

**TOWN OF PARMA
ZONING BOARD OF APPEALS
AUGUST 14, 2008**

Members Present: Mark Kalen (Alternate)
Veronica Robillard
Stephen Shelley
Tim Thomas
Dean Snyder

Members Excused: Pat Buskey

Others Present: Jack Barton, Carm Carmestro (Board Liaison)

Public Present: See attached sheet

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:06 p.m. She explained the function of the ZBOA and the decision-making process. She noted that this is a five-member board with the alternate Board member present to substitute for a regular Board member, and that a quorum of three is required to pass a motion.

TABLED PUBLIC HEARINGS

1. ADS FAMILY, LLC – 531 PECK ROAD

Application of ADS Family, LLC, owner, for an area variance at 531 Peck Road. The applicants are proposing to construct a 1,812 square foot storage structure which includes a 180 square foot covered porch area and is requesting relief from Town Zoning Article 5, subsection 165-32-C.2 which limits accessory buildings to 1,500 square feet. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled that this application was tabled at the July meeting to allow the applicant additional time to provide the required notifications.

Al Spaziano stated he was speaking on behalf of ADS Family, LLC, 531 Peck Road, where he resides. He explained his plan to construct a storage structure, 225 feet from the south and 75 feet off the west property line. This will provide room to store lawn equipment, snowmobile, recreational items and swimming pool equipment. He explained his need for a larger structure than allowed to accommodate a plow truck with a plow and a farm tractor which he needs to maintain this property that is far off the road. All items stored will be personal items. He noted the 9' x 16' covered porch which will be used as a sitting area. He provided blueprints of the structure, noting there will be electric but no plumbing. This will not be used as a guest house.

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 of ADS Family, LLC, owner, for an area variance at 531 Peck Road to construct a 1,812 square feet storage structure which includes a 180 square feet covered porch area and this grants relief from Town Zoning Article 5, subsection 165-32-C.2 which limits accessory buildings to 1,500 square feet. This property is currently zoned Rural Residential (RR). In making this determination to approve, I do not believe that the benefit can be achieved by other means feasible to the applicant. The applicant has somewhat unusual pieces of equipment to clear his driveway including a plow and a tractor to maintain his property. There will be no undesirable change in neighborhood character or to nearby properties. The design of this building is consistent with the existing home and part of the increase in square footage is used to keep it consistent with the existing home. The request is substantial. There will be no adverse physical or environment effects. Although the alleged difficulty is self-created, using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. Jack Barton noted that Mr. Shelley is a neighbor of Mr. Spaziano and questioned him if he felt he could vote on this application without bias. Mr. Shelley responded that he felt he could vote unbiased. **Motion unanimously carried (5-0)** (Ayes: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

2. RYAN WEBSTER – 1226 CLARKSON PARMA TOWN LINE ROAD

Application of Ryan Webster, owner, for area variances at 1226 Clarkson Parma Town Line Road. Applicant is proposing an addition in the front of the existing home which will have a side setback from the southerly property line of 20.64 feet and a side setback from the northerly property line of 20 feet. Applicant is requesting relief from Town Zoning schedule 1 which requires a side setback of 50 feet. This property is currently zoned Agricultural Conservation (AC).

Ryan stated he is looking to add an addition on the front of his existing home to provide additional living space. The new addition will provide a living room, family room and a dining room. He explained he is using the same dimensions as the existing house. He stated this will keep in character with the house. He noted the location of the septic system on the north side of the house and the garage, which prevents placement there. He stated that the existing house is 848 square feet. Jack Barton noted that this addition will bring the house into compliance with the current zoning regulations. Ryan stated that this addition will make the house look consistent with other homes in the neighborhood.

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.

Discussion was held on the proposed porch on the front and what size it will be. The dimensions were not listed on the drawing. Ryan estimated the porch would be 5 or 6 feet deep. It was the consensus that a 7 feet wide porch would be more practical and that 5 or 6 feet does not allow room for porch furniture. It was noted that the house is located on an angle on the lot and it was difficult to determine exactly how much the proposed porch will encroach on the side setback. Jack Barton noted that a 7 feet front porch can encroach on the front setback.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Ryan Webster, owner, for area variances at 1226 Clarkson Parma Town Line Road to construct an addition in the front of the existing home which will have a side setback from the southerly property line of 20.64 feet and a side setback from the northerly property line of 20 feet. This grants relief from Town Zoning schedule 1 which requires a side setback of 50 feet. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. The existing house is situated on a lot at an angle and where the addition is proposed is the only possible placement due to the location of the septic system and the garage. There will be no undesirable change in the neighborhood character or to nearby properties. This addition will bring the house into compliance of 1600 square feet and will be a favorable impact. The request is substantial, as the required side setback is 50 feet. There will be no adverse physical or environmental impact. The alleged difficulty is self-created, but 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: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

3. V. VENTIMIGLIA & SONS, INC. – 87 CARRIE MARIE LANE

Application of V. Ventimiglia & Sons, Inc., for an area variance at 87 Carrie Marie Lane. A new home has been constructed on the property which has a front setback of 39.4 feet and the applicant is requesting relief from Town Zoning schedule 1 which requires a 40 feet front setback. This property is currently zoned High Density Residential (HD).

Greg Bly, of LaDue Associates, the survey firm for the property at 87 Carrie Marie Lane, explained this house is newly constructed and situated on a curve in the road, which results in a complex calculation in the survey process. He stated that the house placement was repositioned which resulted in a 6 inch surveying error in the front setback. Greg reported that this is the only occurrence in this Salmon Creek Subdivision and this type of error happens rarely.

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.

Tim Thomas questioned the status of a previous recommendation by the ZBOA members to the Town Board to consider an administrative variance. Jack Barton reported a process is being developed to deal with minor variances. Chairperson Robillard questioned if a penalty for minor errors would be considered. Jack replied that perhaps a fee may be imposed for the administrative review.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of V. Ventimiglia & Sons, Inc., for an area variance at 87 Carrie Marie Lane. A new home has been constructed on the property which has a front setback of 39.4 feet and this grants relief from Town Zoning schedule 1 which requires a 40 feet front setback. This property is currently zoned High Density Residential (HD). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. This was a field error by a survey firm. This is a minor error. There will be no undesirable change in neighborhood character or to nearby properties. The error is not detectable. The request is not substantial. Although the alleged difficulty is self-created, 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: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

4. JEFF RODGERS – 238 NORTH AVENUE

Application of Jeff Rodgers, owner, for area variances at 238 North Avenue. Applicant is proposing to raise the roof on the existing home. The existing setbacks, which are a front setback of 18.8 feet, a northerly side setback of 18.1 feet, and a southerly side setback of 26.2 feet, will be maintained. Applicant is requesting relief from Town Zoning schedule 1, which requires a front setback of 75 feet and side setbacks of 50 feet. This property is currently zoned Agricultural Conservation (AC).

Jack Barton noted that a couple of people are missing from the postal form, so he could not verify two required notifications of neighbors. There is no proof letters of notification were mailed to them.

Chairperson Robillard explained that the two missing notifications would need to be re-mailed. The remaining 19 notifications are confirmed. She suggested that this application be tabled. Jack Barton stated that the Town would provide an updated legal notice.

Following discussion, a **Motion** was made by Stephen Shelley to table the request of Jeff Rodgers, owner, for area variances at 238 North Avenue without prejudice until the September ZBOA meeting to allow the applicant additional time to provide proof of two missing notifications. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

5. HAROLD KETCHUM – 4 EDWARD LANE

Application of Harold Ketchem, owner, for an area variance at 4 Edward Lane. The applicant is proposing to construct a 9 feet by 23.4 feet addition to the existing garage with a side setback from the westerly property line of 6 feet and is requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback from property lines. This property is currently zoned Medium Density Residential (MD).

Harold Ketchem, Jr., stated he is the applicant's son. He explained that his mother died last year and he is planning to move in with his father, Harold Ketchum, Sr., at 4 Edward Lane. He stated that there is currently a one car garage and the proposed addition would increase the garage to accommodate his car also.

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 of Harold Ketchem, owner, for an area variance at 4 Edward Lane to construct a 9 feet by 23.4 feet addition to the existing garage with a side setback from the westerly property line of 6 feet and this grants relief from Town Zoning schedule 1 which requires a 10 feet side setback from property lines. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant's son is planning to move in with the applicant in order to assist him and the current residence has only a one car garage. This addition will allow another car and additional storage. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial. There will be no adverse physical or environmental effects. Although the alleged difficulty is self-created, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Mark Kalen. **Motion unanimously carried (5-0)** (Ayes: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

6. PHYLLIS CONTESTABLE – 70 WEST BEACH ROAD

Application of Phyllis Contestable, owner, for area variances at 70 West Beach Road. The applicant is proposing to demolish an existing 10 feet by 16 feet garage and construct a new 20 feet by 30 feet garage with a side setback of 4 feet from the westerly property line and a front setback of 10 feet from the road right of way. The applicant is requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback and a 40 feet front setback from property lines. The applicant is also requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which requires garages to be located behind the front building line of the home. This property is currently zoned Waterfront Residual (WF).

Phyllis reported that she recently moved to this lake-front house, which was previously owned by her mother, who is now deceased. She explained her need for more storage space, as the existing shed is inadequate and there is no basement. She stated that the proposed garage will be 600 square feet and will not include any living space, no bedroom, and no refrigerator or stove. She stated this is solely for storage purposes.

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 of Phyllis Contestable, owner, for area variances at 70 West Beach Road to demolish an existing 10 feet by 16 feet garage and construct a new 20 feet by 30 feet garage with a side setback of 4 feet from the westerly property line and a front setback of 10 feet from the road right of way. This grants relief from Town Zoning schedule 1 which requires a 10 feet side setback and a 40 feet front setback from property lines. This also grants relief from Town Zoning Article 10, subsection 165-82.C.3 which requires garages to be located behind the front building line of the home. This property is currently zoned Waterfront Residual (WF). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. As evidenced by numerous applications in the Town, lakefront properties are unique with tight septic system placements and no basements. There will be no undesirable change in neighborhood character or to nearby properties. There are several garages that have been constructed in a similar location in

this neighborhood. This will result in an overall improvement of the area. The request is substantial but this unique area and the location of the septic system substantiates this approval. There will be no adverse physical or environmental effect. The alleged difficulty is self-created, but mitigated by the uniqueness of this waterfront property. 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: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

7. JAMES KESSELRING – 4 LIGHTHOUSE BEACH ROAD

Application of James Kesselring, owner, for area variances at 4 Lighthouse Beach Road. The applicant is proposing to construct an accessory storage shed in the front yard with a side setback from the easterly property line of 3 feet and a front setback of 12 feet from the southerly property line 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 10 feet side setback and a 40 feet front setback from property lines. This property is currently zoned Waterfront Residential (WF).

James noted the uniqueness of this waterfront property. He explained that if the storage shed was constructed where it is allowed, it would take a substantial view of the lake away from the neighbors. This placement will not obstruct any view. He noted his back yard is really his front yard. He provided a picture of the proposed 12 x 12 feet shed. He explained he will use this shed to store garden tools, patio furniture, a garden tractor, and snowblower. He noted that the septic system is located 10 feet from the east property line. He reiterated that this is the best possible location that does not obstruct any neighbor's view of the lake.

Public Comment: Chairperson Robillard read a letter in the file dated August 11, 2008, from Mr. and Mrs. Jack and Mary Ann Wade of 6 Lighthouse Road. They listed reasons they felt the proposed placement of this shed was unacceptable: They felt it was in too close proximity to their property, and expressed concerns for safety, esthetics, noise and health issues. The shed will be 3 feet from the pine trees and fence that separate their properties. They listed typical things stored in a shed may present a fire hazard, which could spread to their house. They felt that a shed on the border would detract from their property and associated noise from the mower would be disturbing. They also mentioned that Mrs. Wade is sensitive to gas fumes. Their bedroom is near the shed and they expressed concern over noise and unhealthy fumes. They noted that this shed is closer to their house than it is to Mr. Kesselring's house.

James responded that there would not be any gas containers stored in the shed, just the gas in the lawnmower tank.

Chairperson Robillard asked Mr. Kesselring if there were any other acceptable locations. James replied that this is the only possible placement that does not impact neighbor's view of the lake. He also stated that this is the driest area on his property. He pointed out the wet areas on the west side of his property where there is standing water when it rains. Other alternative locations were reviewed and discussed. No feasible alternative was identified.

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.

Dean Snyder noted that the size of the shed was not indicated in the application. He suggested that the size of the shed be indicated in the motion.

Jack Barton reported that code requires fire rating if a shed is closer than 3 feet from the lot line.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of James Kesselring, owner, with conditions, for area variances at 4 Lighthouse Beach Road to construct an accessory storage shed in the front yard with a side setback from the easterly property line of 3 feet and a front setback of 12 feet from the southerly property line and this grants 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 10 feet side setback and a 40 feet front setback from property lines. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. In looking at the property and having dialogue around drainage and line of sight and trying to maintain a line of sight for neighbors of the lake, the placement optimizes this where proposed. However, the shed shall be no larger than 12 feet x 12 feet with a height no higher than 8 feet measured from grade to peak. There will be no undesirable change in neighborhood character or to nearby properties. The lakefront properties are unique with many boat houses, garages and sheds in the front yard. The request is substantial. Three variances are granted which provide relief. There will be no adverse physical or environment effect. The applicant has been diligent in trying to maintain the line of sight to the lake for the neighbors. The alleged difficulty is self-created, but mitigated by the uniqueness of this lakefront property. 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: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

SPECIAL PERMIT RENEWALS

8. ARTHUR J. FRITZ, JR. – 206 MOUL ROAD

Application was received of Arthur J. Fritz, Jr., for renewal of a Special Permit allowing a taxidermy studio at 206 Moul Road.

Chairperson Robillard reported no complaints on file. Jack Barton reported an inspection of the property was performed last Wednesday but the report was not in the file yet. Art Fritz and Jack Barton did not believe there were any violations identified.

Dean Snyder stated that this Special Permit has been ongoing for many years and he expressed his opinion that this should be approved for 7 or 8 years. Chairperson Robillard suggested that the Town Board could develop a process where ongoing Special Permits such as this could be automatically extended following a required inspection. Jack Barton stated that this action would require some research and noted that a 5 year renewal has been the maximum granted.

Following discussion, a **Motion** was made by Dean Snyder to approve the renewal of a Special Permit to Arthur J. Fritz, Jr. allowing a taxidermy studio at 206 Moul Road with the same conditions as stated in the original approval, to be renewed in 5 years, August, 2113. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

MINUTES OF JULY 17, 2008

The July 17, 2008 minutes were reviewed. On page 4, Para 5, change “plain” to “plane”; on page 5, note that Teresa Rodziewicz of 34 Marjorie Lane was not in attendance. Her comments were read from a letter received. A **Motion** was made by Stephen Shelley to approve the July 17, 2008 ZBOA minutes with the recommended changes. Seconded by Mark Kalen. **Motion carried (3-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder; Abstain: Veronica Robillard, Tim Thomas; Absent: Patrick Buskey)

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley and seconded by Mark Kalen to Adjourn the meeting at 9:05 p.m. **Motion unanimously carried (5-0)** (Ayes: Mark Kalen, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Patrick Buskey)

Respectfully submitted,
Diane Grundon, Recording Secretary