

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
APRIL 12, 2010**

**Members Present:** Tina Brown  
Veronica Robillard  
Stephen Shelley  
Tim Thomas  
Jim Zollweg

**Members Excused:** Dean Snyder

**Others Present:** Jack Barton, Bob Prince

**Public Present:** See attached list

The meeting was called to Order by Chairperson 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. She offered hearing aid devices for anyone who required them.

**PUBLIC HEARINGS**

**1. JOHN LODGE – 4670 RIDGE ROAD WEST**

Application of John Lodge, owner, for an area variance at 4670 Ridge Road West. The applicant is proposing to construct an accessory structure behind the existing garage with a front setback of 62 feet from the road right-of-way and is requesting relief from Town Zoning schedule 1 which requires a 100 feet front setback. This property is currently zoned General Commercial (GC).

John stated he owns, operates and rents part of his property. He explained he is looking to replace the existing garage which is in terrible condition and doesn't provide sufficient storage space. The existing garage is too close to the house and not structurally sound. The new structure will be 25 feet behind the current structure. He referred to the site plan of the motel, noting there is no other location for the structure due to the location of the septic tank and leach field. He has two leach fields, one for tenants and one for himself. There is no access to the rear of the property due to the steep slope and the garage can't be moved to the front. He noted the slope is steeper as you go farther back on the property. He needs electricity in the garage and access to the garage from the current driveway. He reported that this location wouldn't add or subtract from the current driveway. He explained that the new structure will actually look lower than the existing garage because the grade is 3 ½ feet lower than where the current structure is. He stated the roofline of the new structure will be lower from the road. He explained that he inherited the property the way it is. To reconstruct the garage where it is now would not be the best situation with the closeness to the house. The only use of the driveway is for the tenant on the other side of the house. The current setback is 30 feet and he is asking for 62 feet front setback for the new building. The new building will be 90 feet from the actual road. He explained that he will use the new structure for lawn equipment and his wife's vehicle. The old garage will be demolished immediately when the new garage is completed.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton 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.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of John Lodge, owner, for an area variance at 4670 Ridge Road West to construct an accessory structure behind the existing garage with a front setback of 62 feet from the road right-of-way and this grants relief from Town Zoning schedule 1 which requires a 100 feet front setback. This property is currently zoned General Commercial (GC). This approval is with the understanding that the existing garage will be demolished upon completion of the new structure. In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The somewhat unique nature of the property and geographical layout, as well as the location of the leach field, makes this the optimal location for the structure. There will be no undesirable change in neighborhood character or to nearby properties. In fact, looking at the existing garage, that is in very poor shape, this will be an improvement. The structure is not out of character with other structures on Ridge Road and some are even closer to the road right-of-way. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, however, mitigated by the unique odd shape of the property and this is the only logical location. 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: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

## 2. TOWN OF PARMA – 1300 HILTON PARMA CORNERS ROAD

Application of the Town of Parma for area variances at 1300 Hilton Parma Corners Road. Applicant has erected 2 entrance signs that identify park entrances. The signs are 6 feet high and have a setback of 2 feet from the road right-of-way. This applicant is requesting relief from Town Zoning Article 14, subsection 165-111.D which requires that freestanding signs be setback a minimum of 15 feet from all lot lines and 165-113.A.1.a.1 which limits the height of the sign to 4 feet. This property is currently zoned Agricultural Conservation (AC).

Joseph Petricone, park foreman, explained that these two entrance signs were installed approximately 4 years ago. Measurements were taken to be sure they weren't in the right of way. The signs were purchased and installed. Apparently the Town setback was not considered. The Historical Society applied for a permit for a sign and it was then discovered these signs were within the right of way. The current sign location provides visibility of the sign but does not impair the visual view of the road when exiting. He explained that it is not possible to move the south sign farther back because it would fall in the concrete pathway and it is not possible to move the north sign farther back because it would be near the hot box. Moving the signs would make it difficult for drivers to see the sign that advertises the park entrance. Tim Thomas asked if he had an estimate of how many people use the park. Joe stated during April to September, 300 or more participants a day up to 400 or 500 people on the weekend use the park.

### **Public Comment:**

**John Chart – 969 Parma Corners Road:** Stated he was against this variance. He felt the Town should set an example. There is no hardship to move the sign. The Town has the manpower to do this. He wonders why this came up. If approved the zoning board will be setting a precedent and not setting an example. He referred to the 14<sup>th</sup> amendment.

John provided a letter from Arda Davey – 146 Burritt Road. Chairperson Robillard read the letter from Arda which stated she felt that the Town was able to order what they wanted and didn't need to get a permit. She asked for an explanation why the Town office can do anything they want. She asked who made the decision and approved it.

**Tom Scheg – 24 Stothard Drive, Hilton:** Asked if there is a governmental relief to cover this. Jack Barton explained that the Town can be exempt for certain situations. It is a process for the Town Board to justify or review this. He asked if the State has a mandate to cover signage for public safety. Tim Thomas offered to research this.

Tim Thomas pointed out that if the south sign were placed within the variance, it would be located right in the middle of the sidewalk. Joe stated that you wouldn't be able to see the sign from the other side of the sidewalk due to pine trees and the telephone pole which would block the sign. Joe stated the signs in their current location is where they need to be for people to see the signs. There would be a cost to move the signs back and move the sidewalk to allow room for the signs. The other direction would put them near the hot box area.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton 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.

Discussion was held on possible alternative locations. Joe stated that if the signs were placed on the other side of the driveway, the sign would be much higher elevation wise and might block the view of the road for cars that are exiting. Tim Thomas suggested that the Town investigate alternative locations and come back to the zoning board. Chairperson Robillard asked Joe why the sign had to be 2 feet higher than allowed. Joe stated he would address this. Chairperson Robillard asked the applicant to provide the information requested by May 7<sup>th</sup> to the building department prior to the May meeting to provide them time to view it. Chairperson Robillard explained that the height justification and possible alternative locations need to be addressed.

Following discussion, a **Motion** was made by Tim Thomas to table the application of the Town of Parma for area variances at 1300 Hilton Parma Corners Road to the May 20, 2010 ZBOA meeting, without prejudice, to afford the applicant the opportunity to explore alternative locations as discussed at this evening's meeting and provide a justification for the height of the sign. Seconded by Jim Zollweg. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### **3. KEVIN BUCKERT – 23 JUDD LANE**

Application of Kevin Buckert, owner, for an area variance at 23 Judd Lane. The applicant has constructed an accessory storage building with a playhouse above. The wall height of this structure is 14 feet. Applicant is requesting relief from Town Zoning Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned High Density Residential (HD).

Kevin explained he constructed this playhouse in October of 2009. It was a two stage process. His original intent was storage and then he added the playhouse. When constructed, he tried to keep quality and safety in mind. The trusses meet State code and he tried to keep the roof at its lowest height possible. He did not know the side walls had to be a maximum of 12 feet high and because of the 6' high door, chose the 14 feet wall height.. He did not get a building permit for this. Jack Barton stated that the building department was notified of this structure due to concerns about fire safety. Kevin stated the construction is complete and the building is 20 feet from the side yard line and 12 feet from the back yard line. There are trees between him and the neighbors that screen the structure. He stated he was familiar with the setback codes. Kevin stated it is possible to disassemble the structure to make it come into compliance. Jack Barton stated that there was no justification for fire safety concerns. There are no utilities in this structure. Kevin noted he wanted to put stairs in the north side of the unit.

**Public Comment:**

**Tammy Atari -32 Judd Lane:** Stated she is the neighbor on the south side. She expressed concern about the structure. She felt it is too high and invades their privacy. She doesn't have a problem with this structure there but has a problem with the height. Anyone in the structure can see into here daughter's room and into her pool, yard and home.

**Elaine Thomas – 19 Judd Lane:** Expressed concern that if the tree line were removed, the structure would obstruct her view.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton 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.

Following discussion, a **Motion** was made by Tim Thomas to deny the application of Kevin Buckert, owner, for an area variance at 23 Judd Lane. The applicant has constructed an accessory storage building with a playhouse above. The wall height of this structure is 14 feet. This denies relief from Town Zoning Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned High Density Residential (HD). In making this determination to deny, the benefit can be achieved by other means feasible to the applicant. There has been no evidence presented other than a 6' door clearance that can substantiate a 14 foot wall height. The structure does create an undesirable change in the character of the neighborhood and immediate property owners expressed concern about the invasion of privacy due to the wall height. The request is substantial. Even more so in a high density district with a wall height of 14 feet. There is adverse physical effects with the wall height of 14 feet in this HD district which makes it stand out. While there is some natural screening for this, if this was removed, it would result in obstruction to the neighbors. The alleged difficulty is certainly self-created and non-compliant and built without a permit. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community resulting from height of this structure. Seconded by Stephen Shelley. **Motion unanimously carried to deny (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

Chairperson Robillard polled the Board for the reason to deny:

Tim Thomas: Stated his motion stands for his reason

Stephen Shelley: The benefit can be achieved by other means. If a building permit was obtained before it was built, it could have been built to code.

Tina Brown: Using the balancing test justifies denial. It creates an undesirable change and there are other means feasible to achieve the benefit.

Jim Zollweg: It does create an undesirable change in the neighborhood and there are other ways to achieve the benefit.

Chairperson Robillard: Upon consideration of AV criteria and using the balancing test, there are other feasible means to achieve the benefit. The neighbors have expressed concerns on the impact to their privacy. The difficulty is self-created. The request is substantial and the request has a potential negative environmental effect. Based on this, denial is appropriate.

#### 4. JAMES AND LISA PANFIL – 2 CONNIES LANE

Application of James and Lisa Panfil, owners, for area variances at 2 Connies Lane. The applicant are proposing to erect a 6 feet high privacy fence in the front and side yards and are requesting relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that fences in the front yard are limited to a height of 3 feet and that it cannot be a closed style (solid) fence and subsection 165-128.B.2 which states in part that privacy structures up to a height of 6 feet may be permitted for the express purpose of enclosing or screening a swimming pool or patio area. Applicants are also proposing to construct an accessory storage shed in the side yard and are requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which requires sheds to be located in the rear yard. This property is a corner lot and by definition has two front yards and two side yards and no rear yard. This property is currently zoned Medium Density Residential (MD).

Lisa provided a packet of information to explain why they are looking to construct a fence in their yard, which is a corner lot. She noted the fence would be inside the tree line. She explained they have two small children and a pet. They are now looking at a 4' high picket fence instead of the 6' high privacy fence. The shed would be in the rear corner of the yard but this is a side yard. She noted the heavy traffic on Union Street and the fence will provide safety and screening for the children and their pet. She noted this fence would not obstruct the view of the road from the church next door. She felt this would enhance the property. She stated that the fence would run from the back corner of the house towards Union Street back to the church, across the back inside the tree line and then back to the house.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton 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.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of James and Lisa Panfil, owners, for area variances at 2 Connies Lane to erect a 4 feet high picket fence in the front and side yards and this grants relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that fences in the front yard are limited to a height of 3 feet and subsection 165-128.B.2 which states in part that privacy structures up to a height of 6 feet may be permitted for the express purpose of enclosing or screening a swimming pool or patio area. This also approves construction of an accessory storage shed in the side yard, as indicated on the site plan, and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which requires sheds to be located in the rear yard. This property is a corner lot and by definition has two front yards and two side yards and no rear yard. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, the benefit cannot be achieved by other means feasible to the applicant. This is a corner lot and if it were a typical lot, this would be allowed. The applicants changed their request from a 6' solid fence to a 4' picket fence. There will be no undesirable change in neighborhood character or to nearby properties. The request is somewhat substantial, 33% greater than what would be allowed but mitigated by the corner lot. There will be no adverse physical or environmental effect. It is not self-created, because this is a corner lot. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare to the community. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

**SPECIAL PERMIT RENEWALS**

**1. SUZANNE DINICOLA – 4621 RIDGE ROAD WEST**

Application was received from Suzanne DiNicola, owner, for renewal of a Special Permit at 4621 Ridge Road West to construct a sales and showroom building and expand the area of outside display vehicles east of existing display area. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

Jack Barton reported that a recent inspection did not identify any violations. Jack reported there were no complaints on file.

Following discussion, A **Motion** was made by Tim Thomas to approve the application of Suzanne DiNicola, owner, for renewal of the Special Permit at 4621 Ridge Road West, with the following conditions set forth that apply to properties, the eastern portion of 4615 Ridge Road West, now known as 4621, and the western portion of 4621 Ridge Road West, as follows:

- No more than 140 display spaces total
- All display areas will be paved
- No repairs or storage of junk cars
- No outside speakers
- No on-street parking
- Lighting to be directed away from Ridge Road West and neighboring properties
- Hours of operation: Monday through Friday, 9 am – 9 pm, Saturday, 9 am to 5 pm, no Sunday hours
- For a period of one year, to be renewable 12/20/2010

Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

**2. RUSSELL ANGELO – 5200 RIDGE ROAD**

Application was received from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West. This property is zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton referred to the recent inspection which did not identify any violations. He reported no complaints were on file.

A **Motion** was made by Jim Zollweg to approve the application from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West, with the following conditions:

- No more than 30 cars to be displayed for sale.
- No on-street parking. There must be adequate space for customer parking.
- Exit and entrance driveways are to be provided.
- All repairs to be performed within the existing structure, not outside.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Sunday.
- Signs to conform to current zoning.
- Lighting to be directed away from the road.
- Special Permit for a period of one year, renewable in April, 2011.

Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### 3. CRAIG BRYCE - 645 MANITOU ROAD

Application was received from Craig Bryce, 645 Manitou Road, for renewal of a special permit allowing outside storage of no more than eight (8) pieces of construction equipment.

Jack Barton referred to the recent inspection, which did not identify any violations. He reported there were no complaints on file.

A **Motion** was made by Tim Thomas to approve the renewal of a special permit requested by Craig Bryce to allow outside storage of construction equipment at 645 Manitou Road with the following original conditions:

- No more than 8 pieces of construction equipment stored outside.
- No outside storage of junk, trash, or dismantled vehicles.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Saturday; 12 Noon to 5:00 pm Sunday.
- No sales of any kind.
- Renewable in April, 2010.

Seconded by Stephen Shelley. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

### 4. FRANK AND LUIGI SANTONASTASO – 5070 RIDGE ROAD

Application was received from Frank and Luigi Santonastaso, owners, for renewal of a special permit at 5070 Ridge Road West to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton reported that a recent inspection by the ZEO and fire marshal reported Mr. Santonastaso is under the number of allowed vehicles for display, but other businesses in the building have cars that bring him over the number allowed. Jack explained that Mr. Santonastaso wants to apply for an amended special permit to increase the number of cars for display. He also wants to address customer and employee parking. The applicant wants to come to the Zoning Board in May to present this amended special permit application. Bob Prince noted that there was an interior issue also.

Following discussion, a Motion was made to table the application of Frank and Luigi Santonastaso, owners, for renewal of a special permit at 5070 Ridge Road West, without prejudice, so the applicant can make a proper application for a new special permit and to confirm there are no outstanding violations or complaints. Seconded by Tina Brown. . **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### OTHER

**Board Review:** Jack Barton reported that the Zoning Board will have a multidisciplinary technical review of all applications so there may be more comments to the Zoning Board members from the Building Department when this is implemented.

**Compliance Timeframe:** Jack reminded the ZBOA members to give an applicant a timeframe to come into compliance.

**Accessory Structures Front Setback:** Jack Barton asked the ZBOA members to review zoning ordinance 165.82.C. for discussion at the May meeting.

**Redemption/Recycling Facility:** Bob Prince reported on possible negative implications with even a minimal recycling center. He noted that nothing in the code allows this as a principal permitted use. He was not sure what impact this might have.

### MINUTES OF MARCH 18, 2010

The March 18, 2010 ZBOA minutes were reviewed. The following change was recommended: page 2, Para 3, line 4, change to “..Whatsoever regarding this application.” A Motion was made by Tim Thomas to approve the March 18, 2010 ZBOA minutes with the recommended change. Seconded by Tina Brown. **Motion carried (3-0)** (Ayes: Tina Brown, Stephen Shelley, Tim Thomas; Abstain: Veronica Robillard, Jim Zollweg; Absent: Dean Snyder)

### ADJOURNMENT

There being no further business, a **Motion** was made by Tina Brown, seconded by Stephen Shelley, to adjourn the meeting at 9:25 pm. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

Respectfully submitted,  
Diane Cook, Recording Secretary