



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
269-216-5220 Fax 375-7180 TDD 375-7198
www.oshtemo.org

**NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

REGULAR MEETING – VIRTUAL

Participate through this Zoom link:
<https://us02web.zoom.us/j/84105443029>

Or by calling: 1-929-205-6099
Meeting ID: 841 0544 3029

(Refer to the www.oshtemo.org home page or the third page of this packet for additional virtual meeting information)

**THURSDAY, DECEMBER 16, 2021
6:00 P.M.**

AGENDA

- a) Call to Order
- b) Roll Call and Remote Location Identification
- c) Pledge of Allegiance
- d) Approval of Agenda
- e) Approval of Minutes: November 18th, 2021
- f) **Public Hearing – Home Occupation, Paw Paw Upholstery**
The owners of Paw Paw Upholstery are requesting Special Use approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. The home occupation is proposed to take place entirely within an existing accessory building on-site.
- g) Public Comment
- h) Other Updates and Business
- i) Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Libby Heiny-Cogswell	216-5220	libbyhc@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Clare Buszka	216-5221	cbuszka@oshtemo.org
<u>Trustees</u>		
Cheri L. Bell	372-2275	cbell@oshtemo.org
Kristin Cole	375-4260	kcole@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Kizzy Bradford	375-4260	kbradford@oshtemo.org

Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Mark Barnes	375-0487	mbarnes@oshtemo.org	
<u>Ordinance Enf:</u>			
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org	
<u>Parks Director:</u>			
Karen High	216-5233	khigh@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Iris Lubbert	216-5223	ilubbert@oshtemo.org	
<u>Public Works:</u>			
Marc Elliott	216-5236	melliott@oshtemo.org	

Zoom Instructions for Participants

Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 11-digit Meeting ID.

To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this **Meeting ID: 841 0544 3029**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet, or smartphone then you can join via conference call by following instructions below.

To join the conference by phone:

1. On your phone, dial the teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **841 0544 3029#**

Participant controls in the lower-left corner of the Zoom screen:



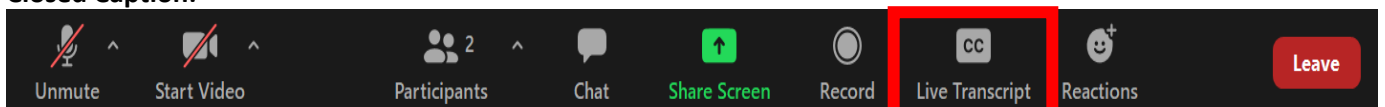
Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press *9 on your touchtone keypad.**

Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.

Closed Caption:



Turn on Closed Caption:

Using the icons at the bottom of the Zoom screen:

1. Click on the “Live Transcription” button.
2. Then select “Show Subtitle”.

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**OSHEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

DRAFT MINUTES OF A VIRTUAL MEETING HELD NOVEMBER 18, 2021

Agenda

Introductions and 5G Ordinance Kick Off

2022 Meeting Dates

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, November 18, 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

MEMBERS ABSENT:
Anna VerSalle
Chetan Vyas

Also present were Iris Lubbert, Planning Director (joined late), Josh Owens, Assistant Supervisor, Martha Coash, Recording Secretary and guests Paul Lippens, Chris Khorey and Kyle Mucha of McKenna Planning.

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 October 14, 2021

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of October 14, 2021. Hearing none, he asked for a motion.

Mr. Smith **made a motion** to approve the Minutes of October 14, 2021, as presented. Ms. Everett **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Mr. Lippens of McKenna, the firm selected as consultant for professional planning services, to introduce members of his team and describe the 5G Ordinance development kick off.

Introductions and 5G Ordinance Kick Off

Mr. Paul Lippens, Vice President and Director of McKenna's Kalamazoo Studio introduced members of the team: Mr. Chris Khorey, Senior Principal Planner and Mr. Kyle Mucha, Associate Planner and 5G/wireless expert.

Mr. Lippens indicated they are excited to have been selected as consultants and that the first project they will work on is development of ordinance for 5G. He will act as Community Manager and Project Manager for Ms. Lubbert.

He provided a brief history of the firm, their commitment to provide the best assistance possible, and noted they have established a good rapport with Ms. Lubbert and her team already.

Mr. Khorey indicated he has worked on 5G and wireless projects for over 10 years and was proud of the long history he has of working with Oshtemo Township on planning issues. He walked through the steps that would be followed:

1. Inventory of Existing Facilities and Wireless Communications Service
2. Review of Existing Township Ordinances and Policies
3. Public Outreach Materials
4. Determination of Target Upgrade Sites
5. Drafting of 5G Ordinance
6. Optional Non Regulatory Broadband Policy

The project is expected to be completed in an eight-month timeline. They will need to advocate for rural funding with increased governmental dollars becoming available

In response to questions from Mr. Smith and Ms. Maxwell, Mr. Khorey explained 5G provides faster, better service and that the infrastructure is smaller with more frequent sites. No more 200 foot towers will be built, but current ones will continue to be utilized. 5G operates with small cells 40 – 60 feet in height, antennas on telephone poles. As signal strength and locations are smaller than what is currently available, more locations are needed. As the private sector has largely built what they feel will be profitable, it is now governmental units that are building to serve rural areas.

Ms. Everett, noting the eight month timeframe for developing a 5G ordinance, wondered what might happen in the meantime if someone wants to build now.

Mr. Khorey said there is ordinance in place currently which Ms. Lubbert will administer as best she can. It is designed around older technology with the goal of limiting 200 foot towers. The new ordinance will aim to fix and mesh with it . As will no longer be so tied since wireless cannot be prohibited in any zoning district. Things such as electricity, wired phone service, water and sewer are considered essential services, and so in most ordinances whatever is needed is allowed to provide them. Wireless is not considered an essential service; regulations that keep up with the times are needed.

Commissioners appreciated the kick off information were excited to move ahead.

Mr. Khorey indicated the first stage of analysis will begin after Thanksgiving.

Ms. Lubbert said the first report from McKenna on progress would likely be in January at the earliest. In general, reports are done during the first PC meeting of the month. She indicated as the contract has been executed and signed, there was no need for a motion to proceed.

The Chair moved to the next agenda item.

2022 Planning Commission Meeting Dates

Ms. Lubbert provided the following draft of 2022 meeting dates in the usual pattern, for the second and fourth Thursdays of every month at 6 p.m. for consideration:

<i>2nd Thursday of the Month</i>	<i>4th Thursday of the Month</i>
1/13	1/27
2/10	2/24
3/10	3/24
4/14	4/28
5/12	5/26
6/9	6/23
7/14	7/28
8/11	8/25
9/8	9/22
10/13	10/27
No meeting	11/17*
No meeting	12/15*
1/12/2023	1/26/2023

*Dates shifted to avoid holidays or for consistency with the Development Schedule of Applications.

Ms. Everett **made a motion** to approve the 2022 Planning Commission Date Schedule as proposed. Mr. Smith **seconded the motion**. The **motion was approved** unanimously by roll call vote.

PUBLIC COMMENT ON NON-AGENDA ITEMS

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

OTHER UPDATES AND BUSINESS

There were no updates or other business.

ADJOURNMENT

With no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:34 p.m.

Minutes prepared:
November 19, 2021

Minutes approved:
_____, 2021

December 10, 2021



Mtg Date: December 16, 2021

To: Oshtemo Township Planning Commission

From: Colten Hutson, Zoning Administrator

Applicant: Chris King, Paw Paw Upholstery

Owner: Todd Kocian

Property: 6335 Killington Drive, Parcel Number 05-11-451-050

Zoning: R-2: Residence District

Request: Special Exception Use to allow a home occupation within an accessory building.

Section(s): Section 49.120: Home Occupation

PROPOSAL:

The owners of Paw Paw Upholstery are requesting Special Exception Use approval to establish an upholstery workshop as a home occupation at 6335 Killington Drive, their primary residence. The home occupation is 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. The company 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. The property under consideration is outlined in light blue on the aerial image above.

OVERVIEW:

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, the use 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.

ANALYSIS:

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. Below is an analysis of the proposal against these two Sections.

Section 65.30: Special Use Review Criteria

A. Master Plan/Zoning Ordinance: The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.

The Township’s Future Land Use Plan categorizes this area between N 9th Street and N 10th Street as *Low Density Residential*. This category represents a majority of the neighborhoods in the Township. Low Density Residential is single-family residential in nature. Home occupations that are permitted by the ordinance are incidental and subordinate to a residential use, blend into residential neighborhoods, and fall within an acceptable threshold of nonresidential activity. Home occupations are an allowable use within the R-2: Residence District. A home occupation that meets the criteria of the ordinance would meet the intent of the Township Master Plan’s Low Density Residential designation. The proposed home occupation, as presented, meets ordinance criteria.

B. Site Plan Review: The Site Plan Review Criteria of Section 64

An engineered site plan is not required for a proposed home occupation and therefore this criterion is not applicable. However, a plan showing the general layout of the site under consideration has been provided. The subject property is a one-acre lot located on the south side of Killington Drive within an approved subdivision. The single-family home and detached structure onsite meet all site development standards. The existing principal building on-site is approximately 3,616 square feet and accessory building on-site is approximately 1,200 square feet.



C. Impacts:

- 1. The proposed use would be compatible, harmonious and appropriate with the existing or planned character and uses of adjacent properties; meaning the proposed use can coexist with neighboring uses in a stable fashion over time such that no neighboring use is unduly negatively impacted.**

The proposed home occupation at 6335 Killington Drive is located within the residential zoning classification of R-2: Residence District. The properties surrounding the subject site are all single-family homes and share the zoning designation of R-2: Residence District. The existing single-family home on-site is a permitted use by right within the R-2: Residence District and a home occupation is a permitted subordinate use.

The proposed home occupation is for an upholstery workshop within the accessory building on-site that would service the production aspect of Paw Paw Upholstery. The detached structure is located behind the primary residence, 30 feet from the eastern property line, 50 feet from the rear property line, and over 100 feet from the western property line.

Upholstery is the work of providing furniture, especially seats, with padding, springs, webbing, and fabric or leather covers. The applicant outlines their business model in their letter of intent. To summarize, customers meet staff at the Paw Paw Upholstery storefront to choose fabrics and arrange the upholstery work they require. The furniture is then picked up from the customer and delivered to the workshop to be processed. The finished furniture is then returned to the customers where the final payment is made. No transactions for

payment occur at the subject property; no customers will come to the site. Aside from deliveries, the entire proposed home occupation will be within the accessory structure and will have no outwardly presence.



- 2. Potentially adverse effects arising from the proposed use on adjacent properties would be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.**

Staff does not foresee a significant impact from the proposed home occupation on neighboring properties. The proposed upholstery workshop would be established within an existing detached building on the property that is completely enclosed. No impervious surfaces will be added to the site. No portion of the accessory building will be any closer to adjacent property lines than it already is. The minimum building setbacks have been met

and there is adequate parking through the existing attached garage and residential driveway. Existing entrances on the site will not change and will continue to be used in a similar fashion. The proposed use will not physically change the site.

3. The proposed use would not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, or visual clutter.

Staff does not anticipate that the proposed upholstery workshop will generate such negative impacts on adjacent properties. The applicant detailed that the main equipment that would be used for the proposed upholstery workshop's day to day operations are two commercial style sewing machines, a three-gallon air compressor, and staplers. The applicant also mentioned that only hand tools are involved when removing any old upholstery and that no power tools are used in this process. The letter of intent provided by the applicant highlighted that the home occupation will not be detrimental to the health and safety of the community through similar events described above and that the proposed home occupation will conform with code requirements.

In the letter of intent, the applicant elaborates that they will use their personal vehicle to transport furniture to and from customers when completed. No commercial vehicles will be coming to or leaving the subject property address in relation to the proposed home occupation for the upholstery workshop. However, the applicant did indicate that there are "helpers" who assist them with loading and unloading furniture for



pickups/deliveries once or twice a week. To minimize the presence of the home occupation, staff recommends that the Planning Commission consider imposing restrictions to the hours of operation for the home occupation and deliveries for it.

D. Environment: The natural features of the subject property shall only be cleared or altered to the extent necessary to accommodate site design elements, particularly where the natural features assist in preserving the general character of the area.

The subject property is already developed. The proposed home occupation would be located within an existing accessory building on-site. For this reason, there will be no impact to any of the natural features on the subject property. All existing trees, shrubbery, and landscaping will be preserved as the overall character of the site will remain unchanged as it relates to the home occupation in question.

- E. Public Facilities: Adequate public and/or private infrastructure and services already exist or would be provided, and will safeguard the health, safety, and general welfare of the public.**
 The principal building located at 6335 Killington Drive is adequately serviced by public water and an on-site sewage treatment system. There was no indication of any sanitary facilities within the accessory building on the floor plan provided by the applicant. The proposed use will not create an additional burden to the infrastructure system.

- F. Specific Use Requirements: The Special Use development requirements of Article 49.**
 See evaluation under Section 49.120.

Section 49.120: Home Occupation

- A. The Planning Commission may authorize as a Special Use, a Home Occupation which departs from the criteria stated in Section 48.60.A.2,4, and/or 6; provided, however, that any Home Occupation so authorized shall meet the following conditions:**

- 1. **All other criteria stated in Section 48.60.A, shall be met.**

All other requirements stated within Section 48.60.A have been met. The proposed home occupation will be operated entirely within an enclosed structure, will be conducted by the persons occupying the premises, no goods will be sold from the premises, and there will be no outdoor storage, displays, and/or signage. There will be no exterior evidence to indicate the presence of the home occupation. No commercial vehicles will be entering or leaving the property.

- 2. **All applications for Special Use shall include a statement setting forth a detailed description of the proposed Home Occupation(s), its location, and purpose(s) for which the proposed or existing accessory building, if any, will be used.**

A letter of intent has been provided outlining the proposed home occupation.
 Requirement satisfied.

- 3. **The number of nonresident employees working on-site cannot exceed one (1) at any one time.**

The owners of the property, who also own Paw Paw Upholstery, do have one employee that will assist with the operations of the home occupation; said employee currently resides at 6335 Killington Drive. However, it was noted that this individual may move out in the future but continue to assist – in which case this requirement would apply.
 Requirement satisfied.

- 4. **Operation of a Home Occupation within a completely-enclosed accessory building subject to Site Plan review and approval by the Planning Commission and the following limitations:**

Area of Property	Area of Accessory Building utilized for Home Occupation
From 1 to 1.99 acres	Up to 500 square feet
Note: In no case shall the area of the accessory building utilized for the Home Occupation exceed the interior gross floor area of the dwelling.	

The property in question is one-acre in area. The area in which the home occupation will cover within the accessory building will be approximately 420 square feet. The total

gross floor area of the dwelling on-site exceeds the area being utilized for the home occupation. Requirement satisfied.

a. Use of an accessory building is limited to property containing a single or two-family dwelling.

A single-family home has been developed on the subject property. Requirement satisfied.

b. All applications requiring Site Plan review shall include a drawing to scale of the subject property, containing the following information:

i. A north arrow and graphic scale.

Requirement satisfied.

ii. All property lines and their dimensions.

Requirement satisfied.

iii. Building setbacks from property lines.

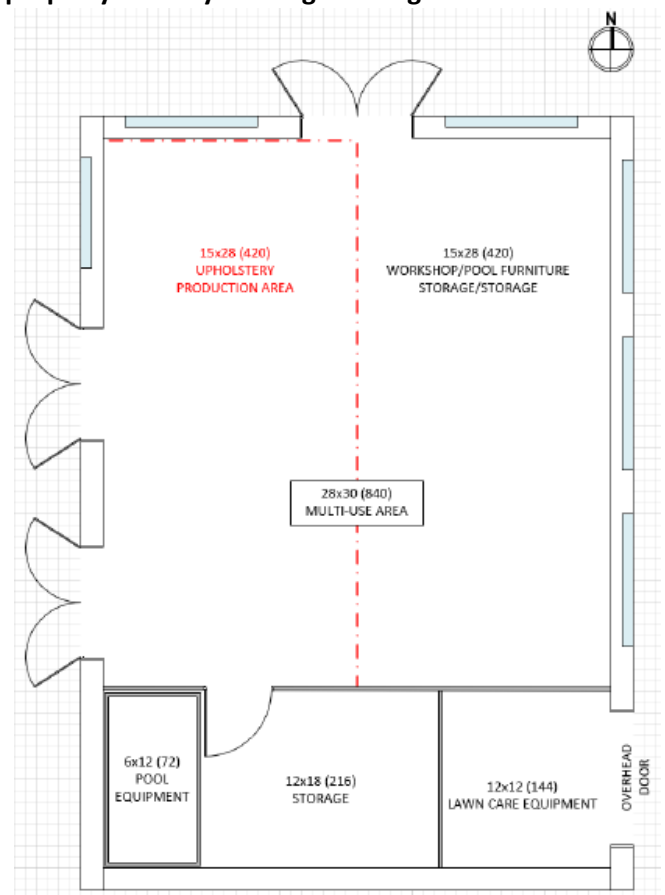
Requirement satisfied. The detached structure in which the home occupation is proposed is located behind the primary residence, 30 feet from the eastern property line, 50 feet from the rear property line, and over 100 feet from the western property line.

iv. Location and dimensions of all existing and proposed structures (including height of all proposed accessory buildings) on the subject property and any existing buildings on adjacent properties within 50 feet of the subject property boundaries.

Requirement satisfied.

c. No accessory building allowed pursuant to this subsection shall be used for a purpose other than that approved by the Planning Commission.

A floor plan of the 1,200 square foot accessory building has been provided by the applicant. A snapshot of the floor plan is shown in the image to the right. The floor plan consists of several different spaces, including 420 square feet for the upholstery production area, 420 square feet for a personal workshop and pool furniture storage, 72 square feet for pool equipment, 216 square feet for



storage, and 144 square feet for lawn care equipment.

d. If the Planning Commission reviews the Site Plan for an accessory building, it is not subject to review by the Zoning Board of Appeals.

Requirement satisfied. Note – the accessory building itself received a building permit from the Township on August 06, 2019.

B. To ensure harmonious relationships and to minimize conflicts between adjacent uses, the Planning Commission shall consider the characteristics of the proposed Home Occupation and/or accessory building in relation to the following: the purpose and intent of this Ordinance, size of property, size of dwelling, proposed location on the property, existing land uses in area, and future land uses as reflected in the Master Land Use Plan. The Planning Commission may attach requirements to such Home Occupation and accessory building when it deems necessary to avoid or mitigate adverse impacts on surrounding properties which may include, but is not limited to, a reduction in the size of the building and increased setback requirements.

The above information has been presented in this staff report along with the letter of intent and supplemental documentation submitted by the applicant. The Planning Commission may elect to add or amend the conditions of approval. The Planning Commission, for example, may elect to limit deliveries to once a week.

RECOMMENDATION:

Planning Department staff recommend the 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.

Attachments: Application, Letter of Intent, Site Plan, Floor Plan, Elevations, and Public Comment.

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7275 W. Main Street, Kalamazoo, Michigan 49009-9334
 Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS Upholstery Workshop 6335 Killington Drive

PLANNING & ZONING APPLICATION

Applicant Name : Chris King
 Company Paw Paw Upholstery
 Address 6335 Killington Drive
Kalamazoo, MI 49009
 E-mail pawpawupholstery@aol.com
269.998.3243
 Telephone _____ Fax _____
 Interest in Property 50%

THIS
 SPACE
 FOR
 TOWNSHIP
 USE
 ONLY

Fee Amount _____
 Escrow Amount _____

OWNER*:

Name Todd Kocian
 Address 6335 Killington Drive
Kalamazoo, MI 49009
 Email todd.kocian@gmail.com
 Phone & Fax 269.330.2591

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- | | |
|--|---|
| <input type="checkbox"/> Planning Escrow-1042 | <input type="checkbox"/> Land Division-1090 |
| <input type="checkbox"/> Site Plan Review-1088 | <input type="checkbox"/> Subdivision Plat Review-1089 |
| <input type="checkbox"/> Administrative Site Plan Review-1086 | <input type="checkbox"/> Rezoning-1091 |
| <input checked="" type="checkbox"/> Special Exception Use-1085 | <input type="checkbox"/> Interpretation-1082 |
| <input checked="" type="checkbox"/> Zoning Variance-1092 | <input type="checkbox"/> Text Amendment-1081 |
| <input type="checkbox"/> Site Condominium-1084 | <input type="checkbox"/> Sign Deviation-1080 |
| <input type="checkbox"/> Accessory Building Review-1083 | <input type="checkbox"/> Other: _____ |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): _____

Pursuant to Zoning Ordinance section 49.120 we request a special use exception of an accessory building. Please see attached for detailed description.

LEGAL DESCRIPTION OF PROPERTY *(Use Attachments if Necessary)*:
LOT 424, WEST PORT PLAT NUMBER 11, ACCORDING TO THE RECORDED PLAT THEREOF,
AS RECORDED IN LIBER 36 OF PLATS, PAGE 17, KALAMAZOO COUNTY RECORDS

PARCEL NUMBER: 3905- 11-451-050

ADDRESS OF PROPERTY: 6335 Killington Driv, Kalamazoo 49009

PRESENT USE OF THE PROPERTY: Residential

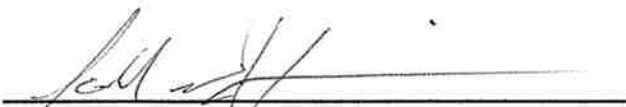
PRESENT ZONING Residential **SIZE OF PROPERTY** 1 Acre

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
_____	_____
_____	_____

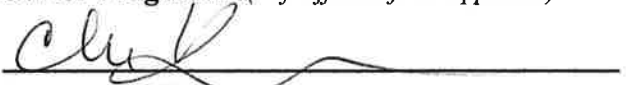
SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.



Owner's Signature (* If different from Applicant)

10/24/2021
Date



Applicant's Signature

10-26-2021
Date

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

Planning Commission
Oshtemo Charter Township
7275 W. Main Street, Kalamazoo, Michigan 49009-9334

Chris King
Paw Paw Upholstery
6335 Killington Drive, Kalamazoo MI 49009-8007

Regarding the attached violation, I request a special use exception pursuant to the procedure outlined in Zoning Ordinance Article 48, Section 48.60, Part B.

“B. The Planning Commission may authorize as a Special Use, Home Occupations which depart from the criteria stated in Section 48.60.A.2,4, and/or 6 above per Section 49.120.”

We built this “accessory building” via building permit PB19-05-0405 beginning in 2019, specifically for use as a workshop, and it has been used as such since its completion in August of 2020. In a good faith effort to comply with local ordinances prior to applying for the permit, I did call the township offices and apparently was told only a portion of the full ordinance requirements. At the time, I was not aware these were available on-line to the public.

Though I have no record of the conversation and to whom I spoke, I was told [in brevity] that we “are allowed to operate a home-based business, but are allowed only one nonresident employee.” I fully admit, I should have obtained this permission in writing or followed up a little further to verify the specific ordinances.

On 8 September 2021, we were presented with zoning violation EN21-05-0326, stating that the use of the accessory building as part of a home occupation was not permitted which also cited several inaccuracies and assumptions. I am only pointing out these inaccuracies as I want to make sure they are not considered as part of this application.

1. The building is used for a workshop only. I have 1 employee, who is also a resident of our home. We do not run a commercial business out of the accessory building. No money exchanges hands and there are no customers on site.
2. The agent also *assumed* the “unknown female” on site was a customer. She is actually a resident of the home, Brenda Maxam, my sister.
3. Also, the complaint states a complaint was received that we were running a business from the home, which is inaccurate. The initial complaint as I was told was due to a vehicle we had for sales that was sitting on the road with a deflated tire.

There was also mention of the “Activity at the home” being of concern. Yes, we entertain frequently. At times we have a large group of guests, not uncommon to most homes with a pool I would imagine. For the agent to assume this was in connection with the business is just that, an assumption, not fact.

Sometimes, we host children’s birthday parties which can get a bit noisy as kids are generally noisy, however we make sure to keep this noise to a minimum. All music and most outdoor activities are shutdown by 9PM at the latest. In fact, I submit that we generate less noise than the incessant buzz created by leaf blowers at nearby homes. We make every effort to be respectful and have posted in the neighborhood Nextdoor Website prior to larger events, giving warning & providing a means to respond and/or contact us as needed.

As for the business, I have been operating this business for the last 32 years in and around the Kalamazoo area (Paw Paw, Mattawan and Kalamazoo). I have a storefront at Kalamazoo Kitty’s retail store in Portage where my customers engage my staff, choose fabrics and arrange the upholstery work they require. Partial payment is made at that time in the form of a deposit.

I then pick up their furniture from their home and/or office and deliver it to my workshop at Killington Drive where the furniture is processed. The finished furniture is then returned back to the customer’s home and/or office where final payment is made, or they are billed electronically for the remaining balance.

Referring to the requirements outlined in section 48.60, my only departure falls under sub-section 2:

2. Shall be operated in their entirety within the dwelling and/or within an attached garage and not within any detached garage or accessory building located upon the premises.

From sub-section 8; We do not conduct business activities "upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by means of vibrations, noise, smoke, odor, dust, dirt, fumes, glare, heat, electrical disturbance, lighting, or the creation of vehicular traffic in excess of what is characteristic of the area. Vibrations, noise, smoke, odor, dust, dirt, fumes, glare, heat, electrical disturbance, or the source of lighting is not discernible beyond the boundaries of the property from which the occupation is conducted.". We Also do not "use and/or store hazardous materials in excess of quantities customary to a residential dwelling."

There is no outdoor activity, storage, and/or displays or signage indicating the presence of a business. In fact, I operated this business from the basement of the home for 2 years prior to moving to the accessory building. We also maintain \$4 million in combined liability insurance above and beyond our standard homeowner's insurance, just in case.

Per the building permit (PB19-05-0405) the shop building is of the allowable size, 30'x40' with a portion of it being used for pool and lawncare equipment as well as storage for pool and outdoor furniture in the winter months. The accessory building is placed per required setbacks on the property and was fully inspected and approved by the SMBA prior to occupation and use.

I will be submitting this letter along with my application



Ordinance Enforcement Department
7275 West Main Street, Kalamazoo, MI 49009
269-216-5227 Fax 269-375-7180
www.oshtemo.org

NOTICE OF ZONING VIOLATION

09/08/2021

KOCIAN TODD W, ET AL
6335 KILLINGTON DR
KALAMAZOO, MI 49009

RE: 6335 KILLINGTON DR Parcel: 05-11-451-050 Case #: EN21-05-0326

Dear Property Owner:

On 09/08/2021, an inspection was conducted at the above address. Attached to this letter is a list of conditions in violation that must be corrected to comply with the **Oshtemo Charter Township Zoning Ordinance**. The listed violation(s) must be corrected, and your property must be re-inspected by **10/08/2021**. If the conditions in violation remain on that date, the responsible owner(s) and their representative(s) shall be responsible for a municipal civil infraction.

Once you have made corrections and are ready to have your property re-inspected, please call 269-216-5227 to schedule the inspection. Please note:

- Time extension requests must be in writing or via e-mail (include the timeframe for completion).

The Oshtemo Charter Township Zoning Ordinance is available at www.oshtemo.org, If you have questions regarding this notice, please contact Ofc. Rod Rought or Ofc. Rick Suwarsky at 269-216-5227 or by email at rrought@oshtemo.org or rsuwarsky@oshtemo.org.

Sincerely,

Ofc. Rod Rought/ Ofc R Suwarsky, Ordinance Enforcement

Cc: Oshtemo Township Planning Department

Case #: EN21-05-0326

1 of 5

21

VIOLATIONS & COMMENTS ABOUT THE PROPERTY ARE AS FOLLOWS:

A complaint was received regarding a possible business being operated from a residential accessory building in the R-2 residential district. Inspection performed 9/7/2021 by Ofc. Rought, met with owner, Chris King. Ms. King advised that she had the accessory building built with approval from the Township to run a small upholstery business from. She advised further that she has paperwork and copies of approvals for building site. Ms. King advised further that she has herself and one employee working for her and entire building is being utilized for business. During the inspection, an unknown female was inside the accessory building apparently as a customer of the upholstery business, DBA "Paw Paw Upholstery".

A building permit was issued for the 30'x 40' detached accessory building in 2019, and final building permit approval was given in 2020. However, there was and is NO approval for this accessory building's use for commercial business purposes, which is contrary to and in violation of the Zoning Ordinance for a residentially zoned property. The accessory building may be used for purposes customarily incidental to the permitted principal use of the property.

Any commercial activity, including present unpermitted upholstery business operation must immediately cease.

Thank you.

ZONING ORDINANCE

ARTICLE 7 – R-2: RESIDENCE DISTRICT

7.10 STATEMENT OF PURPOSE

This district classification is designed as a suburban residential district to permit a greater density of residential development than is provided in the rural districts of the Township, together with other residentially related facilities and activities which would serve the inhabitants of the area.

7.20 PERMITTED USES

- A. Any permitted use in the "R-1" Residence District.**
- B. Private two-family dwellings.**
- C. Libraries.**
- D. Fire stations.**
- E. Cemeteries, excluding crematories.**
- F. Reserved.**
- G. Houses of worship.**
- H. Accessory buildings and uses customarily incidental to the foregoing.**
- I. Family daycare home.**
- J. Adult Foster Care Facility.**
- K. Foster Family Home.**

ARTICLE 57 - 57.100 ACCESSORY BUILDINGS SERVING A PRIMARY RESIDENCE

A. Applicability:

1. Accessory buildings shall be permitted in all Agricultural and Residential zoning districts; which include "AG" Agricultural District, "RR" Rural Residential District, "R-1" Residence

District, “R-2” Residence District, “R-3” Residence District, “R-4” Residence District, “R-5” Residence District, and “R-C” Residential Conservation District.

2. All accessory buildings, unless otherwise expressly outlined by this Section, shall meet all the requirements specified herein.

3. Non-commercial accessory buildings used for the keeping of livestock or honeybees shall follow the requirements specified in Section 57.80.

4. All accessory buildings exceeding 200 square feet shall require plan review and approval by the Planning Director or their designee.

5. Any nonconforming accessory buildings shall be subject to the requirements specified in Section 63.40.

B. Restrictions. No accessory building shall:

1. Be constructed on any property prior to the construction of the principal building, unless building permits are obtained for both structures concurrently. All detached accessory buildings must be located on the same property where the principal permitted use is located. Exception of this clause can be granted by the Planning Director or their designee for vacant parcels serving an agricultural purpose that meet the requirements of Section 4.10.

2. Be constructed to encroach into a public utility easement.

3. Be used for human habitation.

4. Be used for purposes other than those customarily incidental to the permitted principal use of the property.

5. Be used for any business use or home occupation, unless approval is granted by the Planning Commission pursuant to Sections 48.60 or 49.120.

ARTICLE 48 - 48.60 HOME OCCUPATION

The purpose of this section is to allow residents to conduct home occupations that are incidental and subordinate to the residential use of the premises and to establish a general threshold of acceptable nonresidential activity beyond which the activity shall not be permitted or shall require Special Use approval.

Additionally, the proposed Home Occupation shall be within the spirit of the Ordinance to insure the compatibility of any use with the character of the zoning classification in which the same is located and that the health, safety, and general welfare of the neighborhood will not thereby be impaired.

A. Home occupations shall meet the following criteria to be considered a permitted use:

1. The occupation(s) conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes.

2. Shall be operated in their entirety within the dwelling and/or within an attached garage and not within any detached garage or accessory building located upon the premises.

3. Shall be conducted by the person or persons occupying the premises as their principal residence.

4. No nonresident on-premises employees are permitted.

5. The dwelling has no exterior evidence to indicate that the same is being utilized for any purpose other than that of a dwelling. No signs are permitted.

6. The occupation(s) shall not utilize more than (a) 25% of the interior gross floor area of the premises; or (b) 500 square feet, whichever is less.

7. No goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

8. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by means of vibrations, noise, smoke, odor, dust, dirt, fumes, glare, heat, electrical disturbance, lighting, or the creation of vehicular traffic in excess of what is characteristic of the area. Vibrations, noise, smoke, odor, dust, dirt, fumes, glare, heat, electrical disturbance, or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted. The use and/or storage of hazardous materials in excess of quantities customary to a residential dwelling are not permitted.

9. Outdoor activity, storage, and/or display are prohibited

10. Use of a commercial vehicle is subject to Section 52.30.

11. The following shall not be deemed home occupations: medical or dental clinics or offices, child care facilities, barbershops and beauty salons (except barbershops and beauty salons limited to one operator), funeral homes, restaurants, veterinarian clinics or offices, kennels, riding stables, storage facilities, adult regulated uses, or any sale, resale, maintenance, repair, restoration or painting of automobiles, trucks, motorcycles, motorized recreational vehicles, and boats, and other occupations determined by the Planning Commission to be similar to the occupations listed in this subsection.

B. The Planning Commission may authorize as a Special Use, Home Occupations which depart from the criteria stated in Section 48.60.A.2,4, and/or 6 above per Section 49.120.

ARTICLE 70 – ENFORCEMENT, FEES AND PENALTIES

70.10 ENFORCEMENT

The provisions of this Ordinance shall be enforced by the Ordinance Enforcement Officer and/or the Planning and Zoning Administrator.

70.20 FEES

The Township Board is hereby authorized to establish or alter, by resolution, fees for application for amendments to the Zoning Ordinance and for application or appeals to the Planning Commission or Zoning Board of Appeals to be paid to the Township with such application or appeals to help defray the cost to the Township of such proceedings.

70.30 PENALTY

Any person, corporation, firm or other entity who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Ordinance Enforcement Officer, Planning Commission, Board of Appeals, or the Township Board issued in pursuance of this Ordinance shall be responsible for a municipal civil infraction. Upon determination of responsibility, the person, corporation, firm or other entity shall pay a fine according to the following schedule:

A. First offense \$75.00

B. Second offense within three years of first offense \$150.00

C. Third offense within three-year period \$325.00

D. Fourth and each subsequent offense within three-year period are each \$500.00

If a determination of responsibility is made by the Court, the Court may impose costs as provided for by law in addition to the fines called for above.

Each day during which a violation continues shall be deemed a separate offense. The imposition of a fine shall not exempt an offender from compliance with the provisions of this Ordinance.

The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

The use of land and dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any provisions of this Ordinance is hereby declared a nuisance per se and shall be abated and the owner and/or agent in charge thereof shall be adjudged guilty of maintaining a nuisance per se in accordance with statute. '

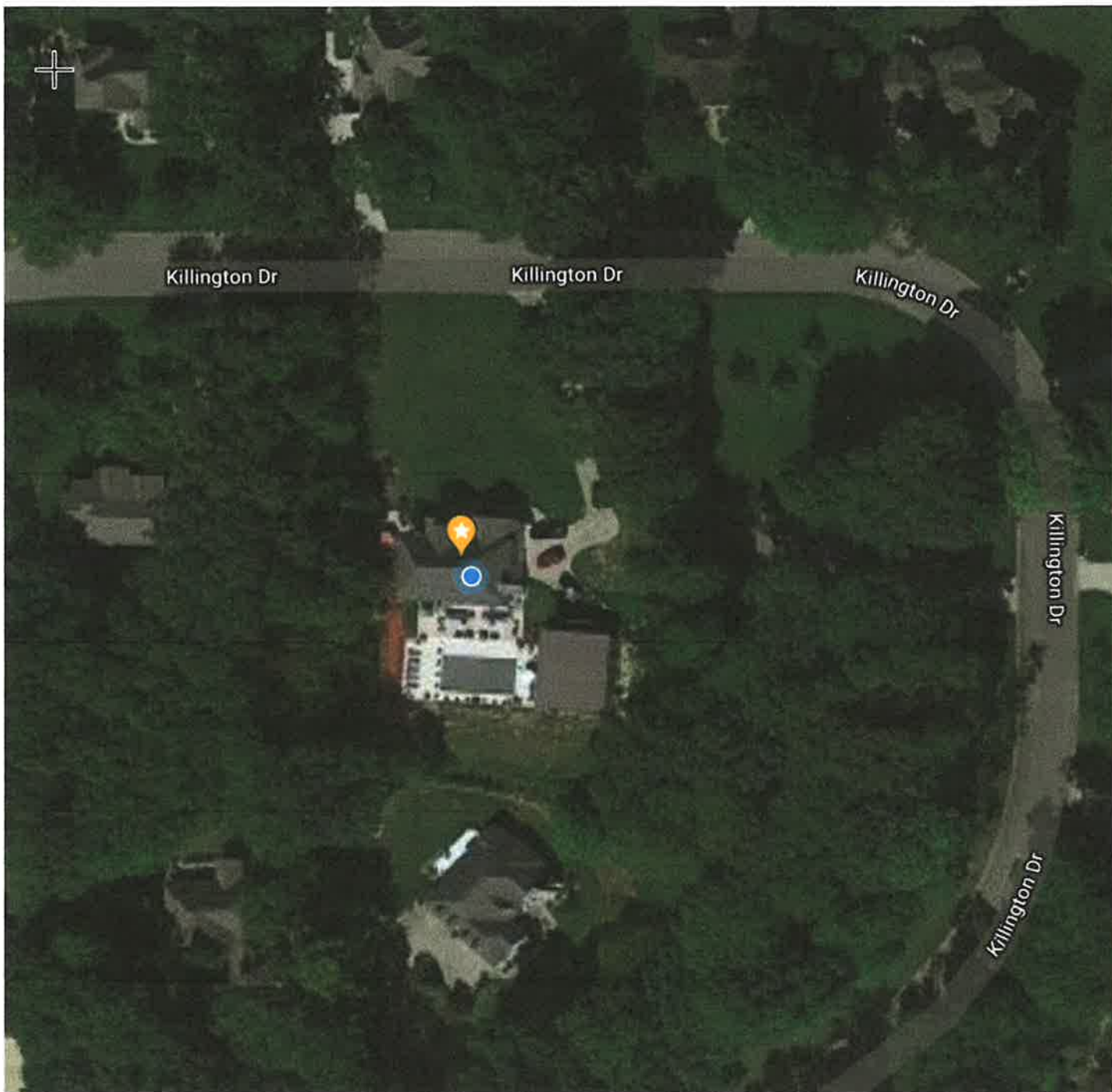
Note: The North and West distances to the property lines were omitted as they are greater than 100'.



This is a satellite view of the property showing the accessory building location.



This picture shows the house and the accessory building location to the surrounding homes.



As you can see, the building is well off from the street and due to our elevated location in the neighborhood we provide no visual nuisance to neighbors as mostly the roof can be seen from street level.

Christine A. King,

Owner, Paw Paw Upholstery

pawpawupholstery@aol.com | 269.998.3243

_____ Date _____

b. Precise building setbacks from all property lines.



2. Please list all persons which reside at 6335 Killington Drive/any non-resident employees who are associated with the home occupation at 6335 Killington Drive.
 - a. Todd Kocian, Owner
 - b. Chris King, Owner
 - c. Brenda Maxam, Chris King's Sister
 - d. On occasion we have "helpers" to assist with the loading and unloading of furniture during pickups/deliveries.

3. Submit an updated site plan which includes:
 - a. Dimensions of the subject property.



4. Is there any use of commercial vehicles on-site in which is used for transporting furniture and/or other items associated to the home occupation?

No. No commercial vehicles are in use. We use a POV; 2019 Chevy Express 3500 Passenger Van for transporting furniture, which is not registered to the business and is used primarily for personal use.



We would also like to add that the accessory building in question is a “multi-purpose” space with no internal partitions except for the south wall depicted in the floor layout. The ceiling is 12 ft high on the low side, 18 feet on the high side.

As an example of the multi-use space, we emptied the contents and used it for wedding food service and bar area for my son’s wedding. In winter, the majority of the space is consumed by patio furniture.

Parcel Description

Address	6335 Killington Dr Kalamazoo, MI 49009
Carrier Code	R024
Census Tract	260770029.042025
Frontage	165 ft
Area	42,253 sq ft (0.97 acres)
Land Use Code	401 (Single Family)
Land Use Category	Residential (Single Family Residential)
County	Kalamazoo
Municipality	Oshtemo Twp
Zoning Designation	R-2 RES
Legal Description	WEST PORT #11, LOT 424 * **10-91 1991 SPLIT FROM 11-455-011 & 14-205-010
Lot Number	424

c. Location and dimensions of all existing and proposed structures (including height of all proposed accessory buildings) on the subject property and any existing buildings on adjacent properties within 50 feet of the subject property boundaries.

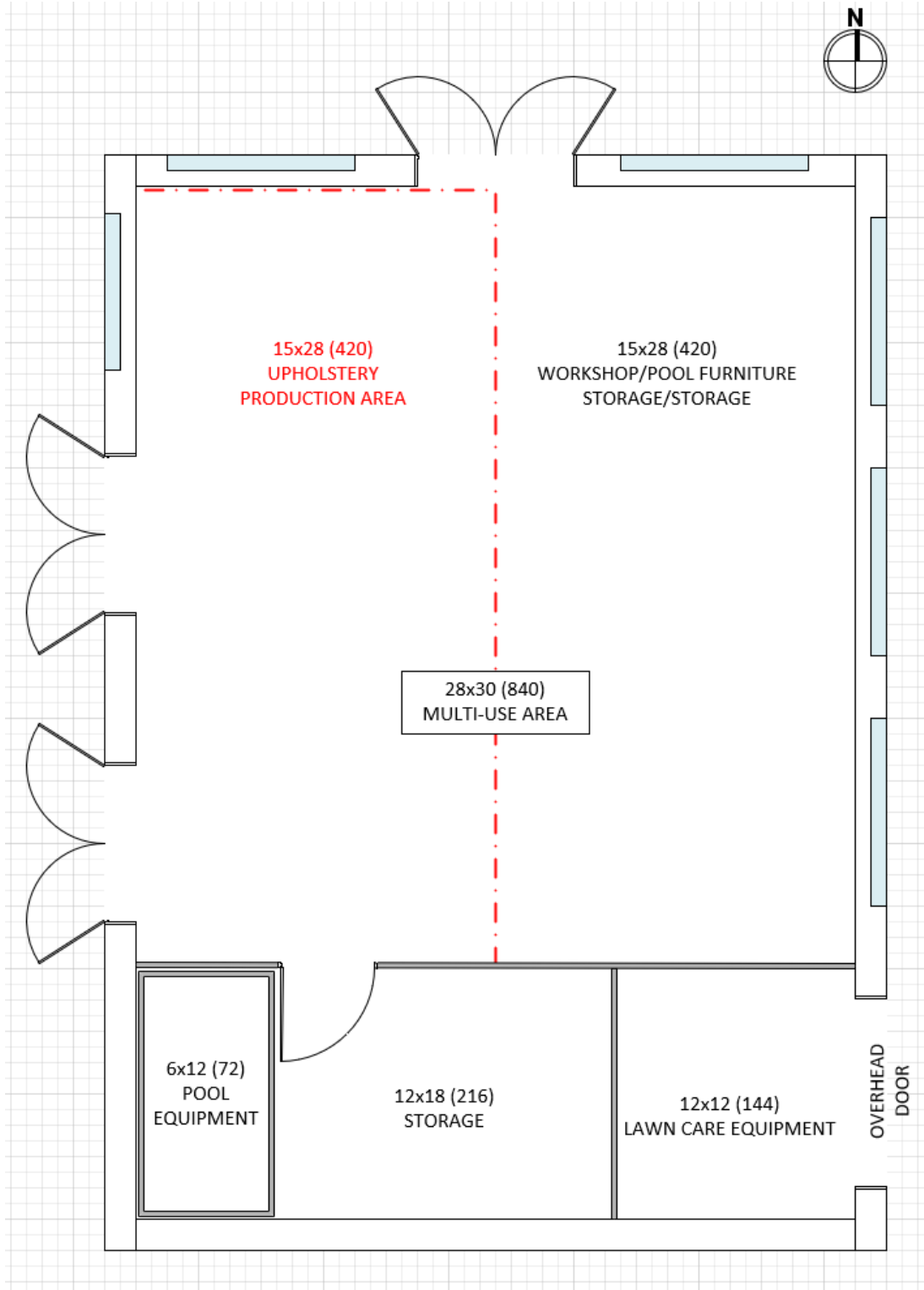
3. Provide photos of the site along with the accessory building's exterior.

11/04/2021 Tech Review Comments - 6335 Killington Drive

In response to the requested information, please see below.

General Requirements:

1. Please provide a detailed floor plan showing the square footages of all uses within the subject accessory building on-site. Provide how much area is being used for the home occupation, storage for pool equipment, storage for lawn equipment, etc.



View From House



Back Yard



Side Yard



North Elevation



West Elevation



East Elevation



South Elevation



6 December 2021

To the Oshtemo Charter Township Planning Commission

7275 West Main Street
Kalamazoo, MI 49009

John Holmes
6325 Old Log Trail
Kalamazoo, MI 49009

Attention: Iris Lubbert, Planning Director

Subject: Special Zoning Exception for 6335 Killington Drive

I oppose granting a special exemption for this property. Letting small businesses start up in this manner only marks the beginning of more and larger changes. The character of this delightful neighborhood should not be changed.

I note that in the late 1990s, a small trucking firm was prohibited from parking one box truck on the street at night. That prohibition was a wise one then, and similar discouragements of commercial activities should continue.

Cordially,

A handwritten signature in black ink, appearing to read "John Holmes", followed by a horizontal line extending to the right.

John Holmes

From: [Nanette Beaton](#)
To: [Colten Hutson](#)
Subject: Notice of Zoning Public Hearing
Date: Thursday, December 9, 2021 10:45:09 AM

CAUTION: External Email

I wish to comment on Paw Paw Upholstery's application.

I have already been negatively affected by the fact that the lot involved was stripped of all trees then a large brightly colored out building was added which degraded the mostly wooded residential area. To permit a home business at this address would cause increased traffic and noise near my home. I urge the Planning Committee to deny Paw Paw Upholstery a special exception.

Sincerely
Agnes Beaton
6439 Killington Drive
Kalamazoo Mi 49009