

**TOWN OF PARMA
ZONING BOARD OF APPEALS
SEPTEMBER 19, 2019**

Members Present: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac

Members Excused: Stephen Shelley, Tim Thomas

Others Present: Dennis Scibetta

Public Present: Rob Johnson, Gerri Johnson, Susan Jones, Gary Hoover, Patrick Laber (Schultz Associates), Samantha Jenks, Isaiah Jenks, Alexia Spicci, Emily Bishop, Tom Bishop, Vanessa DePalma

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. She explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five member board. There are 4 members of the board present tonight and quorum of three is required to pass a motion. It was explained that if the applicants feel more comfortable and would like a full board present for their hearing a tabling could be entertained.

CONTINUING BUSINESS FROM AUGUST 15, 2019

1. KEVIN DECONINCK – 5209 RIDGE ROAD WEST

The application of Kevin DeConinck, owner, for a use variance at 5209 Ridge Road West. The applicant is requesting a use variance to allow outside display of sheds for sale. Town Zoning Article 6, subsection 165-39 does not allow this use. This property is currently zoned General Commercial (GC).

Dennis Scibetta stated the applicant contacted the Building Department asking for this to be tabled to the October 2019 Zoning Board meeting so they would have more time to gather requested information.

A **Motion** was made by Dean Snyder to **table** application of Kevin DeConinck, owner, for a use variance at 5209 Ridge Road West to the October 2019 Zoning Board of Appeals meeting without prejudice to afford the applicant time to provide further information including a comprehensive site plan, showing parking, driveways, setbacks, signage, and all information should be provided and conditions met that are required by the Use Variance criteria. The information is to be provided to the Building Department by October 7, 2019.

Seconded by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac; **Excused:** Stephen Shelley, Tim Thomas).

NEW BUSINESS

2. SAMANTHA & ISAIAH JENKS – 720 OGDEN PARMA TOWN LINE ROAD

The application of Samantha & Isaiah Jenks, owners, for an area variance at 720 Ogdan Parma Town Line Road. The applicants are proposing to construct an 8'x10' mudroom with an attached

deck in the front of the house with a front setback of 47 ft. and are requesting relief from Town Zoning Article V, subsection 165-33.E.1, Schedule 1 which states that the front setback shall be 75 ft. This property is currently zoned Medium Density Residential (MD).

Samantha Jenks, owner, stated that they are requesting this 8'x10' addition to be used as a mud room because they currently just have only steps at the front door leading directly into the house. There is no place to walk into, take off shoes or hang coats.

The house currently sits 57' off the road. Dennis Scibetta explained that the house was built in the 40's before 1998 when there was a change in the code and the 75' setback was put in place, making this structure pre-existing with legal standing.

Dan Melville asked if this would be heated with a basement. The applicant said no. Dean Snyder asked if there was an opportunity to place this at the back of the house or a breezeway from the garage to the side of the house. The applicant explained that the back of the house only has a narrow stairway up to the first floor and the septic system is in the back. She did not know that a breezeway would work because of the distance between the garage and house and then it would lead right into the living room.

Dr. Snyder is concerned with how this will look and he feels it is something that should be on the back of the house. The applicant's noted they would like to hide the blocks and make it look nicer but that could be accomplished with more siding or plantings. Driving down the road several houses have a little vestibule on the front which looks like it goes with the main structure. He feels this would be obtrusive and is concerned with the looks and how it will impact the neighborhood. After reviewing the drawings and property he does not see any way he can approve this as designed; when looking at the side view of the plans it highlights how obtrusive this is. He feels there is an opportunity to change the design and make it look like an entryway and part of the house. The house already sits very close to the road and is non-conforming and usually when you have a non-conforming structure the Board tries not to increase the non-conformance significantly. Dr. Snyder asked the applicant if they thought they could come back with a different design. The applicant stated that they were trying to create the best amount of space while giving them some outdoor space also.

Corinne Zajac asked if the egress window will be maintained. The applicant stated that the deck would be raised over the top of the window.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required. There are no letters in the file.

Public Comment: None

Public Hearing: Closed

Dr. Snyder asked the Chairperson to ask the applicant if they would like the option to come back with a different design that will have less of an impact on the neighborhood. There was discussion about the criteria needed to approve a variance. Chairperson Robillard asked the

applicant if they would like the Board to proceed with the application as it stands or if they would like to have it tabled. The Board took a five minute recess to allow the applicant's time to discuss how they would like to proceed.

After the recess the applicant stated they would like the Board to proceed with the application as it stands and not table it. It was explained that if they come back after the decision tonight they would need the application to be significantly different.

A **Motion** was made by Dean Snyder to **deny** application of Samantha & Isaiah Jenks, owners, for an area variance at 720 Ogden Parma Town Line Road to construct an 8'x10' mudroom with an attached deck in the front of the house with a front setback of 47 ft. and requesting relief from Town Zoning Article V, subsection 165-33.E.1, Schedule 1 which states that the front setback shall be 75 ft. This property is currently zoned Medium Density Residential (MD).

In making this determination:

- The benefit can be achieved by other means feasible to the applicant. One of the concerns was improving the look of the house because of the exposed blocks but that could be achieved by using siding or plantings. The proposal for the mud room is very obtrusive due to the aspect ratio of the building and there are opportunities to building a room that will be more aesthetically pleasing that will serve the purpose of a mud room and entrance on the front of the house very similar to the rest of the neighborhood.
- There would be undesirable change in neighborhood character or to nearby properties. This mud room extends beyond the depth of the deck and that also leads to making it obtrusive.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant is outweighed by any detriment to the health, safety and welfare of the community.

There was discussion about the denial with the applicant so they are aware they will be unable to come back to the Board for a year without a substantial change. Dr. Snyder felt if the applicant changes the design it will be a substantial enough change allowing them to come back and it would be up to the Building Department to make that determination. Dr. Snyder felt that there are a lot of other opportunities available to them.

Seconded by Dan Melville. **Motion carried to deny (4-0)** (Ayes: Veronica Robillard, Dean Snyder, Corinne Zajac; **Nay:** Dan Melville, **Excused:** Stephen Shelley, Tim Thomas).

Chairperson Robillard polled the Board:

Dean Snyder: His motion stands for his reasons to deny.

Chairperson Robillard: Dr. Snyder's motion put forth there are other means feasible to the applicant and that there would be a negative impact on the neighborhood. The request is substantial. The balancing test gave the Board good rationale to deny. Opportunity was given to the applicant to reconsider modifications to make this application more acceptable to support the area variance criteria.

Corinne Zajac: Is concerned about the impact on the neighborhood. Feels that there are other ways to modify the project that would fit in better and has concerns with the egress. She would have liked more information.

3. K&K PROPERTY VENTURES LLC – 4618 RIDGE ROAD WEST

The application of K&K Property Ventures LLC for an area variance at 4618 Ridge Road West. The applicant has erected an air supported membrane structure with a front setback of 68 ft. and is requesting relief from Town Zoning Article VI, subsection 165-40.E.1, Schedule 1 which states that the front setback shall be 100 feet. The property is currently zoned Highway Commercial (HC).

Patrick Laber, Schultz Associates, explained that they are looking for a variance for a vehicle airlock that was added to the front of the structure and encroaches into the front setback. The manufacturer said that the existing airlock made it difficult to get vehicles in and out because of the grading at the back of the structure so they added an additional one to the front. Chairperson Robillard clarified with the applicant that the distance requested is 68' as that was not set out in the application but was in the legal. Mr. Laber said that was correct. There was discussion about the history of the dome and was explained that this new structure is a stronger structure and has sensors for wind to help prevent this from coming down again.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required. There were no letters in the file.

Dean Snyder feels this structure is an improvement. When heading east on Ridge Road the blower assembly on the west side of the structure was visible from the road and this vestibule shields it and blends in with the structure.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Dean Snyder to **approve** the application of K&K Property Ventures LLC for an area variance at 4618 Ridge Road West. The applicant has erected an air supported membrane structure with a front setback of 68 ft. and is requesting relief from Town Zoning Article VI, subsection 165-40.E.1, Schedule 1 which states that the front setback shall be 100 feet. The property is currently zoned Highway Commercial (HC).

In making this determination:

- The benefit cannot be achieved by other means feasible to the applicant. With the old dome there was only one vestibule for a vehicle entrance in the back of the structure which was located close to a grade and as presented by the applicant with the as built there was a second vestibule added and he is sure the manufacturer had a good reason to add the second one.
- There will be no undesirable change in neighborhood character or to nearby properties. He feels that it is an improvement when viewing the property heading east bound on 104. The blower apparatus was somewhat obtrusive and with the vestibule in place it does a significant job of hiding it.

- The request is substantial.
- There will be no adverse physical or environmental effects and will in fact improve on the physical and environmental effects.
- 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 Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac; **Excused**: Stephen Shelley, Tim Thomas).

4. ROBERT JOHNSON – ONE NORTH SHORE DRIVE

The application of Robert Johnson, owner, for 5 area variances at One North Shore Drive. The applicant is proposing to construct a 40'x30' garage on an existing 119.5 feet wide by 80 ft. deep parcel with a front setback of 30 feet and is requesting relief from 1 & 2) Town Zoning Article 5, subsection 165-35.E.1, Schedule 1 which states that the minimum lot size for any parcel in this district is 75 ft. wide and 90 ft. deep and that the front setback is to be 60 ft., 3 & 4) relief from town Zoning Article 5, subsection 165-32.C.2 which limits the size of an accessory structure to 400 sq. feet and which does not allow an accessory building without a principal structure and 5) relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory structures shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Waterfront Residential (WF).

Rob Johnson, owner, stated that he would like to build a garage across the street from their residence that is the same size and dimensions (40'x30') as another one on the road 4 doors down with the same setback. The exterior will match their homes shingles and vinyl siding. This will be used exclusively to store vehicles. It will have electricity and water ran to it and stairs leading to a loft. The items to be stored include a Jet Ski and trailer, Corvette, car hauler, Mustang, a Go-Kart and trailer and a work bench. He supplied a drawing showing the layout of the structure and where the structure would be on the property. The existing attached garage has the three vehicles they drive. They met and talked with their neighbors to the west that seemed to be supportive of the idea and have attended the meeting.

Chairperson Robillard asked if there will be living space in the structure and if the structure will be for personal or business use. The applicant stated there will not be living space and all of the items are personal. Chairperson Robillard asked if there was any way to minimize the size. Mr. Johnson said no because he needs the space for the vehicles and trailers that are currently sitting in the driveway, he has the vehicles already and intends to keep them.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQOR and no further review is required.

Dennis Scibetta read a letter that was in the file from the neighbors at 4 North Shore Drive dated August 15, 2019. They felt that this would be a positive addition for the neighborhood. After previewing the structure with the Johnson's they are confident that it will be done well. It will not impact lake views or obstruct anything otherwise in a negative fashion and they fully support the garage as proposed.

Public Comment: None

Vanessa DePalma, originator of the letter with her husband stated that they fully support the structure and wish them great success.

Public Hearing: Closed

Dean Snyder commented that it is nice in this case to have a reference with a garage several houses down to see how well it fits in or doesn't fit in the neighborhood. His biggest concern is making sure it is consistent with the looks of the house. There is no other location on the property for this structure and since Monroe County no longer allows the properties to be considered attached across a road there is no opportunity to merge them.

A **Motion** was made by Dean Snyder to **approve** application of Robert Johnson, owner, for 5 area variances at One North Shore Drive to construct a 40'x30' garage on an existing 119.5 feet wide by 80 ft. deep parcel with a front setback of 30 feet and to grant relief from Town Zoning Article 5, subsection 165-35.E.1, Schedule 1 which states that the minimum lot size for any parcel in this district is 75 ft. wide and 90 ft. deep and that the front setback is to be 60 ft., also grants relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the size of an accessory structure to 400 sq. feet and which does not allow an accessory building without a principal structure and finally grants relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory structures shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Waterfront Residential (WF).

In making this determination:

- The benefit cannot be achieved by other means feasible to the applicant. Regarding the lot size, although it is closely associated with One North Shore Drive, the County disallows combining properties across a road so there is no opportunity to combine the two properties in order to make the lot size large enough. The front setback is consistent with another garage in the neighborhood. The size is significantly larger than allowed but as seen by the neighboring garage this size is very proportional to the size of the principal structure. There is no backyard so there is no opportunity to place this in a backyard. The location selected is the least obtrusive of anywhere on the property and minimizes the impact on the surrounding neighbors. The design should be consistent with the presented 8 page addendum to the application.
- There will be no undesirable change in neighborhood character or to nearby properties as previously described.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac; **Excused**: Stephen Shelley, Tim Thomas).

The ZBOA minutes of August 15, 2019 were reviewed. **Motion** was made by Corinne Zajac to approve the August 15, 2019 minutes as presented. **Seconded** by Dean Snyder. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac; **Excused**: Stephen Shelley, Tim Thomas).

OTHER INFORMATION

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville, **seconded** by Corinne Zajac to adjourn the meeting at 8:15 p.m. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Dean Snyder, Corinne Zajac; **Excused**: Stephen Shelley, Tim Thomas).

Respectfully submitted,

Carrie Fracassi
Recording Secretary