool required materials delivery and construction in the last couple of years.

He reiterated the parties held are for family and involve no catering. All three of their children held weddings on the property. The new parking area developed can accommodate 10 cars in order to get them off the street. Next spring the siding on the house will be replaced to match the accessory building. When they purchased the house, it was abandoned. Work to improve it has been a five-year project.

He said the accessory building allows them to safely transport large furniture rather than having to carry it around the back of the house and down the stairs to the basement. They have had more business during Covid than in the past.

Mr. Kocian said before constructing the accessory building, he received partial information from Township staff, but that Ordinance violation is his fault.

Ms. Maxwell noted more than several people in the neighborhood have noticed things not typical of a home business which is a big concern for her.

Mr. Smith said the number of letters of concern received regarding this application are the most received for a request since he has been on the Commission. He did not believe the request should be granted as it would set a precedent. This type of operation was not meant to be a Home Occupation Business.

Mr. Vyas agreed with Mr. Smith.

Ms. Everett said this was a tough call. Previously only the primary dwelling was permissible for use. She felt that to be too restrictive, especially during Covid when more people have been working from home. She does not want to discourage business. The Ordinance is trying to give a little leeway with accessory buildings, and it is necessary to be cognizant of needs. She asked Attorney Porter to comment on calls from people regarding traffic.

Attorney Porter said the comments from residents in this instance are much more concrete and specific than we normally hear. He said Commissioners have to base their decision on everything they have heard to determine whether the home business can be harmonious with the neighborhood.

Ms. Maxwell said although it seems like parties are the bigger issue, she is worried about discrepancies regarding employee numbers though working from home during Covid is a factor. She said she was conflicted.

Ms. Bradford indicated she was conflicted as well but was considering the traffic issue, safety and impact on the neighbors.

Chairperson VanderWeele said Commissioners need to focus on the business and the Ordinance and asked for a motion.

Mr. Smith **made a motion** to deny the request from the owners of Paw Paw Upholstery for Special Use Approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. Mr. Vyas **seconded the motion**. The **motion was approved** 4 – 2 by roll call vote, with Ms. Bradford and Ms. Everett dissenting.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Hearing no public comments, the Chair moved to the next agenda item.

OTHER UPDATES AND BUSINESS

Ms. Lubbert noted this was the last meeting of the Planning Commission for 2021. The State regulation is no longer in effect to allow virtual meetings as of January 1, 2022. The plan is to meet in person in January with a virtual component for audience attendees. Commissioners must attend in person. She will let everyone know if there are any changes to that requirement.

ADJOURNMENT

With no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 7:21p.m.

Minutes prepared:
December 18, 2021

Minutes approved:
February 24, 2022