

**TOWN OF PARMA
ZONING BOARD OF APPEALS
October 19, 2006**

Members Present: Patrick Buskey (alternate)
Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas

Others Present: Jack Barton

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board and that a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. ALEX DINICOLA – 1121 WEST AVENUE

Application was received from Alex DiNicola, owner, for a use variance at 1121 West Avenue. The property currently has 3 apartments and the applicant is requesting relief from Town Zoning Article 4, subsection 165-33-B which lists only single family dwellings and customary agricultural operations as permitted principle uses. This property is currently zoned medium Density Residential (MD).

Chairperson Robillard recalled that this application was tabled at the September ZBOA meeting after a review of the conditions for approving a use variance. The applicant was asked to provide additional information in order to satisfy the requirements of code 165.20.C.1.B. It was recommended that the applicant submit evidence answering: (1) how long the units have been occupied as 4 separate units; and (2) any other information which would describe the history of the rentals. It was suggested that the owner review the application for the property at Burritt Road and Route 259, which may help him draw parallels which would satisfy the requirements of our code.

Annette Jenkins stated she was a friend of Mr. DiNicola. She explained to the Board that Alex has limited English and has no one present to speak for him tonight. She stated that he has not obtained any of the information that was requested at the September meeting. Chairperson Robillard informed the applicant that without information to be presented, that the application will most likely be denied. She again explained the criteria for considering a use variance. She stated that, based on the lack of required information, there were three options open to the applicant: (1) seek a motion, which would approve or deny this application; (2) request that the application be tabled to a future date, when the requested information would be presented; and (3) the applicant could withdraw this application, which would require that this property return to a single family dwelling with no rental apartments. Jack Barton noted that if the Board denied this application, then the applicant would have to come back with substantial new information in order for another application to be considered. If denied, the applicant could challenge the decision through the Supreme Court. Annette stated that Alex is 83 years old with health problems and would be soon leaving for Florida for the winter. Mr. DiNicola explained, in broken English, that he bought this property, and then decided it was too large for him. He fixed up the house and the accessory buildings and has rented them out for additional income. He explained that these rentals provide his only income, and his pension is not enough to live on. Chairperson Robillard stated again, the three options open to the applicant. She explained the role an attorney

could play in presenting information that is required by the ZBOA. Mr. DiNicola stated he was not happy about using an attorney but understood what an attorney could do for him in presenting the information.

A ten minute recess followed, to provide the applicant some time to come to a decision.

Annette Jenkins stated that she would be willing to help Mr. DiNicola obtain an attorney to present the required information to the ZBOA for consideration.

The public hearing remained open.

Following discussion, a **Motion** was made by Dean Snyder to table without prejudice the application of Alex DiNicola, owner, for a use variance at 1121 West Avenue to the November 16th ZBOA meeting in order for the applicant to provide additional information as listed in the September ZBOA minutes. Seconded by Tim Thomas. **Motion Unanimously Carried (5-0)**
Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas.

NEW PUBLIC HEARINGS

2. TRICIA VANTUCCI – 5 AMPOR BEACH

Application was received from Tricia Vantucci, owner, for area variances at 5 Ampor Beach. Applicant is proposing to raze the existing shed on the south side of the private drive and replace it with a 24 feet by 32 feet (768 square feet) pole barn style accessory structure in the front yard with a front setback of 20 feet. Applicant is requesting relief from Town Zoning Article 5, subsection 165-35C.2 which limits accessory structures to 400 square feet, Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard and schedule 1 which requires a 40 feet front setback. This property is currently zoned Waterfront Residential (WF).

Tricia stated she bought this lakefront property in April of 2005, a 2500 square foot colonial style house on the beach. There is an existing 10' x 12', 8' high peak shed on the other side of the road, 15 feet back from the road. She described an asphalt path that the previous owners placed around the existing shed for a motor home. If she built on the asphalt pad, this would give her a larger new storage area and would be further back than the existing structure. She explained that she has to store the following items in this shed: tools and tool storage, seasonal stuff, a John Deere lawn tractor, 2 kayaks, a 102" double wide trailer with 2 jet skis, lawn furniture, 5 different bikes, cushions, camping equipment, weed eater, leaf blower, leaf vacuum, fitness equipment, a grill, and golf clubs. She currently stores all these items in her garage and with this proposed storage structure, she would be able to park her car in the garage. The proposed shed would provide enough storage space to store all the things she currently has in the garage. She stated that like most lakefront homes, she only has a 36" crawl space under her home, with no real basement. She explained that she chose a pole barn because it is the most economical choice and would be the least impact on the asphalt pad. The proposed pole barn would be 24' x 32', 22' feet back from the road. It would be a metal and timber frame, built by a local contractor, and would identically match her house. The back of the building would be as far back as the asphalt. She noted that the majority of homes on her street have larger storage sheds than what she is proposing. She stated that her proposed pole barn is the same as many other houses have on the street, and some of the older homes have less of a setback. She stated that she could comply with zoning, but this will provide her more room for storage and utilization of the existing asphalt pad.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and 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 received from Tricia Vantucci, owner, for area variances at 5 Ampor Beach to raze the existing shed on the south side of the private drive and replace it with a 24 feet by 32 feet (768 square feet) pole barn style accessory structure in the front yard with a front setback of 20 feet. This grants relief from Town Zoning Article 5, subsection 165-35C.2 which limits accessory structures to 400 square feet, Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard, and schedule 1 which requires a 40 feet front setback. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, the applicant has demonstrated that the need for the 24 feet x 32 feet pole barn size to house the articles listed: tools and tool storage, seasonal stuff, a John Deere lawn tractor, 2 kayaks, a 102" double wide trailer with 2 jet skis, lawn furniture, 5 different bikes, cushions, camping equipment, weed eater, leaf blower, leaf vacuum, fitness equipment, a grill, and golf clubs. The home has no basement. Based on this, the request is validated for this unique, waterfront property. A 20 feet setback is reasonable, taking into account that the other structures on Ampor Drive are similar in size and setback. The benefit can not be achieved by other means feasible to the applicant in this lakefront home. There will be no change in neighborhood character or to nearby properties. The request is substantial, but mitigated when taking into account this is a lakefront property and her unique need for additional storage. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, but mitigated by the nature of this 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 (5-0)** Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas.

MINUTES OF SEPTEMBER 21, 2006

The following changes were recommended: page 4, under Public Comment, add "Chairperson Robillard read a letter from Karen Wingender." Last Para, line 4, add "... which is approximately twice the size..." line 10, add "It is over 100%." Page 5, change Amy Phelps to "Andy." Last Para, line 11, add "This structure predates..." Page 8, line 7, Para 3, line 7, change to "... time to prepare answers to these questions." Page 9, Para 1, line 9, change to "... driveway for lot 2 to be on the neighboring property." A **Motion** was made by Dean Snyder to approve the September 21, 2006 ZBOA minutes with the recommended changes. Seconded by Tim Thomas. **Motion Unanimously Carried (4-0)** Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Stephen Shelley, to adjourn the meeting at 8:08 pm. **Motion Unanimously Carried (5-0)** Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas.

Respectfully submitted,
Diane Grundon, Recording Secretary