

TOWN OF PARMA
ZONING BOARD OF APPEALS
May 18, 2006

Members Present: Patrick Buskey (alternate)
Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas

Members Excused: Frank Lucisano

Others Present: Jack Barton

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board, with one member absent, and alternate Board Member, Patrick Buskey in attendance. She noted that a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. RICHARD AND DEBORAH DICESARE – 4992 RIDGE ROAD WEST

Application was received from Richard and Deborah DiCesare, owners, for a use variance at 4992 Ridge Road West. Applicants are proposing to perform auto body repair and auto sales which are allowed uses only in the Highway Commercial (HC) zoning. The existing business currently operates under a use variance for a repair garage. This property is currently zoned General Commercial (GC).

Chairperson Robillard recalled that this application was tabled at the April ZBOA meeting to allow the applicant additional time to provide supportive financial evidence for each and every permitted use, which is required to consider a Use Variance in a General Commercial district.

Deborah recalled that when they first appeared to the Zoning Board in March, the Board requested a letter from a CPA to provide financial evidence. She stated that at the April meeting, a handwritten letter from their CPA was presented but the Board required a more detailed listing which included every use for this district. Chairperson Robillard read a more detailed letter from their CPA, Gerald D. Ross, which stated it would not be financially beneficial for the DiCesare's to change their line of business to any of the businesses listed in the ordinance, with the exception of auto sales and repair. The letter explained that the existing building is already set up for auto sales and that is the business they have experience in. Neither the property nor Richard DiCesare would benefit from changing the use variance.

Board Discussion: Discussion was held that the financial evidence was marginally acceptable. The criteria for approving a use variance were reviewed as to how it pertains to this application.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Richard and Deborah DiCesare, owners, for a use variance at 4992 Ridge Road West to perform auto body repair and auto sales which are allowed uses only in the Highway Commercial (HC) zoning. The existing business currently operates under a use variance for a repair garage. This property is currently zoned General Commercial (GC). In making this determination, I believe the applicants can not realize a reasonable return, based on competent financial evidence. While I do think that more financial evidence could be provided, their CPA has shown that in 2004-2005 a reduction in profit by 30%, and that profits continue in a downward trend, that this satisfies that requirement.

The alleged hardship is unique and does not apply to the substantial portion of the district or neighborhood. This is satisfied in the sense that they are only asking for six (6) cars maximum for sale. Since the Town is not spot zoning, this situation is unique. The requested variance will not alter the essential character of the neighborhood. When you look at this general area, in either direction, this variance will not be a unique business and will not alter the character of the neighborhood. The alleged hardship is not self created, based on financial evidence provided, although somewhat lacking. The approval conditioned on Planning Board review and approval of:

- Location of the six cars for sale
- Number of parking spaces
- Handicapped parking requirements
- Lighting
- Signage
- All other Planning Board criteria.

Hours of operation are to be Monday through Friday, 7 am to 6 pm; Saturday, 7 am to 4 pm. No Sunday hours. Seconded by Dean Snyder. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

2. TODD BURLEY – 1512 HILTON PARMA CORNERS ROAD

Application was received from Todd Burley, owner, for an area variance at 1512 Hilton Parma Corners Road. Applicant has constructed a home with 1350 square feet of living space and is requesting relief from Town Zoning Article 5, subsection 165-32.E.2.a, which requires 1400 square feet. This property is currently zoned Agricultural Conservation (AC).

Chairperson Robillard recalled that this application was tabled at the April meeting due to lack of required notifications. Carl Coapman, Attorney, stated he represented Todd Burley in presenting this application. He recapped the events leading to this application. He stated that Mr. Burley purchased this modular home after the plans were reviewed and approved by the Building Department. He stated that the house was built, but an additional \$18,000 was needed to build the required garage. He stated that there would be no undesirable change in the neighborhood character. The applicant has met the requirement by 92.8%. There would be no environmental impact. The benefit can not be achieved by other means feasible. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Board Discussion: Jack Barton noted that there still was no proof of notifications. Dean Snyder referred to ordinance 165.39, #7 which states that the notifications were to be made 7 days prior to the hearing. The Board concurred with Chairperson Robillard that they can not make a decision on this application until the required notifications are met by regular first class mail. Chairperson Robillard polled the Board members regarding notifications and there was a consensus that without the notifications, the Board can not make a decision tonight.

Following discussion, a **Motion** was made by Tim Thomas to table the request of Todd Burley, owner, for an area variance at 1512 Hilton Parma Corners Road, without prejudice, to allow the applicant additional time to complete the require notifications. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

NEW PUBLIC HEARINGS

3. DELOS AND NORMA JONES – 243 PINE HILL ROAD

Application was received from Delos and Norma Jones, owners, for area variances at 243 Pine Hill Road. Applicants are proposing to remove 2 existing structures in the front yard and construct a 30 feet by 60 feet accessory storage building in the same location and are asking relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory storage buildings to 600 square feet and Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned medium Density Residential (MD).

Delos explained that the front yard is on the south side of the house. The structures are not in his rear yard, according to the way the house is placed on the lot. He noted the lot is heavily wooded and screened from the road. He stated that they need more storage space and plan to remove two buildings and replace them with one building. The existing buildings that will be torn down are 12' x 24' and 12' x 20'. Items he wishes to store include a tractor, log splitter, 5 mowers that go on the tractor, grader box, utility trailer, front fork lift that goes on the tractor, and a loader. He noted the items that go on his tractor have to be stored separately. He stated that 800 square feet is needed for this equipment. He noted that they also have a detached structure which is used for wood storage that is approximately 4' x 24'. He stated they have 30+ acres and the wood he cuts is mainly for his own use.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to approve the application received from Delos and Norma Jones, owners, for area variances at 243 Pine Hill Road to remove 2 existing structures in the front yard and construct a 30 feet by 60 feet accessory storage building in the same location, and to grant relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory storage buildings to 600 square feet and Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned medium Density Residential (MD). In making this determination, I don't believe the benefit can be achieved by other means feasible to the applicant. He has substantiated the need for an accessory storage building based on the variety of equipment he has used to service the 30+ acre wood lot. He named the following as items he will store: tractor, log splitter, 5 mowers that go on the tractor, grader box, utility trailer, front fork lift, and loader. He needs more space to store this equipment. There will be no undesirable change in the neighborhood character or to nearby properties. The location of the existing buildings is very well secluded from the neighbors. The proposed building will look better than the old buildings. The building will be naturally screened by mature trees. The request is substantial for both variances. There will be no adverse physical or environmental effect. The alleged difficulty is self-created only on square footage because the two existing buildings are already in the front yard. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Dean Snyder. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

4. BRETT WHITNEY – 1 COUNTRY VILLAGE LANE

Application was received from Brett Whitney, owner, for an area variance at 1 Country Village Lane. Applicant is proposing to construct a 10 feet by 12 feet shed in the side yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned High Density Residential (HD).

Brett stated he is looking to construct a 10 feet by 12 feet shed in what he calls his back yard on this corner lot. He noted this proposed shed is the same size as the previous shed, which he took down.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Brett Whitney, owner, for an area variance at 1 Country Village Lane, to construct a 10 feet by 12 feet shed in the side yard and to grant relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned High Density Residential (HD). In making this determination, the benefit can not be achieved by other means feasible to the applicant. He is in a somewhat unique situation on a corner lot with no rear yard. There will be no undesirable change in the neighborhood character or to nearby properties. In fact, by placing the shed in that location, it somewhat blocks the view of the property to the south of him which is somewhat undesirable. It is substantial. There will be no adverse physical or environmental effect. Although the alleged difficulty is somewhat self-created, in using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion Unanimously Carried** (5-0) (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

5. DIANNE WAHLERS – 50 SUMMERTIME TRAIL

Application was received from Dianne Wahlers, owner, for area variances at 50 Summertime Trail. Applicant has constructed an inground pool and is requesting to erect a 6 feet fence on the property line to enclose the rear yard. Applicant is requesting relief from Town Zoning Article 16, subsection 165-28.B.2 which states in part that open and closed fences up to a height of 6 feet may be permitted on a lot for the express purpose of enclosing a swimming pool. Such structures shall be subject to side and rear setback requirements of the zoning district. The complete enclosure of a yard in this manner shall not be permitted. The minimum side and rear setback is 10 feet. This property is currently zoned Medium Density Residential (MD).

Gary Wahlers stated they want to erect a 6 feet high fence on their property line to provide privacy and to prevent vandalism to their property. He noted there has been a history of vandalism in their neighborhood. He explained their wish to place this fence on the lot line so that neighbors don't have to maintain the yard on the other side of the fence. He noted the fence would run 16 feet from the corner of the house to the lot line. Dianne recalled that an attorney told her that if a fence was not placed on the lot line, that she should get the neighbors to sign a paper stating that this part of the property was not theirs and that they would take care of it. Her attorney recommended that the next time she puts up a fence that she places it on the lot line.

Tim Thomas asked why they didn't consider enclosing just the pool. Dianne replied that they want to keep vandalism out of the yard. Also, she noted it would cost more to fence in the pool and the perimeter of the yard. She provided pictures of the fence, which will be pressure treated, dog-ear board.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Other possible alternatives were discussed by the Board to provide privacy around the pool and provide room to maintain the area inside the pool.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Dianne Wahlers, owner, for an area variance at 50 Summertime Trail to erect a 6 feet fence around the pool. The dimensions of the fence will not exceed more than 20 feet on the side of the pool and the fence will maintain a 10 feet setback from the southern property line. The north line of the fence may extend completely to the house and the south fence may also extend to the west line of the house. In making this determination, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has a swimming pool and has specific safety concerns and small children that present safety issues. The placement of this fence will allow uncompromised visual access of the entire pool area from the house. This will create a minimal change to the character of the neighborhood or to nearby property and although this fence will block a significant amount of view across the back yards, I believe the dimensions granted minimize that. The request is substantial. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created; however, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

6. BRADLEY SMITH – 156 FERGUSON DRIVE

Application was received from Bradley Smith, owner, for area variances at 156 Ferguson Drive. Applicant obtained a Building Permit in 1989 to construct a single family home. A Certificate of Occupancy was never issued for the structure. A recent inspection found that the basement floor of the structure is at an elevation of 248.8 feet National Geodetic Vertical Datum of 1929 (NGVD) which is below the 100 year flood zone base flood elevation of 251 NGVD. Applicant is requesting relief from Town Zoning Article 10, subsection 165-83.C.4.a, which states in part that new construction or substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation. This property is currently zoned Waterfront Residential (WF).

James Bonsignore, attorney, stated he represented Bradley Smith in presenting this application. He referred to the Letter of Intent, dated May 18, 2006, to the ZBOA. He stated that the property is located in the Waterfront Residential zoning district and consists of a single family residential home, which was constructed in 1989. In conjunction with a contract to sell the property, it was determined that a Certificate of Occupancy was never issued for the property. In requesting a Certificate of Occupancy, Mr. Smith learned that the basement of the home was constructed with a floor level 2.2 feet below the 100 year flood elevation of 251 feet. As a result, an area variance is required in order for Mr. Smith to receive a Certificate of Occupancy. The Letter of Intent is in support of the application for an area variance of 2.2 feet to allow the basement floor of the home

to remain at an elevation of 248.8 feet (based on the NGVD of 1929), as opposed to the required 251 feet. He reiterated that this house was constructed in 1989, three years prior to the adoption of the Flood Maps currently utilized by the Town of Parma. At the time of construction, Mr. Smith submitted construction drawings and a site plan to the Town depicting the house in the exact location it stands today. All building and construction drawings were approved by the Town in 1989. At this time, the Subdivision Map indicated that all basement openings shall be a minimum of 1 foot above the flood plain elevation of 251. No C of O was ever issued, in 1989 and then again in 1995, due to other minor, unrelated issues. For whatever reason, no C of O was issued after correction of the minor issues on either occasion. However, the property has been occupied for the past 17 years. He reviewed the criteria for a area variance as it pertains to this application, as follows:

The benefit to the applicant: The basement floor is 2.2 feet below the code. Granting this variance will allow him to obtain a C of O for this house, which has been occupied for 17 years with no detriment whatsoever.

Will an undesirable change in the character of the neighbor result? No change will occur, since this house has been occupied for 17 years. No physical change in the property will occur.

Can the benefit be achieved by other feasible means? The only way to comply would be to redo the foundation which would be costly and possibly create other problems. This is the only practical solution to this issue.

Is it substantial? No. It is only 2.2 feet below that required. Never in the 17 year history of the structure has there ever been an issue with water in the basement of any other possible effects of the floor being below the 251 foot mark.

Will there be any adverse physical effects? No. Nothing will change from what has existed for 17 years.

Is the difficulty self-created? No. This house was built in 1989 before the current flood plain.

Jack Barton noted that the first flood map was created in 1978 and was in effect at the time this house was built in 1989. The ordinance has changed over the years. Jack Barton stated he verified with the NYS DEC that we have the jurisdiction to act on this.

Public Comment:

Frank Trinca – 164 Ferguson Drive: Stated he is for this variance.

John Terranova – 152 Ferguson Drive: Stated he is for the variance.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Bradley Smith, owner, for area variances at 156 Ferguson Drive, to allow a variance of 2.2 feet for the basement floor of the single family home at an elevation of 248.8 feet National Geodetic Vertical Datum of 1929 (NGVD) which is below the 100 year flood zone base flood elevation of 251 NGVD. This grants relief from Town Zoning Article 10, subsection 165-83.C.4.a, which states in part that new construction or substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation. This property is currently zoned Waterfront Residential (WF). In making this determination, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has shown that to bring the building into compliance would be a

substantial undertaking with very little benefit. There will be no undesirable change to the neighborhood character or to nearby properties. The structure has existed for 17 years. It is very substantial. There will be no adverse physical or environmental effect. The difficulty is somewhat self-created in that the applicant did not get a Certificate of Occupancy, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. By accepting this variance, the applicant relieves the Town of Parma of any liability now or in the future. Seconded by Patrick Buskey. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

7. WILLIAM O'NEILL – 1607 MANITOU ROAD

Application was received from William O'Neill, owner, for area variances at 1607 Manitou Road. Applicant is proposing additions to his home with a proposed side setback from the northerly property line of 14 feet, from the southerly line of 11.68 feet, and a front setback of 49 feet and is requesting relief from Town Zoning schedule 1 which requires a front setback of 75 feet and a side setback of 40 feet. This property is currently zoned Rural Residential (RR).

William explained that he wishes to expand the living room of his home by 14 feet on the north side and to make the house look symmetrical he plans to add a two car garage on the existing two car garage. This will give it a courtyard appearance. He stated that the lot is smaller than normal. The house is too close to the road to begin with at 63 feet from the road. He stated he can't build to the rear of the house because that is where the bedrooms are located and he needs to expand his living room. He stated this 1100 square foot house has three bedrooms in the back of the house, a kitchen, and small eating area. This will make the eating area larger. He stated he will utilize the additional two car garage to store his two classic cars. Currently, his car has to sit outside in the winter. He explained that his existing two car garage is set back, and he planned to add another two car garage which will give it a "u" shape. The existing two car garage will stay the same. He noted that other houses in the area have front setbacks that are closer to the road than he is now and will still be closer than he is, even with the new addition. He stated his plan will make his house more valuable and it will fit in better with the new more expensive homes that will be built behind him.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Jack Barton noted that the notifications were in order with the exception of two: two addresses have house numbers but no street name, 1603 and 1611 Manitou Road. Mr. O'Neill stated he has verification on the stickers at home. The Board consensus was that they could act on this application with verification of these two notifications.

Following discussion, a **Motion** was made by Tim Thomas to approve the application received from William O'Neill, owner, for area variances at 1607 Manitou Road to construct additions to his home with a proposed side setback from the northerly property line of 14 feet, from the southerly line of 11.68 feet, and a front setback of 49 feet and to grant relief from Town Zoning schedule 1 which requires a front setback of 75 feet and a side setback of 40 feet. This property is currently zoned Rural Residential (RR). This approval is with the condition of verification of two outstanding notifications, #1603 and #1611 Manitou Road, be provided by the applicant within 5 business days to the Town of Parma Building Department. In making this determination, I believe the benefit can not be achieved by other means feasible to the applicant. The applicant stated that the location of the living room and bedrooms makes this the best location for the addition. He

needs additional garage storage for two classic cars. There will be no undesirable change in the neighborhood character or to nearby properties. The additional space will be a betterment to the house and will fit in with the very expensive homes that are planned behind him. This will increase the value of his property. The request is substantial but only to the front setback, which is consistent with other homes in the area. The front setback requirement is 75 feet, but 2-3 other properties in the immediate area, even after the addition, will still be closer to the road than this house. There will be no adverse physical or environmental effect. The alleged difficulty is self-created; however, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion Unanimously Carried** (5-0) (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

8. JENNIFER KESSLER – 1641 HILTON PARMA CORNERS ROAD

Application was received from Jennifer Kessler, owner, for area variances at 1641 Hilton Parma Corners Road. Applicant is proposing to subdivide the existing 43.33 acre parcel into 5 lots and is proposing a lot depth of 270 feet for lots 1, 3 and 4, and 272.42 feet for lot 2, and is requesting relief from Town Zoning schedule 1 which requires a minimum depth of 300 feet. These lots as proposed will meet lot width and area requirements. This property is currently zoned Rural Residential (RR).

Board Discussion: Chairperson Robillard reported that notifications were not in order. Several neighbors were in attendance and stated that they were not notified.

A **Motion** was made by Stephen Shelley to table the application of Jennifer Kessler, owner, for area variances at 1641 Hilton Parma Corners Road, without prejudice, to the June meeting. Notifications were not in order. Seconded by Dean Snyder. **Motion Unanimously Carried** (5-0) (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent: Frank Lucisano)

9. JOSEPH RODRIGUES – 135 LIGHTHOUSE ROAD

Application was received from Joseph Rodrigues, owner, for area variances at 135 Lighthouse Road. Applicant is proposing to construct a 25 feet by 80 feet structure to house captive birds of prey in the side and rear yard with a side setback from the southerly property line of 1 foot and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard and schedule 1 which requires a 20 feet side setback. This property is currently zoned Rural Residential (RR).

Paul Schnell and his fiancée Anne Terninko stated they are in the process of purchasing the property from Mr. Rodrigues at 135 Lighthouse Road. They provided a packet of information regarding their plan to house captive birds of prey on their property. Paul stated that they have 40 years of experience in providing homes for these birds. They provided pictures of their current home for these birds. He explained that they are educators through the FLCC and promote the health, safety and welfare of the birds to schools and at community events. He pointed out on a site map where the bird house would be, noting that they chose this location based on the wind and drainage. He noted that the actual bird building will be 14' x 98', with netting on the outside measuring 15' by 98'. He noted there would be no physical or environmental detriment to the neighbors. Also, this is a treed and shrubbed lot which is secluded from the neighbors. He stated there is no smell associate with the birds and no crowing. They are very quiet. He explained that they do not want to place the building farther away or in the rear yard for the safety of the birds from fox, raccoon, coyote, opossum and human threat. They want a clear visual field of the bird house from the house to provide a safer environment for the birds. Also, there is a pond behind the house so placement is not possible there. One central facility is needed to provide accessibility

for easy loading and unloading of the birds. They provide mice, quail, rabbits and fish to the birds for their food. The birds they house are non-releasable birds due to injury, with the exception of one.

Public Comment:

Tim Donovan – 139 Lighthouse Road: Stated they are neighbors to the south. He stated that he and his wife are not too keen on the location of this structure, but considering the pond, he would prefer to see the structure built behind the pond. This would not be visible to them from their property. He stated he just put a sunroom onto his house and they would be looking at this structure from their sun porch.

John Hill – 128 Lighthouse Road; Stated he lives across the street. He asked why the placement of the building is on the south side of the property instead of the north. Paul explained that it is because of the prevailing winds from the south west. John stated they were not against the building but felt he would like the placement on the other side of the house. He felt it would have more protection there too.

Karen Hill – 128 Lighthouse Road; Expressed concern about the noise level of the birds. Paul explained that the birds are very quiet and the only sound might be the ringing of the special bells the birds wear.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Chairperson Robillard asked the applicant if, that based on the neighbors' comments, they would want the Board to table the application to provide time to consider an alternate location, plus the dimensions of the building that were given tonight were different from what was advertised. Paul stated he felt this is the best location, and that there would be no noise or odor, and the building would blend in when the trees are leafed out. But he stated he was willing to look at alternate locations based on the neighbors' comments. The applicant requested that the application be tabled to consider the neighbor's comments.

Following discussion, a **Motion** was made by Dean Snyder to table the application of Joseph Rodrigues, owner, for area variances at 135 Lighthouse Road, without prejudice, to the June ZBOA meeting. Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent:: Frank Lucisano) It was suggested that an elevation map of the property would be helpful.

TABLED SPECIAL PERMIT RENEWALS

1. MICHAEL MERRILL – Choo-Choo's, 5138 RIDGE ROAD WEST

Application was received from Michael Merrill, 5138 Ridge Road West, for renewal of the Special Permit allowing a portion of a children's train ride to extend into the R-2 zone.

Chairperson Robillard recalled relief was granted to Michael Merrill until this ZBOA meeting, as stated in the Motion in December, 2005. Mike Merrill provided an update on the repairs. He stated that all 8 outstanding items have been completed. They are waiting for the final inspection by the Town.

Following discussion, a **Motion** was made by Dean Snyder to approve the renewal of a Special Permit received from Michael Merrill, 5138 Ridge Road West, allowing a portion of a children's train ride to extend into the residential district portion of the property, for three years, renewable in December, 2008. This special permit is contingent on the applicant receiving a Certificate of Occupancy form the Building Department within the next 10 business days. Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard; Absent:: Frank Lucisano)

MINUTES OF APRIL 20, 2006

The following changes were recommended: page 3, Para 2, line 1, change Jim Zigna to Jim Insigna; line 7, change "rarely" to "barely;" page 5, Para 3, line 6, change to "...leach field whether he gets this variance or not."; Para 4, add "legal issue." A **Motion** was made by Dean Snyder to approve the April 20, 2006 minutes with the recommended changes. Seconded by Stephen Shelley. **Motion Carried (4-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas; Abstain: Veronica Robillard; Absent:: Frank Lucisano)

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Patrick Buskey, to adjourn the meeting at 11:10 pm. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Frank Lucisano)

Respectfully submitted,
Diane Grundon, Recording Secretary