

TOWN OF PARMA
ZONING BOARD OF APPEALS
March 17, 2021

Due to COVID-19 this meeting will also be held via ZOOM.

Members Present: Dan Melville, Veronica Robillard (via Zoom), Tim Thomas, Greg Colavecchia (via Zoom), Corinne Zajac (alternate)

Members Excused: Stephen Shelley

Others Present: Art Fritz, Councilperson Blake Keller

Public Present: Matt Russell, Rich Maier, Tom Greenwell, Dick Vance

The meeting was called to Order by Acting Chairperson Thomas at 7:00 p.m.

Acting Chairperson Thomas explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five-member board; there are 5 members present, 2 via Zoom. A quorum of three is required to pass a motion.

TABLED FROM THE JANUARY 20, 2021 MEETING

1. SCOTT SPICER- 80 WINDING COUNTRY LANE

The application of Scott Spicer, owner, for property located at 80 Winding Country Lane. The applicant is proposing to build a single-family home on this property at the end of the road, which would bring the total of dwelling units on the cul-de-sac to 48. The applicant is requesting relief from Parma Town Code Chapter 30, Article IV, subsection 130-15.A.7.b, which states that no cul-de-sac shall be allowed to serve more than 20 dwelling units. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas noted the Planning Board is currently working through this application. This Board is concerned that there has been no communication from the applicant as to what is happening. The Board discussed tabling the application to the April Zoning Board of Appeals meeting pending a letter from the applicant withdrawing the application. Without an update from the applicant, the Board will decide on the application.

A motion was made by Veronica Robillard to **table** the application of Scott Spicer, owner, for property located at 80 Winding Country Lane to the April 2021 Zoning Board of Appeals meeting to afford the applicant time to provide further information or a letter withdrawing the application. Any further information should be to the Building Department by April 7, 2021. If no information is provided the Board will act on the application and with the current information the Board may be compelled to deny.

Seconded by Dan Melville. **Motion carried to table (5-0)** (**Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused:** Stephen Shelley).

TABLED FROM THE FEBRUARY 17, 2021 MEETING

2. DANIEL FEENEY – 115 HINKLEYVILLE ROAD

The application of Daniel Feeney, owner, for an area variance at 115 Hinkleyville Road. The applicant is proposing to construct a 12'x24' garage addition on to the existing garage with a side setback of 4.23 feet to the front corner of the garage and a side setback of 8.2 feet to the back corner of the garage. He is requesting relief from Town Zoning Article V, subsection 165-33.E.1, schedule 1 which states that the side setback is to be 10'. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas noted that an email was received on March 2, 2021 from the applicant stating he would not have the requested information available in time to submit for tonight's meeting. He is waiting to hear from his contractor and would like this tabled.

A motion was made by Dan Melville to **table** the application of Daniel Feeney, owner, for an area variance at 115 Hinkleyville Road to the April 2021 Zoning Board of Appeals pending further information from the applicant. The request to table was made by the applicant. Any information should be to the Building Department by April 7, 2021.

Seconded by Corinne Zajac. **Motion carried to table (5-0) (Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused:** Stephen Shelley).

3. MATTHEW RUSSELL – 420 OGDEN PARMA TOWN LINE ROAD

The application of Matthew Russell, owner, for three area variances at 420 Ogden Parma Town Line Road. The applicant has constructed a 3,375 sq. foot storage structure with a 14' wall height as well as 2 lean-tos that are attached to the structure that are a total of 1,455 sq. foot in size, for a total of 4,830 sq. foot. He is requesting relief from 1) Town Zoning Article V, subsection 165-33.C.2 which limits the square footage of accessory buildings to 600 sq. foot, 2) Town Zoning Article 165-82.C.2. which limits the wall height to 12' and 3) Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building which in this case is 2,407 sq. foot. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas noted this was tabled at the last meeting because the DEC is now engaged and there are some significant issues that they need to work through. Art Fritz stated the DEC has been unable to meet with the applicant prior to tonight's meeting and will be meeting with him tomorrow. The DEC has asked that the Board hold off on a decision until after they complete their inspection.

Mr. Russell, applicant, asked if he could get a conditional approval prior to his meeting with the DEC so he would not need to come back next month. Acting Chairperson Thomas stated that it would be highly inappropriate for the Board to give a conditional approval on this matter prior to hearing back from the DEC. The Board concurred with that. The Board is looking for additional information in writing from both the applicant and the DEC and all information should be to the Building Department by April 7, 2021. This is a significant request, and the Board needs to be cautious.

Board Discussion: Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination and is an unlisted action. There are no letters in the file. There were no comments from the ZEO and Building Department.

A motion was made by Dan Melville to **table** the application of Matthew Russell, owner, for three area variances at 420 Ogden Parma Town Line Road to the April 2021 Zoning Board of Appeals pending further information in writing from the applicant and the DEC. Any information should be to the Building Department by April 7, 2021.

Seconded by Corinne Zajac. **Motion carried to table (5-0) (Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused:** Stephen Shelley).

NEW BUSINESS

4. CHRISTOPHER GAGE – 88 BUTCHER ROAD

The application of Christopher Gage, owner, for an area variance at 88 Butcher Road. The applicant is proposing to construct a 1,728 square foot pole barn and is requesting relief from Town Zoning Article V, subsection 165-32.C.2 which limits the size of accessory structures to 1,500 square feet. This property is currently zoned Rural Residential (RR).

There was no one in the audience or on zoom to speak on behalf of the application. There was no communication to the Board or Building Department by the applicant.

A motion was made by Dan Melville to **table** the application of Christopher Gage, owner, for an area variance at 88 Butcher Road to the April 2021 Zoning Board of Appeals meeting because the applicant was not present at the meeting. Any new information should be into the Building Department by April 7, 2021.

Seconded by Veronica Robillard. **Motion carried to table (5-0) (Ayes:** Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused:** Stephen Shelley).

5. T&D GREENWELL PROPERTIES LLC– 354 HAMLIN PARMA TOWN LINE ROAD

The application of T&D Greenwell Properties, owner, for 4 area variances at 354 Hamlin Parma Town Line Road. The applicant is proposing to create a parcel with an average width of 382.42 feet, an average depth of 235.98 feet and an area of 2 acres. This parcel also contains an existing single-family dwelling that has a front setback of 32.1 feet and an existing barn/garage that has a front setback of 45.6 feet. The applicant is requesting relief from (1) Town Zoning Article V, subsection 165-31.E.1, schedule 1 which states the minimum lot size is to be 3 acres in area, (2) have a minimum depth of 350 feet, (3) that the front setback is to be 75 feet and (4) Town Zoning Article XII, subsection 165-89.D which states that an existing nonconforming use may not be changed to another nonconforming use. The property is currently zoned Agricultural/Conservation (AC).

Rich Maier, on behalf of applicant, explained that the house and barn on the property were built in the early 1900's; someone is interested in purchasing that portion of the property with a total acreage of 2 acres. There are financial constraints on the purchaser which is prohibiting them from purchasing the 3 acres required by code and the applicant wants to keep that portion to farm it. The 3-acre minimum was put into place when the code changed in 1998. Veronica Robillard is concerned with varying from the code at the

convenience of the buyer and feels that if the applicant would carve out a 3-acre lot the issue goes away.

Mr. Maier feels that the character of the neighborhood would not change by doing this. The houses across the street sit on properties only 100' wide and the parcel will look the same as it has since the early 1900's. If they comply with the three-acre parcel, then additional farming land would be lost, and the applicant would lose potential income. Dan Melville is also concerned with making a lot smaller than allowed by the code.

Public Comment: None

Richard Vance asked if they created the 3-acre lot can the applicant do a lease back. Acting Chairperson Thomas said they could.

Public Hearing Closed

Greg Colavecchia asked what the intent was to require 3 acre lots. Art Fritz said it is part of the last Master Plan that was developed.

There is concern among the Board that when looking at the criteria this application does not pass three of them. The Board believes there are other means feasible and that this is substantial and self-created. Veronica Robillard stated the Board will not need to act on this if the applicant breaks off 3 acres. If the Board denied or the applicant withdraws the 2-acre request, then nothing changes.

Board Discussion: Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination and is an unlisted action. There are no letters in the file.

There was discussion about tabling or withdrawing the application. It was felt there are other options for the applicant and the Board is being looked at to validate the sale not because there is a need. Chairperson Robillard noted that if they make the parcel 3 acres then the non-conforming use stays as it exists, the three acres are conforming, and there is no need for the Board to act. The only way the Board needs to act is if they want to continue with a 2-acre parcel which she would be unable to support and should be denied or withdrawn.

There was further discussion about either tabling or withdrawing the application; maybe asking for clarification from the Town Attorney. Veronica Robillard is confident that if a 3-acre lot is created the applicant will not need the Zoning Board. She does not see what is left for the board to explore if the sale of the three acres is conforming. She would not be for approving a 2-acre lot.

After much discussion, it is the Boards interpretation that creating a 3-acre parcel is a conforming lot from a pre-existing non-conforming use which is allowed by our Town Code and no further action is needed by the Zoning Board of Appeals.

Mr. Maier on behalf of Mr. Greenwell and with his consent is withdrawing the application.

MINUTES OF FEBRUARY 17, 2021

The ZBOA minutes of February 17, 2021 were reviewed. **Motion** was made by Dan Melville to approve the February 17, 2021 minutes as amended. **Seconded** by Corinne Zajac. **Motion carried to approve (5-0)** (Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused**: Stephen Shelley).

OTHER BUSINESS

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville **seconded** by Corinne Zajac to adjourn the meeting at 8:30 p.m. **Motion carried to approve (5-0)** (Ayes: Greg Colavecchia, Dan Melville, Veronica Robillard, Tim Thomas, Corinne Zajac; **Excused**: Stephen Shelley).

Respectfully submitted,

Carrie Fracassi
Recording Secretary