

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JANUARY 15, 2009**

Members Present: Stephen Shelley
Dean Snyder
Tim Thomas

Members Excused: Veronica Robillard

Others Present: Tina Brown (new ZBOA member), Jim Zollweg (alternate),
Art Fritz (ZEO)

Public Present: None

The meeting was called to Order by Acting Chairperson, Tim Thomas, at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He noted that this is a five-member board, with one absent board position and one absent board member for this meeting. He noted that a quorum of three is required to pass a motion.

Chairperson Thomas welcomed and introduced Tina Brown, who will be a regular ZBOA board member, and Jim Zollweg, who will be an alternate ZBOA board member.

Chairperson Thomas noted that at 7:13 p.m., there were no applicants present and no public in attendance.

TABLED PUBLIC HEARINGS

1. MIGIRDIC COLAKOGLU – 1220 HILTON PARMA CORNERS ROAD

Application of Migirdic Colakoglu, contract vendee, for an area variance at 1220 Hilton Parma Corners Road. Applicant is proposing to operate a motor vehicle repair business which, with the addition that is proposed, will require 46 parking spaces under Town Zoning schedule 2. 19 spaces are proposed for this property. This property is currently zoned Highway Commercial (HC).

Chairperson Thomas read a letter dated January 14, 2009, from Randall LaDieu, of LaDieu Associates, surveying-engineering company, who requested that the ZBOA continue the two variance applications for Mr. Colakoglu for property at 1220 Hilton Parma Road at the February 19, 2009 meeting. He explained they are unable to provide the required information for this meeting, as they need to locate the existing septic system and redesign the building around the system.

Chairperson Thomas recalled that this application has been ongoing since September, and has been tabled for three months. Discussion ensued on what to do with this application. Dean Snyder suggested that the Board vote on these applications tonight, as it is not fair to the public to have to keep track of this application and when it is being heard.

Public Comment: None. The public hearing was closed.

Board Discussion: Art Fritz reported no letters in the file. He reported this is a Type II SEQR with no further action required.

A **Motion** was made by Dean Snyder to deny each of the two applications of Migirdic Colakoglu for area variances at 1220 Hilton Parma Corners Road. This recommendation is based on the applicant's failure to provide additional information to the ZBOA which was requested at the October, 2008, meeting. This information was requested by the ZBOA members in order to evaluate the proposal and without this information it would be impossible to consider the applications. The Zoning Board has continued this application since the October meeting and because of the extensive length of time between the October meeting and this date, I believe it is necessary to rule on these applications this evening in all fairness to the neighboring property owners and the ZBOA members. We are unable to apply the area variance criteria due to lack of response by the applicant. Seconded by Stephen Shelley. **Motion to deny (3-0)** (Ayes: Stephen Shelley, Dean Snyder, Tim Thomas)

Chairperson Thomas polled the board to explain their reason for denying these applications:

Dean Snyder: Stated his motion explains his reasons.

Stephen Shelley: We have not received the information requested and therefore we cannot apply the criteria. It is not fair to the neighbors to continue these applications indefinitely.

Tim Thomas: Stated he concurs with the other board members. We have been more than lenient with the applicant in trying to get this application heard. The lack of the requested information from the applicant justifies this denial, as we are unable to apply the area variance criteria to approve these applications.

2. MIGIRDIC COLAKOGLU, CONTRACT VENDEE – 1220 HILTON PARMA CORNERS ROAD

Application of Migirdic Colakoglu, contract vendee, for area variances at 1220 Hilton Parma Corners Road. Applicant is proposing a 40' x 66' addition to the existing building with proposed side setbacks of 15.3 feet from the easterly property line and 14.3 feet from the northeasterly property line and is requesting relief from Town Zoning schedule 1 which requires a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Please refer to the above motion that corresponds to this application also.

NEW PUBLIC HEARINGS

3. PHILIP AND BERNICE KENNARD – 58 WEBSTER ROAD

Application of Philip and Bernice Kennard, owners, for an area variance at 58 Webster Road. Applicants are proposing to install an emergency standby generator in the side yard with a setback of 3.5 feet from the northerly property line and are requesting relief from Town Zoning schedule 1 which requires a side setback of 10 feet. This property is currently zoned Medium Density Residential (MD).

Chairperson Thomas noted that the applicants were not present at this meeting. Discussion was held on the application and the observations made on the zoning board members' inspection of the property. The consensus was that the Board members could vote on this application without any additional information presented by the applicants.

Public Comment: None. The public hearing was closed.

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

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Philip and Bernice Kennard, owners, for an area variance at 58 Webster Road to install an emergency standby generator in the side yard with a setback of 3.5 feet from the northerly property line and this grants relief from Town Zoning schedule 1 which requires a side setback of 10 feet. This property is currently zoned Medium Density Residential (MD). This approval is contingent on this generator meeting any applicable building codes. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The paved driveway is located on the other side of the house and this would be an unsafe alternative location for the generator. 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. 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 Dean Snyder. **Motion carried (3-0)** (Ayes: Dean Snyder, Stephen Shelley, Tim Thomas; Absent: Veronica Robillard)

MINUTES OF DECEMBER 18, 2008

The following changes were recommended: Page 1, remove Bob Prince as present at this meeting; Page 3, Para 3, line 2, change to "They also plan to build a 16' x 16' deck..."; Page 4, Para 1, line 13, change to "...for the pond and pump." A **Motion** was made by Dean Snyder to approve the December 18, 2008 ZBOA meeting minutes with the recommended changes. Seconded by Stephen Shelley. **Motion carried (3-0)** (Ayes: Dean Snyder, Stephen Shelley, Tim Thomas; Absent: Veronica Robillard)

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley and seconded by Dean Snyder to Adjourn the meeting at 7:35 p.m. **Motion carried (3-0)** (Ayes: Dean Snyder, Stephen Shelley, Tim Thomas; Absent: Veronica Robillard)

Respectfully submitted,
Diane Grundon, Recording Secretary