

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
JULY 16, 2009**

**Members Present:** Tina Brown  
Veronica Robillard  
Stephen Shelley  
Dean Snyder  
Tim Thomas

**Others Present:** Jack Barton

**Public Present:** See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She noted that this is a five-member board and 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. WAYNE NEWMAN – 134 COLLAMER ROAD**

Application of Wayne Newman, owner, for expansion of a non-conforming use at 134 Collamer Road. The applicant has renovated the second floor of an existing garage and converted it to living space. Town Zoning Article 12, subsection 165-91 states, in part, that the expansion of a non-conforming use or structure shall be subject to approval by the Zoning Board of Appeals. Applicant is also applying for the following variances: (1) relief from Article 5, subsection 165-33-E.2a, which requires a minimum living area of 1,200 square feet. The existing second floor is 1,036 square feet. (2) relief from Town Zoning schedule 1 which requires a ten feet side setback from property lines. The structure is 2.8 feet from the southerly property line and 1.8 feet from an easterly property line. and (3) applicant is proposing to rebuild the rear portion of the barn on the property which will increase the storage area on this property by 1,281 square feet, bringing the total storage area to 2,900 square feet and is requesting relief from Town Zoning Article 5, subsection 165-33.C.2, which limits the area of accessory buildings to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Chairperson Robillard recalled that this application was tabled until the August 20, 2009 ZBOA meeting, without prejudice, in order to allow the applicant an opportunity to provide proof of continuous occupancy since 1940.

**NEW PUBLIC HEARINGS**

**2. MARC HRYHORENKO – 146 FERGUSON DRIVE**

Application of Marc Hryhorenko, owner, for an area variance at 146 Ferguson Drive. Applicant is proposing an addition to the existing detached garage in the front yard which will increase the size of the garage to 1,080 square feet which is 26 square feet larger than the footprint of the dwelling. Applicant is requesting relief from Town Zoning which defines this garage as an accessory structure that must be subordinate in area. The applicant recently received area variances to allow the garage in the front yard and reduced setbacks to property lines. This property is currently zoned Waterfront Residential (WF).

Marc referred to the ZBOA May minutes. He welcomed any questions. Jack Barton stated Marc's application has not changed since May, noting this application is now based on the determination of the definition of an accessory structure. Marc explained he had the accessory structure all drawn up and didn't want to change it. Jack Barton referred to the May minutes which listed Marc's items to be stored.

**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 Marc Hryhorenko, owner, for an area variance at 146 Ferguson Drive for an addition to the existing detached garage in the front yard which will increase the size of the garage to 1,080 square feet which is 26 square feet larger than the footprint of the dwelling. This grants relief from Town Zoning which defines this garage as an accessory structure that must be subordinate in area. The applicant recently received area variances to allow the garage in the front yard and reduced setbacks to property lines. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. The square footage overage was addressed by the applicant. There will be no undesirable change in the neighborhood character or to nearby properties. The 26 square feet variance is negligible in terms of the overall size of the property. The request is not substantial. This approves a 26 square feet variance. There will be no adverse physical or environmental affect. The alleged difficulty is somewhat 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 approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

### **3. JOHN AND DONNA STASSEN – 205 DUNBAR ROAD**

Application of John and Donna Stassen, owners, for an area variance at 205 Dunbar Road. Applicants are proposing to construct a 768 square feet accessory storage building in the rear yard and are requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

John described the items he wishes to store inside the proposed accessory storage building. He stated these include: race cars, 2 snowmobiles, motorcycles, 3 mopeds, and 2 mowers. He noted that he has two trailers, but they won't fit into the structure but will be placed next to the house. Donna stated that the accessory storage building will be constructed to match the house exactly. She stated they will remove the existing shed. She stated they have another property in Hamlin. She noted this type of accessory structure is being built by a neighbor. They explained their need for a 768 square feet structure for the width, as one race car is extremely long. They stated they would be working on race cars in this structure but this does not result in any waste. They stated the building will be on the west side of the garage in the rear yard.

**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 John and Donna Stassen, owners, for an area variance at 205 Dunbar Road to construct a 768 square feet accessory storage building in the rear yard and this grants relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, the benefit can not be achieved by other means feasible to the applicant. The applicant has demonstrated a need to store and care for existing equipment that they own. This size building is needed to meet their needs. 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 effect. 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 Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

#### **4. JOHN PETER DONATO III – 46 MARJORIE LANE**

Application of John Peter Donato III, owner, for an area variance at 46 Marjorie Lane. Applicant is proposing to construct an accessory storage building to the south of his existing home which is considered a front yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This property is defined in Town Zoning as a through lot which has frontage on two streets thereby having two front yards and no rear yards. This property is currently zoned High Density Residential (HD).

John stated he is looking to put a storage shed behind his house but this corner lot places it in the front yard. He described the shed as 12' x 12' and will be used to store things he now stores in his garage. He noted the shed will be 108' from the road and 10' from the property line.

**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 John Peter Donato III, owner, for an area variance at 46 Marjorie Lane to construct an accessory storage building to the south of his existing home which is considered a front yard and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This property is defined in Town Zoning as a through lot which has frontage on two streets thereby having two front yards and no rear yards. This property is currently zoned High Density Residential (HD). In making this determination to approve, the benefit cannot be achieved by other means feasible to the applicant. The applicant has proposed a location on the property which minimizes any impact to the surrounding properties. This is unique lot with two front yards and the proposed location will appear to be in the rear. 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 effect. 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 approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

## 5. ANTHONY COLOGGI – 207 PECK ROAD

Application of Anthony Cologgi, owner, for three area variances at 207 Peck Road. Applicant is proposing to construct a 1,800 square foot accessory storage building in the side yard with a wall height of 14 feet and is requesting relief from: (1) Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet; (2) Article 10, subsection 165.82.C.2 which limits wall height to 12 feet; and (3) Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This parcel is a corner lot which by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Rural Residential (RR).

Anthony listed the following items that he will store in this proposed accessory structure: 4 classic cars, 3 vehicles that are driven on a daily basis, 3 motorcycles, 2 trailers, 2 large lawn tractors that he needs to mow his 2 acre property. One tractor has a roll-over bar and requires a 14' high wall height. He currently does not have the roll-over bar on his tractor and feels that he needs this for safety when he is mowing the drainage ditch. He noted that he uses the tractor with a bucket to pick up debris, branches, etc., on his property. He is also planning on purchasing snowmobiles and will have a boat with a trailer and would like to store them inside. He noted that his mother moved in with them last August and they have no space. He described the trees surrounding his property, stating that the neighbor across the street will not be able to see this storage building. A huge willow tree and hedge row blocks the view from Manitou Road. He described the storage building which will match the color of the house. He noted that 368 square feet of existing shed will be removed. He stated that he currently keeps this equipment in the existing sheds but they barely fit. He stated he works for a tree surgeon company. In answer to a question by board member, he stated he could live with a 12' high side wall, but preferred the requested 14' height. He stated that the allowed 1500 square feet would not be large enough to hold all his equipment. He noted that his 3 motorcycles are 10' long, 8' long and the other is a Harley and he needs room to work around them.

### **Public Comment:**

**Paul Marvin – 215 Peck Road:** Stated he is not for or against this application. He just has questions. He noted the lot was originally built for a single home, but built to one side with plans for another house on the adjoining lot. This never happened. He expressed concern this may be used for commercial use.

Anthony responded that this is for personal and private use only.

**Richard Vance 253 Peck Road:** Stated he also has a two acre lot. He expressed his concern about the trouble with Peck Road residents keeping up their property. He stated his opinion that 1500 square feet should be more than adequate. He stated that if zoning doesn't accommodate all these things, they should go someplace else to live. He stated that limits should be set for these buildings and if they don't fit in the neighborhood, they should not be allowed.

**Joan Marvin – 215 Peck Road:** She questioned if there is a limit on the number of vehicles a person can have on their property. Jack Barton responded that unlicensed vehicles are not allowed outside, but unlimited inside.

Anthony stated that this building will be two feet less than his house and will look better than the two sheds he has there now. He stated that the building will be 88' off the back of the house, 45' to the hedgerow and wooded area.

Dean Snyder explained that when these buildings are removed, that overall the larger structure will look better. He noted the question is how much to approve. Chairperson Robillard asked Anthony if he will be removing some outside storage. Anthony responded "yes, absolutely. This will allow him to store everything inside."

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.

In answer to a question by a board member, Anthony stated that his house is 1500 square feet. It was explained that zoning does not allow an accessory structure to be larger than the house. Dean Snyder noted that with the attached 2 ½ car garage, the square footage of the house was 2070 square feet.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Anthony Cologgi, owner, for two area variances at 207 Peck Road. Applicant is proposing to construct a 1,800 square feet accessory storage building in the side yard and this grants relief from: (1) Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet; and (2) Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This parcel is a corner lot which by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Rural Residential (RR). In making the determination to approve, the benefit cannot be achieved by other means feasible to the applicant. The applicant has demonstrated, to my satisfaction, the list of items to be stored in this storage structure that warrants the size building the applicant is requesting. This includes: 4 classic cars, 3 motorcycles (one 10' long, 1 8' long, and a Harley), 2 trailers, 2 large lawn tractors, one with a bucket to pick up large debris on his property, and 3 vehicles that are driven on a daily basis. There will be no undesirable change in neighborhood character or to nearby properties. The location of the accessory structure optimizes the owner's line of site from Peck and Manitou Roads. This gives the applicant a structure to store all items inside, some of which are currently stored outside. The request is certainly substantial, as it pertains to the square footage; however, the need has been substantially justified relative to the requirement for accessory structures in the rear yard. This is a corner lot with no rear yard and this is a reasonable option. There will be no adverse physical or environmental effect. 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 Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

A **Motion** was made by Tim Thomas to deny the application of Anthony Cologgi, owner, for an area variance at 207 Peck Road. Applicant is proposing to construct a 1,800 square feet accessory storage building in the side yard with a wall height of 14 feet and this denies relief from Article 10, subsection 165.82.C.2 which limits wall height to 12 feet. This parcel is a corner lot which by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Rural Residential (RR). In making this determination to deny, I believe the benefit can be achieved by other means feasible to the applicant. The applicant has stated that a 14' wall height is not necessary. A 14 feet wall height would result in an undesirable change in neighborhood character and to nearby properties. The request is substantial. There will be no negative physical or environmental effect. The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion unanimously carried to deny (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

Chairperson Robillard polled the board for the reasons to deny:

Tim Thomas: stated his motion speaks for his reasons.

Stephen Shelley: Agrees with the motion and we have not seen sufficient evidence that a 2 feet higher wall height is required

Veronica Robillard: Agrees with the motion. The applicant stated that a 12 feet height would be acceptable and sufficient for him and this will be in the best interest of the neighbors.

Tina Brown: Using the balancing test, the applicant can achieve the benefit by other feasible means.

Dean Snyder: The applicant did not demonstrate the need for increase in wall height. Using the allowed wall height appears to be sufficient for the equipment to be stored.

## **6. BRUCE AND LYNIER CLARK – 562 BURRITT ROAD**

Application of Bruce and Lynier Clark, owners, for an area variance at 562 Burritt Road. Applicants are proposing to construct a pool cabana in the rear yard with a side setback from their westerly property line of five feet and are requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Rural Residential (RR).

Bruce provided a picture of what he is planning, noting three-quarters of the building would be open. He provided a picture of the shed built on his property for lawn equipment, which he stated demonstrates that he takes care of his buildings. He then provided a sketch of the house, pool, and deck, noting the area in the rear has a swale. He stated this area in the rear is not suitable for building due to the drainage issue. He stated that the area on the other side provides an area to drain the sump pump and pool. He stated the area they have chosen is the only possible location. He shared pictures taken of the back yard and of pole barns and sheds throughout their neighborhood. He noted the location chosen will be against the fence and most of the cabana will be hidden by the neighbor's shed. He stated if the cabana were moved one way or the other, it would be visible to the neighbors. He provided a picture of the flat area where they plan the cabana. He stated without the variance, the cabana would be 5' from the pool deck. He expressed concern about electricity in the cabana and not wanting it too close to the pool for this reason. He stated that the 12' x 26' cabana will be 12 feet away from the pool. This allows him enough room to drive a vehicle to the back of his property. He noted he owns 625' to the back of the property. He stated the cabana would allow them to sit outside in a screened in area. It will have no bathroom, no running water and no kitchen facilities. He stated they might have a refrigerator in the cabana. He felt that the farther away from the pool that they place the cabana, the better it is. Lynier stated that they probably won't be driving anything back to the property in the rear, but this will allow access just in case. Trees and a small gate prevent driving anything on the other side. Lynier stated that in the front is where the leach field is.

Tim Thomas asked if the cabana could be built on the northeast side. Bruce noted swales and a drop off in that area. Dean Snyder asked what would preclude filling that area in. Bruce noted that visually he would rather not be looking out the cabana looking at his house. This proposed location provides an open view out of the cabana. It was suggested that the cabana be placed at a 7' side setback. Bruce stated that he preferred the 5' setback, as they did not want the cabana placed any closer to the pool, noting his concern about electrical safety and the need to access the back.

**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.

Concern was expressed by the Board members regarding the proposed 5' side setback for the cabana. It was suggested that this be tabled to give the applicant an opportunity to look at why this cabana cannot be placed at the 10' allowed side setback. Chairperson Robillard explained this to the applicant, asking them how they wanted to proceed. Lynier stated that she and Bruce would look at perhaps a 7 foot variance. Chairperson Robillard explained the criteria for approving an area variance would be based on need, not necessary on want. The applicant would have to provide solid evidence and information why there are no other alternatives. The applicant stated that they wanted the Board to proceed with a decision tonight and not to table their application. Lynier stated that there is no other place to put this screened in house. She stated they want the cabana away from the pool and they felt this was the best possible location.

Following discussion, a **Motion** was made by Tim Thomas to deny the application of Bruce and Lynier Clark, owners, for an area variance at 562 Burritt Road. Applicants are proposing to construct a pool cabana in the rear yard with a side setback from their westerly property line of five feet and this denies relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Rural Residential (RR). In making this determination to deny, the applicants have not provided evidence that there are other means to achieve the benefit desired. The applicants also declined the option to table this request to allow them additional time to explore other options. The applicants stated that the proposed location for the cabana is the only option they want and they did not want to look at the other feasible alternatives discussed at this meeting. There will be an undesirable change in the neighborhood character and to nearby properties. A 5' setback *versus* the required 10' setback is an undesirable change. The request is certainly substantial, requiring a 50% variance. There would be no adverse physical or environmental effect. The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community and therefore should be denied. Seconded by Stephen Shelley. **Motion carried unanimously to deny (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

Chairperson Robillard polled the Board members for their reasons to deny:

Tim Thomas: stated his motion speaks for his reasons.

Stephen Shelley: The benefit can be achieved by other means feasible to the applicant. Also, the request is substantial. They are requesting a variance that is 50% less setback than allowed.

Veronica Robillard: There are other feasible means to achieve the benefit. Using the balancing test, as well, there are other options to consider. It is necessary to deny.

Tina Brown: Concurs that using the balancing test, there are other means feasible to obtain the objective and it is a self-created difficulty.

Dean Snyder: The applicant did not demonstrate significant need versus other means feasible to the applicant. With some redesign, it is possible to maintain the setback without minimizing the distance between the cabana and the pool. Even with the existing design of the cabana, I believe it could be moved 5' without any decrement.

## 7. STEVE AND CINDY SASSON – 12 CAREFREE LANE

Application of Steve and Cindy Sasson, owners, for an area variance at 12 Carefree Lane. Applicants are proposing to construct an 864 square foot accessory structure in the side yard and are requesting relief from Town Zoning Article 10, subsection 165-85.C.3 which states in part that detached accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Steve explained his need for an accessory structure, in addition to his 3 car garage. He described the items he has to be stored, including a sports car, John Deere tractor with a trailer, lawn tractor, and other equipment. He stated that the proposed location would minimize the need for additional asphalt. He noted if the building were put behind or to the rear, it would require removing large established trees. He stated the lot is heavily wooded and this would be behind the trees and would be shielded from view on his 5 acres of land. He noted that current code would require him to move the structure back 32 feet.

**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 Steve and Cindy Sasson, owners, for an area variance at 12 Carefree Lane to construct an 864 square foot accessory structure in the side yard and this grants relief from Town Zoning Article 10, subsection 165-85.C.3 which states in part that detached accessory structures shall be located in the rear yard. This property is currently zoned Rural Residential (RR). In making this determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. This accessory structure is required to be in the rear yard but removal of mature ash trees would be necessary. A significant cost would be incurred for removal of these trees and additional asphalt would be required at an additional cost if this accessory structure were placed according to code. There will be no undesirable change in neighborhood character or the nearby properties. This property is located in a very unique subdivision off Manitou Road and is a 5 acre parcel. The request is substantial, but removal of mature ash trees would be a significant negative impact. There will be no physical or environmental effect. The alleged difficulty is self-created, but somewhat mitigated by the requirement to remove ash trees if the structure were placed according to code. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tina Brown.

Dean Snyder asked if this building were moved back 36 feet, how many ash trees would have to be removed. He suggested that a more significant difference from placing this in the rear yard be provided in order to approve. He questioned why it should be in this location as opposed to moving it back 36 feet. Steve responded that at least 8-12 ash trees would need to be removed. He stated this is a unique lot and heavily wooded. He felt that the proposed location would not create an adverse effect and would be consistent with the character of the neighborhood and not visible to neighbors. This placement would make it easier to access and allows existing asphalt to be used.

Tim Thomas noted that if the structure were rotated 90 degrees, it would be 12 feet farther back. Dean Snyder stated that he would like to table this to allow additional time for another visual inspection. Tim Thomas referred to the unique layout of this subdivision. Steve stated that he had an estimate of \$300 to take down one ash tree.

**Motion approved (3-2)** (Ayes: Tina Brown, Veronica Robillard, Tim Thomas; Nays: Stephen Shelley, Dean Snyder)

**A recess was called at 9:07 pm. The meeting reconvened at 9:15 pm.**

## **8. JOSEPH AND BARBARA RYAN – 436 PECK ROAD**

Application of Joseph and Barbara Ryan, owners, for an area variance at 436 Peck Road. A pool deck has been constructed with a side setback of five feet from the easterly property line and the applicants are requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Agricultural/Conservation (AC).

Jeanette and Dale Fletcher explained that they live in this home, owned by their parents, Joseph and Barbara Ryan. Dale stated that in March, they purchased an above ground pool, for which they did get a building permit to install. Dale explained that they were not aware that a permit was needed to build a deck around the pool. When the deck was 80% complete, they were informed that they required a permit and a variance, as it was constructed at a 5 feet setback from the property line instead of the required 10 feet. Dale stated that they placed the deck where they could watch the pool from the kitchen. If the deck were built behind the pool, they couldn't see the children. Dale noted that they have a disabled child and stressed the importance of being able to observe the children in and around the pool. Dale described this 13 ½ x 17 foot deck as built on poles adjacent to the pool. He noted the pool is 18 feet from the lot line, and the deck is currently constructed 6 feet to the lot line. He noted a huge maple tree and Japanese maple tree which prevents placement elsewhere. Dale emphasized that the current placement provides a full view of the pool from the house. Jeanette stated she obtained an estimate to move the deck. The cost to remove the existing deck would be \$2000 and \$3000 to build a new deck. She noted that this size deck is needed to accommodate a table and chairs.

**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.

It was suggested that 4- 4.5' be taken off one side of the deck and construct the deck to wrap around the north east corner, as an alternative to the current plan. Dale stated that there is a lot of standing water in the northeast corner.

Discussion was held on tabling this application to provide the applicant a opportunity to investigate the possibility of placing the deck farther to the northeast corner. Chairperson Robillard polled the Board if they want to table or vote. It was the consensus of the Board to table this application to provide the applicant an opportunity to explore other alternatives.

Following discussion, a **Motion** was made by Stephen Shelley to table the application of Joseph and Barbara Ryan for an area variance at 436 Peck Road, without prejudice, to the August 20, 2009 meeting to allow the applicants additional time to explore feasible modifications to the deck to try to bring it closer to compliance with zoning code or to justify why this is the only possible placement. Seconded by Dean Snyder. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

### 9. MICHAEL MEYER – 53 LAKESIDE BOULEVARD

Application of Michael Meyer, owner, for an area variance at 63 Lakeside Boulevard. Applicant is proposing to construct an attached garage with a side setback of eight feet from the northerly property line and is requesting relief from Town Zoning schedule 1 which requires a side setback of ten feet. This property is currently zoned Waterfront Residential (WF).

Michael described this property as lakeside and unique in nature. He explained his proposal to construct a garage that would be the minimal size recommended. He noted the entire back yard has been converted to leach field. He stated to the west of his property are 3 storage buildings and to the north is a garage for property across the street. He noted his front yard faces east and is his lake view. Placement of the garage to the east would negate his view of the lake. It was suggested that the garage be placed on the very northwest corner. Mike replied that he would have to check on this possibility. This would make it just 10 feet back from the property line. Dean Snyder noted that consideration should be taken to assure accessibility to the lakefront. This proposal would take up much of the width of the property. Michael stated the shed will remain at the present time. Michael stated his home is 27' x 46', the garage addition will be 37' x 24', and the shed is 12' x 25'.

**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 Michael Meyer, owner, for an area variance at 63 Lakeside Boulevard to construct an attached garage with a side setback of eight feet from the northerly property line and this grants relief from Town Zoning schedule 1 which requires a side setback of ten feet. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. As stated, the entire back yard was recently converted to a septic system and, therefore, locating the garage in the rear yard is impractical and would have a negative impact on the septic system. The proposed location is the best possible placement on this waterfront property considering its narrow lot width. The home does not have a basement or crawl space, which is typical for waterfront properties, and this supports the applicant's need for a garage. There will be no undesirable change in neighborhood character or to nearby properties. Although this property is not located on the lake, this attached garage is consistent with other garages in this lakefront district. The request is substantial but mitigated by the uniqueness of waterfront property, as well as the prior mentioned issue of the rear yard and setbacks in the front. There will be no negative physical or environmental effect. 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 Dean Snyder. Dean Snyder stated he agrees there is a need for storage, but questioned if a smaller garage would be sufficient for two cars. However, he stated that the need outweighs any concern. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

## 10. MARK EVANS – 5461 RIDGE ROAD WEST

Application of Mark Evans, as applicant, for a modification of an existing use variance for property located at 5461 Ridge Road West. Applicant is requesting that the existing use variance, which allows the tenant to operate a “custom and specialty motor vehicle paint and repair shop” be modified to allow an auto body repair shop. Applicant is requesting relief from Town Zoning Article 165-39 which does not allow auto repair as a permitted use. Property is currently zoned General Commercial (GC).

Mark Evans reported that this property is owned by Richard Lucisano. Mark explained that he has operated his business for 10 years at 1762 Manitou Road and is looking to rent this property from Mr. Lucisano to do small body repair work, such as dings and dents, and also do custom work on cars and motorcycles. He stated he works on nice cars and most of his business is “doll up.” Chairperson Robillard reviewed the criteria for approval of a use variance. She referred to a letter from the ZEO to Mr. Lucisano dated July 16<sup>th</sup> regarding violations. Mr. Lucisano stated he has cleaned up some of the debris. He explained that he wants the old tenants out and Mark has inquired about purchasing the property. Mr. Lucisano provided a history of the property and stated that his property was not in violation until the current tenant was there. He stated he is willing to clean up the property and did not receive a copy of the July 16<sup>th</sup> letter yet.

Chairperson Robillard read a letter dated August 4, 2008 that listed dismantled cars and other debris informing Mr. Lucisano that this was not permitted. Mr. Lucisano stated that this was delayed in resolution because of the weather. Chairperson Robillard reiterated the criteria for a use variance. She polled the Board whether we should proceed or give the applicant an opportunity to clean up the property. Richard stated that Mark is going to be the owner and he would present the application.

Mark stated problems collecting rent from prior tenants and Mr. Lucisano is now looking to sell the property. The building is set up for work on cars, not for retail business. Dean Snyder read zoning code 165-39 explaining the required information to be provided to the Board for consideration of a use variance. He explained that for each and every permitted use listed in this code, evidence must be shown that the applicant cannot realize a reasonable return. Heather stated she didn't realize that each and every permitted use needed to be justified. It was noted that the applicant needs to address the current use variance and why this would not be enough for their use variance. The applicant stated that he understood the information that is required and stated their decision to have this application tabled until the September meeting. Jack Barton noted that it is helpful for the applicant to share the information the applicant gathers and provide it to the Zoning Board prior to the mailing for the meeting.

**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 to table the application of Mark Evans, as applicant, for a modification of an existing use variance for property located at 5461 Ridge Road West, without prejudice, until the September 17, ZBOA meeting, to allow the applicant ample time to provide the ZBOA with the required information to determine, based on use variance criteria, the hardship with the current use and each and every permitted use. Seconded by Dean Snyder. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

**MINUTES OF APRIL 16, 2009**

Discussion was held on these very lengthy minutes and the numerous recommended changes. There was a consensus to postpone discussion and approval of these minutes until the August ZBOA meeting, to allow the Board members additional time to review the motions made at this meeting.

**MINUTES OF JUNE 18, 2009**

The June 18, 2009 ZBOA minutes were reviewed. The following changes were recommended: page 2, Para 4, change "Mr. Crowley" to Mr. Caswell"; page 3, Para 1, line 4, change "properties" to "character"; page 7, under April Minutes, change "June" to "July."

A **Motion** was made by Tim Thomas to approve the Jun 18, 2009 ZBOA minutes with the recommended changes. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

**OTHER**

**Code 165-82.C.3:** Jack Barton inquired if the Board agreed with the June 26, 2009 letter that describes the ZBOA's interpretation on the subject of accessory structures located in the rear yard. There was a consensus to agree with this interpretation.

**ADJOURNMENT**

There being no further business, a **Motion** was made by Dean Snyder, seconded by Tina Brown, to adjourn the meeting at 11:20 pm.

Respectfully submitted,  
Diane Grundon, Recording Secretary