

TOWN OF PARMA
ZONING BOARD OF APPEALS
August 18, 2011

Members Present: Tina Brown
Veronica Robillard
Stephen Shelley
Tim Thomas

Members Excused: Dean Snyder, Jim Zollweg

Others Present: Jack Barton

Public Present: See attached list

Chairperson Robillard called the meeting to Order at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She explained that this is a five-member board, one board member and the alternate board member absent. She explained that a quorum of three is required to pass a motion. She offered hearing devices for those who requested them.

PUBLIC HEARINGS

1. ANTHONY NORSELLI – 305 MOUL ROAD

Application of Anthony Norselli, owner, for two area variances at 305 Moul Road. Applicant is proposing to construct an accessory storage shed in the front yard with a side line setback of 16 feet from the westerly property line 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 and schedule 1 which requires a setback of 25 feet from the side property line. This property is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Agricultural/Conservation (AC).

Anthony explained his need for an accessory storage shed to store garden equipment. He stated that the back area of his lot, which he considered his back yard, is extremely wet and would require gravel and grading to place the shed there. He stated he is afraid that he will be unable to access the shed if placed in this location in the spring when it is very wet. The location he chose has better grading. He stated he has a large truck and his wife has a large car. This shed would allow storage out of the garage. The design of the shed will match the home with vinyl siding and will be 12' x 16' in size. He stated that most of his 3.7 acres is in the front of the house. The area behind the pool is sloped and wet and would be difficult to access.

Public Comment:

A letter from Suzanne Harbatreck from 311 Moul Road dated 8/17/11 was read as follows: She stated she is a current land owner of the western adjoining lot and expressed serious concerns with this application. 12 feet of the shed will face Moul Road. This reduces the required 25 feet to 16 feet. If the shed were larger, the footprint would be larger. The size of the shed is an extreme concern as she plans to build her retirement home on 311 Moul Road. The shed's placement at 100 feet in front of the dwelling is of extreme concern if the shed were larger than 12 x 16. This placement puts the shed in her front yard also. She suggested the shed be placed off the driveway closer to the house and pool.

The public hearing was closed.

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

The Board pointed out possible placement for this shed in the side yard. Following this discussion, Mr. Norselli stated he withdrew his request for a 25 feet side setback from the side property line and will locate the shed southwest of the pool, further back in the side yard, not the front yard, as he requested.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Anthony Norselli, owner, for an area variance at 305 Moul Road to construct an accessory storage shed in the side 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 a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Agricultural/Conservation (AC). In making the determination to approve,

- I don't believe the benefit can be achieved by other means feasible to the applicant. As with other corner lots, this lot technically has no rear yard. The options are limited to the application. The proposed shed should be placed in the side yard and will not comply with zoning regulations.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is not substantial due to the unique nature of a corner lot.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the unique nature of corner lots. 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 carried (4-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder).

2. GATTI ENTERPRISES, LLC – 5017 RIDGE ROAD WEST

Application of Gatti Enterprises, LLC, owner, for 3 area variances at 5017 Ridge Road West. Applicant is proposing to erect three 2 square feet free standing directional signs for the Dunkin Donuts business and are requesting relief from Town Zoning Article 14, subsection 165-112.E which allows signs not exceeding one square foot, directing and guiding traffic and parking but bearing no advertising matter. No more than two such signs shall be permitted per driveway. Applicant is also requesting relief from subsection 165-111.D. which requires that free standing signs be set back a minimum of 15 feet from all lot lines. A directional sign for the drive thru is proposed to be set back 1 foot from the easterly property line. This property is currently zoned General Commercial (GC).

Kip Finley, PE, development Manager, stated he represented Gatti Enterprises in presenting this application. He described the plaza where Dunkin Donuts leases space. Dunkin Donuts is located at the east end of the plaza, that has a shared parking lot with a tavern and has an entrance at the east end and west end. He explained that a lot of patrons are turning into the tavern entrance on the west end and then having to drive through the parking lot. He stated that the proposed signs will identify the correct east driveway and will encourage a safer entrance and exit. He referred to the pictures of the proposed signs. He explained that the requested size is necessary for visibility on this busy road. He pointed out the cup logo "Enter" sign and the cup logo "Exit" sign, which are both illuminated. He then pointed out the cup logo "Drive Thru" sign which will not be illuminated. He pointed out the placement of the signs on the sketch map. He stated that the east end of the parking lot is only 2-3 feet off the property line where a light pole is. This will create a one foot setback. No other placement is possible. Kip said the signs will be approximately 42" high off the ground, with the drive thru sign 60" off the ground. It was noted that the illuminated signs are only to be illuminated when the business is open. Kip stated he understood this.

Public Comment: None. The public hearing was closed.

Board Discussion: Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that 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 Gatti Enterprises, LLC, owner, for 3 area variances at 5017 Ridge Road West. Applicant is proposing to erect three 2 square foot free standing directional signs for the Dunkin Donuts business and this grants relief from Town Zoning Article 14, subsection 165-112.E which allows signs not exceeding one square foot, directing and guiding traffic and parking but bearing no advertising matter. No more than two such signs shall be permitted per driveway. This also grants relief from subsection 165-111.D. which requires that free standing signs be set back a minimum of 15 feet from all lot lines. A directional sign for the drive thru is proposed to be set back 1 foot from the easterly property line. This property is currently zoned General Commercial (GC). In making the determination to approve,

- I don't believe the benefit can be achieved by other means feasible to the applicant. The proposed signage will improve the safety of traffic by directing customers to the appropriate entrance. This will alleviate congestion at the west end of the entrance in this shared plaza. Signs will be standard dimension signs for the Dunkin Donut franchise. Two signs by the road shall not be any higher than 42" and the drive through sign shall be 60" above the pavement. These signs will not be out of character. The east property line setback for the sign is reasonable to promote safety.
- There will be no undesirable change in neighborhood character or to nearby properties. These signs are relatively low to the ground and will blend in with the surroundings rather than tall obstructive signs.
- The request is substantial because code is specific about size and number of signs but looking at this business and the need for a drive through window for this business, although substantial, it is somewhat mitigated by the unique nature for the business and location.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created. This particular business is placed in the best location at the end of the plaza and this makes the best of the situation. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community, and in some respects, will actually improve these.

Seconded by Stephen Shelley. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder).

3. GENO ALFIERI – 15 ALDER BEACH

Application of Geno Alfieri, owner, for an area variance at 15 Alder Beach. Owner is proposing to construct a 10 feet by 16 feet deck on the north side of the home with a side setback of two feet from the easterly 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).

Geno explained that he would like to build a 2nd story deck off the bedroom in order to see the lake. They can't view the lake from the 1st floor of the home. He stated that this deck will not obstruct anyone's view of the lake. He explained that the deck will be built 2 feet shorter than the house on each side.

Public Comment: None. The public hearing was closed.

Board Discussion: Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that 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 Geno Alfieri, owner, for an area variance at 15 Alder Beach to construct a 10 feet by 16 feet deck on the north side of the home with a side setback of two feet from the easterly property line and this grants relief from Town Zoning schedule 1 which requires a side setback of ten feet. The deck should start no closer than 2.6' from the property line. This property is currently zoned Waterfront Residential (WF). In making the determination to approve:

- I don't believe the benefit can be achieved by other means feasible to the applicant. The nature of lakefront property is that lots are typically small and setbacks are small. In this particular application, the easterly property line is significantly small. This will not be out of character.
- There will be no undesirable change in neighborhood character or to nearby properties. Upon inspection, this will not obstruct the view of the lake.
- The request is substantial but mitigated by the unique nature of lakefront property.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created, due to the unique nature of 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 (4-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder).

4. ROBERT AND LAURI TRIASSI – 61 DEAN ROAD

Application of Robert and Lauri Triassi, owners, for 2 area variances at 61 Dean Road. Owners are requesting to keep five chickens on the property. Owners are requesting relief from Town Zoning Article 10, subsection 165-82.BB which states in part that no animals, other than ordinary household pets, shall be kept on any residential lot of three acres or less in any zone district. The chicken coop is located in the rear yard, 14.38 feet from the northerly property line and 75 feet from the southerly property line and owners are requesting relief from Article 5, subsection 165-32.B which states in part that no building in which farm animals are kept shall be closer than 100 feet to a side or rear property line. This property is currently zoned Rural Residential (RR).

Robert stated they don't want to change anything. They have had chickens in the shed for 2 1/2 years. He stated the previous owner kept birds in this shed. He explained that a complaint was filed with the town about the chickens so that is why they are here. Robert stated he was confused about what type of relief he needs for this pre-existing condition. Jack Barton explained that variances are required because they don't meet the requirement to keep chickens. He noted they only have 1.6 acres of land and over three acres are required to keep chickens. Also, the chicken coop needs to be 100 feet from the side and rear property lines and they only have 14.38 and 75 feet. Robert stated they don't meet setbacks because their lot is only 100 feet wide. Jack Barton noted that the variance was incorrectly advertised regarding the setback.

Lauri asked why over three acres were required. She is asking for a temporary variance for only as long as the chickens are alive. They will not have any more chickens after these are gone. She stated that a chicken's life expectancy is 4-6 years, and their chickens are 3 years old. A temporary variance will allow their children to finish their 4-H project, which is to raise these chickens. She stated they are asking for a temporary variance for 18 months. They are also looking to sell their house and buy a larger lot and this would give them more time. She explained that they consider their chickens household pets. They use the eggs for their own consumption. They use the manure for their garden and rototill it every spring. She stated they have no roosters and the chickens make minimal noise. She noted that sometimes they cluck for a few minutes

when they lay their eggs. She stated they eat June bugs and grubs. She stated they are kept in the chicken coop shed at night.

Public Comment:

Andrew and Christine Wright – 49 Dean Road: They live two houses down and stated they are not at all inconvenienced by the chickens and have no problem with them staying on their property.

Tyler Moriarty – 45 Dean Road: Stated in a letter he had no problem in allowing the variance change. The chickens are not a nuisance.

Mario Abbondanzieri – 65 Dean Road: Stated he has lived here for 32 years and opposes the chickens. They have had them for two years and he felt that the 4-H project is not true. He showed pictures of the shed noting the 4-H emblem was just recently put up. He stated the previous owner had homing pigeons. He had them for 6 months and then they were gone. After that the shed was used for storage. He stated that the Triassi's wired the shed for the chickens. The previous owner raised quail in a pen but 200 feet back. They were not a problem to anybody. Another neighbor had geese 250 feet back. He felt that people move to Parma and think they can do anything. He stated he is not in favor of these variances. He has seen mice and raccoons and felt that the chickens were attracting them. He suggested that the shed should be moved 200 feet back from the road. He stated he did not want to see a precedent set for the town in allowing chickens.

Andrea Harter – 398 North Avenue: She confirmed the Triassi's involvement in 4-H and has been involved in their 4-H project to raise chickens.

Anthony Zona – 57 Dean Road: Stated he is an instructor for 4-H. He explained that members have to be between 8 and 18 years of age and projects have to be done solely by the kids. They have to raise the chickens from chicks. He reported that chickens can be loud between 5 and 6 am. He felt that chickens attract mice, skunks, racoons, possums and rodents. These chickens are 14 feet off his property. He provide pictures and stated his opposition.

Rebecca Lebeccala – 212 Frisbee Hill Road: Stated she spends a lot of time in the Triassi home and the chickens do not make noise. She stated she has all the same rodents as Mr. Zona and she does not have chickens. She felt the children should be able to finish raising their chickens.

Art Mosier – Churchville: Stated he was the previous owner of the Triassi's property. He expressed his opinion that raising chickens is a good project for kids, but not roosters. To be involved in 4-H or science keeps them from drugs or drinking. He recalled that on November 16, 2000 he applied for an area variance for a 6' stockade fence which to house his pigeons. The Board approved this fence. He lived there for 18 years. The same gentleman liked his pigeons but does not like the chickens. He would like to see the Triassi's keep their chickens for the rest of the chickens' lifespan. He felt that would be a fair trade off.

Yola: Stated she is the Triassi's children's grandmother and is over at their house a lot. The only noise she hears are tractors and saws and this drowns out any chicken noise. Early morning and late at night she notes no noise from the chickens. She asked that they let the chickens live out their lives.

Grace Castro 33 Marjorie Lane: Has pictures of fox and other animals in her yard and she has no chickens.

Jeff Haynes – 485 Peck Road: Friend of the Triassi's for two years. Felt chickens are ordinary pets for Parma and is in favor of the variances.

Chris Fioravanni – 171 Arborway Lane: Stated her daughter has been friends with the Triassi's daughters for two years. The chickens are very friendly. She never heard noise and the area is well kept. The girls are very knowledgeable about chickens.

Joe Triassi – 61 Dean Road: Stated he is the Triassi's son. He reported no noise from the chickens and they are not a nuisance.

Ross Battaglia – 77 Atwood Drive: Doesn't know how anyone could not bless children who call their chickens by name.

Paul McLean – 73 Dean Road: Stated he lives 3 houses away and is in his back yard all the time. He has never heard the chickens. He keeps mice traps set because of the woods. This is a rural area so you are going to have wild animals. Doesn't see that the chickens could create much of a problem.

Laura Triassi: Stated she wanted to make a couple of points. She provided the girls' 4-H membership cards, stating her children really are involved in 4-H. She stated the 4-H sign was just put up because she had to wait for her husband to put it up. She stated that the neighbor to the south has wood piles stacked up which is a breeding ground for mice and rodents. The other side to the north, the property is completely untended with weeds growing up and junk lying around. The neighbor has a log splitter, chain saw, weed whacker and snowblower. Machinery is running all the time. She stated they even have trouble with dinner conversations because of the noisy equipment. The chickens do not get up at 5:00 am. They are pampered and do not have to get up early. They are lazy.

Sophie Triassi: She stated that her chickens are very spoiled and get fed watermelon, tomatoes, grapes, cantaloupe, pumpkin seeds and peppers. They open the slider door in the morning so they can come out. She described each chicken and identified each by name.

Laura stated that the two neighbors did not have a problem with this until now after the children have raised the chickens for 2 1/2 years. These are family pets and she asked that they be allowed to keep them for another 18 months which is just about all they will live.

Chairperson Robillard noted that 13 people spoke, 2 were against and 11 were for the variance. She asked the board to consider the overall good for the Town of Parma and consider if this will set a precedent.

Chairperson Robillard asked Anthony Zona if the proximity to the house is his major complaint. He stated he would like to see the chickens moved back 100 feet. Chairperson Robillard asked the applicants if they would be agreeable to move the coop back by 100 feet. Robert stated he was sure he could do that. Jack Barton stated that the location is not the issue, the acreage is the issue.

Art Mosier: Stated his birds were located in the shed which is 175 feet from the front property line. The shed is still there and used for storage. He recalled that there was no designated area for his pigeons, pheasants and quail.

Discussion was held if the area variance granted to Mr. Mosier could be carried over to the Triassi's. Chairperson Robillard read the Area Variance from 11/16/2000 granted to Arthur Mosier which was for 5 ducks, 2 pheasants, and 2 dozen quail. She opened discussion whether this Area Variance would be transferable to the new owners and their 5 chickens.

The public hearing was closed.

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

A **Motion** was made by Tim Thomas to approve the application of Robert and Lauri Triassi, owners, for an area variance at 61 Dean Road to keep five chickens on the property. This grants relief from Town Zoning Article 10, subsection 165-82.BB which states in part that no animals, other than ordinary household pets, shall be kept on any residential lot of three acres or less in any zone district. This property is currently zoned Rural Residential (RR). There is obvious evidence of an area variance granted on 11/16/2000 which listed very specific game birds, 5 ducks, 2 pheasants and 2 dozen quail. This variance was very specific to the type and number of game birds. Chickens are not game birds. Denying this application would cause undue hardship and would not be in the best interest of the children who have raised these five chickens.

- The benefit can be achieved by other means feasible to the applicant. I propose we continue to allow this variance with the following conditions:
 1. Issue a modified variance for the 5 chickens for a period of 18 months. At the end of 18 months, the chickens would need to be removed from the property.
 2. The chicken coop be relocated to no closer than 170 feet from back of the house so that it will create a minimum impact on neighbors to reduce noise, rodent activity or any other negative impact.

In making the determination to approve:

- There will be no undesirable change to the neighborhood character or to nearby properties. The chickens have been in the shed for 2 ½ years so they have become part of the character of the neighborhood. However, relocating the coop will improve not only the appearance but also some of the concerns stated by the public tonight.
- The request is absolutely substantial. A 3 acre minimum is required to have chickens, however, I propose a modified variance in this very extraordinarily unique situation, one that I have never seen as a board member.
- There will be no adverse physical or environment effects. By relocating the coop, it will improve any negative environmental effects and will also take a step in the right direction to hopefully eliminate any concerns expressed by neighbors.
- The alleged difficulty is somewhat self-created. Since there was fowl kept there by the previous owner, it is understandable that the new owner thought they could have fowl also. This area variance is for the existing 5 chickens. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare to the community. This modified variance will expire March of 2013.

Seconded by Tina Brown. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder).

MINUTES OF JULY 14, 2011

The ZBOA minutes of July 14, 2011 were reviewed. The following changes were recommended: Remove Veronica Robillard as being present. Page 1, Para 3, line 1, change “removed the shed” to “moved the shed.” Page 2, Para 3, line 3, change “torn down” to “moved.”; Para 5, line 3, change “storage shed” to “storage area..” Page 4, Para 2, line 9, change “COO” to “certificate of occupancy. Page 5, Para 4, line 11, change “169-91” to “165-91.” Page 6, Para 1, line 5, change to “neighbor across the street stated...”. The recommended changes were unanimously agreed on but a motion was unable to be called due to lack of a quorum. Therefore, approval of these minutes will be postponed until the September meeting.

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Tina Brown, to adjourn the meeting at 10:10 p.m. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Stephen Shelley, Tim Thomas, Veronica Robillard; Absent: Dean Snyder).

Respectfully submitted,

Diane Cook, Recording Secretary