

TOWN OF PARMA
ZONING BOARD OF APPEALS
June 18, 2015

Members Present: Dan Melville
Veronica Robillard
Tim Thomas
Stephen Shelley
Jim Zollweg

Members Excused: Dean Snyder

Others Present: Art Fritz, Dennis Scibetta, Kyle Mullen

Public Present: Danielle DeRuyter, Zach DeRuyter, David Jacob, Anita Jacob, Jeff DeRuyter, Jean DeRuyter, Sandra Kyte, Bert Kyte, Jessica Kyte, Vinnie Ventimiglia, Taylor Delong, Johnathan Kyte

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. Chairperson Robillard explained the function of the ZBOA and the decision-making process. She also explained that this is a five member board and a quorum of three is required to pass a motion.

TABLED FROM THE MAY 21, 2015 MEETING

1. JEAN and JEFFREY DeRUYTER – 676 OGDEN PARMA TOWN LINE ROAD

The application of Jean and Jeffrey DeRuyter, owners, for a Special Permit at 676 Ogden Parma Town Line Road. The applicant is proposing to construct a 1,010 square feet addition to be used as an accessory apartment. The applicant is also seeking relief from Town Zoning Article IX, subsection 165-76.D which states that an accessory apartment shall not exceed 35% of the total floor area of the principal building, which, in this case, is 821.45 square feet. This property is currently zoned Medium Density Residential (MD) which allows this use with a Special Permit.

Chairperson Robillard explained that this had been tabled to allow the applicant time to gather further information and correct numbers which has been received. There was discussion about the shared space which is being added to the square footage of the existing building and the accessory apartment (in-law) will be 794 square feet. The max square footage allowed is 795.2 square feet. A variance is not needed with these figures. Jim Zollweg stated that if approved as is there is no room to go any bigger. Tim Thomas mentioned to the applicant that after the use is no longer needed the kitchen would have to be taken out and the space opened up.

Board Discussion: There are no additional comments from the Building Department.

Public Comment: Public Hearing was closed at the last meeting.

A **Motion** was made by Jim Zollweg to **approve** the application of Jean and Jeffrey DeRuyter, owners, for a Special Permit at 676 Ogden Parma Town Line Road to allow an accessory apartment. The Rules and Regulations to follow for a Special Permit are found in Town Zoning Article IX, subsection 165-76 A-I. This accessory apartment will be occupied by Jean and/or Jeffrey DeRuyter and when this is no longer needed for the purpose of those residents then this has to be converted back to a single family dwelling as defined in 165-76. This motion does not completely correspond with the application in that an area variance has not been given and that area variance is no longer needed based upon the letter from Thomas R. Doughty, Architect, dated May 26, 2015, in which a plan was submitted that meets the square footage requirements and the letter referred to will remain in the permanent file. According to the size of the existing structure the allowable maximum size of the accessory apartment is 795.2 square feet and the proposed size of the

accessory apartment is 794 square feet. This does imply that the absolute maximum size of the accessory apartment will be 795.2 square feet.

Seconded by Stephen Shelley. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

It was explained to the applicant that this would need to be renewed every two years.

NEW BUSINESS

2. CLAYTON WEDDINGTON – 510 PECK ROAD

The application of Clayton Weddington, owner, for an area variance at 510 Peck Road. The applicant is proposing to construct a 25'x 29' garage with a 5' side setback from the west property line. The applicant is requesting relief from Town Zoning Article XI, subsection 165-87.A.1 which states in part that the minimum side setback shall not be less than 10 feet. This property is currently zoned Agricultural/Conservation (AC).

Dennis Scibetta relayed that this application would need to be tabled because notifications did not go out and this will be re-advertised because the applicant is also looking for a 5 foot rear setback. There was discussion about tabling this versus withdrawing and then starting with a new application to include the rear setback. After discussion it was determined that this would need to be tabled because the applicant was not here to withdraw and this can be withdrawn at the next meeting and the new application brought before the board.

A **Motion** was made by Tim Thomas to **table** the application of Clayton Weddington, owner, for an area variance at 510 Peck Road to the July 2015 meeting without prejudice. This is being tabled because the notifications were not sent out by the applicant. This property is currently zoned Agricultural/Conservation (AC).

Seconded by Stephen Shelley. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

3. DAVID JACOB – 161 BAILEY ROAD

The application of David Jacob, owner, for an area variance at 161 Bailey Road. The applicant is proposing to construct a 36'x 45' storage building with a wall height of 14 feet. The applicant is requesting relief from Town Zoning Article X, subsection 165.82.C.2 which requires no more than a 12 feet high sidewall. This property is currently zoned Agricultural/Conservation (AC).

Davie Jacob, owner, explained that he needs the area variance for the height of the accessory structure because he has a 33 foot boat with a height of 12'6 which will require a door height of 13'. There is a radar arch that gives the boat its height. Tim Thomas asked if the radar arch is removable and the applicant stated it's a permanent structure. The boat is stored on site in the winter and the marina brings it back and forth. The applicant stated that this building will sit over 600 feet from the road and the driveway will be extended back to the building.

Board Discussion: Dennis Scibetta 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 action under SEQR and no further review is required. There are no comments from the Building Department and no letters in the file.

Public Comment: None

Public Hearing Closed

A **Motion** was made by Tim Thomas to **approve** the application of David Jacob, owner, for an area variance at 161 Bailey Road. The applicant is proposing to construct a 36'x 45' storage building with a wall height of 14 feet. The applicant is requesting relief from Town Zoning Article X, subsection 165.82.C.2 which requires no more than a 12 feet high sidewall. This property is currently zoned Agricultural/Conservation (AC).

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant is looking to provide winter storage for a 33' boat that has a height of 12'6". The primary driver for the 14 foot sidewalls is the fact that the boat has an integrated radar arch which is permanently part of the boat which necessitates a 13 foot overhead door and by construction means there is a need for 14 foot sidewalls.
- There will be no undesirable change in neighborhood character or to nearby properties. The proposed structure sits over 600 feet from the main road and to passersby it would be indistinguishable whether that wall was 12 feet or 14 feet.
- The request is somewhat substantial; however, it is mitigated by the need for the wall height due to the radar arch permanently attached to the boat.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the construction of the boat; using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community.

Seconded by Jim Zollweg. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

4. SANDRA KYTE – 22 SPENCER ROAD.

The application of Sandra Kyte, owner, for a Special Permit at 22 Spencer Road. The applicant currently has 4 dogs on this property and is requesting a Special Permit in accordance with Town Zoning Article X, subsection 165-82.AA.3 A Special Permit is required to have more than three dogs on a property. This property is currently zoned Agricultural/Conservation (AC).

Sandra Kyte, owner, explained that she currently has four dogs. She stated that there are no complaints at the Town and that her dogs are all trained. She said that she has spoken to 7 of the 16 neighbors and all of them did not have a problem with the dogs.

Board Discussion: Dennis Scibetta 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 action under SEQR and no further review is required. There are no comments from the Building Department and no letters in the file.

Tim Thomas asked how she ended up here. Mrs. Kyte explained that the flag went up when she came in to license the dogs. Art Fritz explained that if there are more than three dogs than the flag goes up and a letter goes out to the homeowner. Tim Thomas asked for the names, ages and breed. Mrs. Kyte said she has a Black Lab named Max who is 11 years old, a German Shepherd named Tank that is 4 years old, and two-2 year old Chihuahua mixed breed dogs named Mickey and Minnie. She further stated she understood that if granted the Special Permit would cease when one of the dogs passed away because then she would be compliant. Dan Melville asked her what the size of her yard is. She stated that they have a half acre yard and 70% of the time someone is home with the dogs, it is a treed lot and they only go out if they are playing, or on a walk.

Public Comment: None
Public Hearing Closed

A **Motion** was made by Jim Zollweg to **approve** the application of Sandra Kyte, owner, for a Special Permit at 22 Spencer Road. This Special Permit will allow the applicant to have 4 dogs on this property in accordance with Town Zoning Article X, subsection 165-82.AA.3. The current dogs on the property and allowed under this permit are Max, 11 year old Black Labrador, Tank, 4 year old German Shepherd, and Mickey and Minnie, 2 year old siblings that are mixed breeds. This Special Permit will expire when one of these dogs pass away because then the property will be back into compliance with the code.

Seconded by Dan Melville. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

SPECIAL PERMIT RENEWAL

5. CRAIG BRYCE – 645 MANITOU ROAD

The application of Craig Bryce, owner of 645 Manitou Road for a Special Permit, pursuant to Town Zoning Article 9, subsection 165-79.1 (Home Businesses), to allow the outside storage of eight pieces of construction equipment and the repair of the equipment in the existing garage. This property is currently zoned Rural Residential (RR).

Art Fritz explained that this was not on the agenda because Dave DeConnick was in the hospital. There was a safety and fire inspection completed on June 18, 2015 by Art Fritz and there were no violations found. There are no complaints on file. There was discussion about which Special Permit was being renewed.

After discussion, a **Motion** was made by Stephen Shelley to **approve** the application of Craig Bryce, owner, for a Special Permit at 645 Manitou Road pursuant to Town Zoning Article 9, subsection 165-79.1 (Home Businesses), to allow the outside storage of eight pieces of construction equipment and the repair of the equipment in the existing garage with the following conditions as referenced in the lapsed Special Permit from May 2009:

1. No more than 8 pieces of construction equipment.
2. No outside storage of junk, trash, or dismantled vehicles.
3. Hours of operation, Monday through Saturday, 7 am to 8 pm; Sunday, Noon to 5 pm.
4. No sales of any kind.
5. For a period of one year, renewable May 2016.

Seconded by Tim Thomas. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

MINUTES OF MAY 21, 2015

The ZBOA minutes of May 21, 2015 were reviewed. **Motion** was made by Dan Melville to **approve** the May 21, 2015 minutes as corrected. Seconded by Jim Zollweg. **Motion carried (4-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Jim Zollweg; **Abstain**: Tim Thomas).

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville, seconded by Jim Zollweg to adjourn the meeting at 8:02 p.m. **Motion carried (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster
Recording Secretary