

**TOWN OF PARMA
ZONING BOARD OF APPEALS
January 18, 2007**

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

Others Present: Jack Barton, Jim Smith (Board Liaison)

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 announced that Mark Kalen has been appointed as the new alternate ZBOA member. Mark will be present at future meetings to provide coverage when Board members are unable to attend. 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 December 2006 meeting to the February 2007 meeting, per the applicant's attorney's request.

NEW PUBLIC HEARINGS

2. GARY PIGNATO – 28 WEST BEACH DRIVE

Application was received from Gary Pignato, owner, for an area variance at 28 West Beach Drive. The applicant is proposing a 3.75 feet by 6.92 feet second floor addition with a proposed side setback from the westerly property line of 8.75 feet and a 2 story addition with a proposed side setback from the westerly line of 8.25 feet and 9.833 feet from the easterly property line and is requesting relief from Town Zoning Article 165 schedule 1 which requires 10 feet side setbacks. This property is currently zoned Waterfront Residential (WF).

Gary described his plan to add a second story addition to provide another bedroom and bathroom. This addition will be above the part of the house that faces the street. He noted that this addition will not alter the footprint of the existing house. He noted the 6 feet long x 3 wide porch area with a 3 foot cantilever overhang that is planned. He clarified that his request is for a second story addition only, not an additional two story addition.

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 Gary Pignato, owner, for an area variance at 28 West Beach Drive for a 3.75 feet by 6.92 feet second floor addition with a proposed side setback from the westerly property line of 8.75 feet and a 2 story addition with a proposed side setback from the westerly line of 8.25 feet and 9.833 feet from the easterly property line and this grants relief from Town Zoning Article 165 schedule 1 which requires 10 feet side setbacks. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, the benefit can not be achieved by other means feasible to the applicant. The proposed addition to the second floor is in keeping with the existing footprint of the house with the exception of the cantilever over the porch. There will be no undesirable change in the neighborhood character or to nearby properties, in concert with other improvements that have taken place in that area. The request is not substantial. The house was built in the 1940's-50's, well before current standards. The waterfront properties are unique. There will be no adverse physical or environment effect. The alleged difficulty is somewhat self-created, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Dean Snyder.

Stephen Shelley expressed concern about the exact dimensions given. He noted that if the instrument survey comes in a little different from what has been approved, there may be a problem. Jack Barton stated that the Town would not have the authority to grant relief if the difference wasn't great and doesn't impact the look of what was requested. Discussion was held on the suggestion made by the ZBOA members in the past that the Town of Parma consider an administrative variance.

Following discussion, an **Amendment to the Motion** was made by Tim Thomas to add: "This approval with consideration that if there is any inaccuracy or discrepancy between the tape map and the instruction map, this would allow for a margin of error, no closer than 7'6" on the west and 9 feet on the east property line. Amendment seconded by Dean Snyder. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

SPECIAL PERMIT RENEWALS

3. SALVATORE VIAPIANO – 983 MANITOU ROAD

Application was received from Salvatore Viapiano for renewal of a special permit to allow an accessory apartment at 983 Manitou Road for his mother.

Jack Barton reported no complaints on file.

A **Motion** was made by Dean Snyder to approve the application from Salvatore Viapiano for renewal of a special permit to allow an accessory apartment at 983 Manitou Road for a period of two years, to be renewed January 2009, under the conditions of Zoning Ordinance 165.76.I. Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

4. ANTHONY CAPUANO – 5248 RIDGE ROAD WEST

Application was received from Anthony Capuano, owner, for renewal of a special permit for the display and sale of used motor vehicles at 5248 Ridge Road West. This display area for these vehicles will be in front of the existing mini-storage units located on the property. This property is currently zoned Highway Commercial (CH) which allows this use with a special permit.

Jack Barton reported there were no complaints on file.

A **Motion** was made by Dean Snyder to approve the application of Anthony Capuano, owner, for a special permit for the display and sale of used motor vehicles at 5248 Ridge Road West. The display area for these vehicles will be in front of the existing mini-storage units located on the property. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit. I recommend that this special permit be for a two year period (to be renewed in June of 2008).

Approval with the same conditions as originally set, as follows:

1. Up to, but not to exceed, 26 display vehicles per plan provided.
2. No lighting directed towards Ridge Road and away from neighboring properties.
3. All signage according to zoning ordinance.
4. No on street parking.
5. No un-drivable vehicles or repairs on site.
6. Hours of operation: Monday through Friday, 9 am to 8 pm; Saturday, 9 am to 5 pm; Sunday by appointment only.

Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

5. FRANK AND LUIGI SANTONASTASO – 5070 RIDGE ROAD

Application was received from Frank and Luigi Santonastaso, owners, for a special permit at 5070 Ridge Road West. Owners are proposing to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Chairperson Robillard recalled that this application was extended to this meeting to allow the applicant time to come into compliance with all violations cited in Art Fritz's letter dated 12/14/06, regarding fire safety and the special permit inspection for this property.

Jack Barton reported that Art Fritz inspected this property, and the number of vehicles on display was 73, which brings this application into compliance. Art noted additional vehicles were on the property but were associated with the repair facility. Jack Barton reported that all violations have been resolved.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application received from Frank and Luigi Santonastaso, owners, for a special permit at 5070 Ridge Road West, to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit. This approval is given with the original conditions, as follows:

- Hours of operation: Monday through Friday, 9 am to 7 pm; Saturday, 9 am to 5 pm; Sunday, 11 am to 4 pm.
- The fire marshal to inspect and approve the waste removal.
- Signs per zoning ordinance.
- No outside speakers.
- Lighting to be directed away from Ridge Road West.
- No junk cars on the premises.

For a period of one year, to be considered for renewal in November of 2007, with consideration of the violations. Seconded by Dean Snyder. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

MINUTES OF DECEMBER 21, 2006

The following changes were recommended: Some typographical errors were noted. Page 5, change "John Brazzar to John Brazas; para 3, last line change to "lots will meet the zoning requirements..." Page 6, para 1, line 4, change to 134 Bailey Road; Para 6, line 2, change to "The Building Department computer the..." Page 7, para 3, line 3, change to "...considered residential use." Last para, add "The Planning Board determined no drainage problems." Page 8, #7, Change to "Application was received from Daniel Ricotta, owner, AKA Platinum Auto, for renewal of a special permit at 5064 Ridge Road West. A **Motion** was made by Dean Snyder to approve the December 21, 2006 minutes with the recommended changes. Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

OTHER BUSINESS

Open Space Committee: Jim Smith reported the establishment of an Open Space Committee. He explained the function of this committee, which will be comprised of two groups. The first group will review and catalogue the land within the borders of the Town of Parma. The second group will look at the properties and determine the critical pieces of land to preserve. Jim stated he is looking for a liaison from each Town Board. Pat Buskey and Tim Thomas both expressed an interest in joining this Committee, pending the meeting schedules.

Administrative Variance Issue: Discussion was held on the need for an administrative variance being established. Questions to be answered were "what is a significant digit" and "what do other towns do and what are their policies." Discussion was held that the Town of Parma should consider establishing an administrative variance to help the Building Department facilitate and expedite minor problems that could be dealt with in a more efficient way, without significant impact to zoning. It was the Zoning Board members' consensus that the Town Board address this issue. The Zoning Board requested that the Town Board liaison, Jim Smith, who was in attendance tonight, present this request to the Town Board. Jim agreed to do this.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Dean Snyder, to adjourn the meeting at 8:25 pm. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary