

**TOWN OF PARMA
ZONING BOARD OF APPEALS
DECEMBER 20, 2007**

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

Members Excused: Mark Kalen

Others Present: Art Fritz

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, with a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

PUBLIC HEARINGS

1. ROGER AND LORI KOSS -500 BENNETT ROAD

Application was received from Roger and Lori Koss, owners, for area variances at 500 Bennett Road. Applicants are proposing to construct a wrap around porch with a front setback of 35 feet and a kitchen addition on the north side of the dwelling with a front setback of 71 feet and are requesting relief from Town Zoning schedule 1 which requires a 75 feet front setback. This property is currently zoned Rural Residential.

Chairperson Robillard noted that this application is for a Rural Residential area not a High Density Residential as advertised.

Roger provided a printed handout, which he reviewed to explain his need for these variances. He stated that this home was built pre-1900 and remodeled in the early 1960's. He described the plan for an addition of an 8 feet porch, as he felt that this is the minimum size that will allow for adequate furniture placement and traffic flow. He stated this porch will provide additional water "shedding" away from the foundation. This porch will aesthetically tie in with the kitchen addition and the rest of the house and provide protection from weather when coming in the 2 entry doors on the north side of the house. Roger referred to the blueprint provided, noting that the scaling for the porch at 35 feet was questionable. Art Fritz stated he was unsure how the porch front setback was determined and offered to confer with Jack Barton, who was not present at this meeting. Chairperson Robillard explained the dilemma if the setback was advertised incorrectly. She explained that even if the Board heard the information on this application, it would have to be re-advertised and presented again.

Roger provided a drawing of the west elevation view which showed the wrap around porch. He noted that it extends to the full width of the front of the house but doesn't go all the way back. He noted they plan to side their home and install new windows. He stated he did not feel that this application will have a negative effect on neighboring property and there will be no undesirable change. He referred to his list of other neighboring properties that have buildings in the setback, with 6 of these properties being closer to the right-of-way than his proposed porch. He explained that it will be too costly to move the house back. This is the only way to add onto their house. He noted the location of the septic system, which prevents placement farther back. He felt this plan is the most aesthetically pleasing plan. He stated that only 4 feet of relief is requested for the kitchen

addition. He did not feel that this is substantial and many homes in the area have similar homes and this will fit in well with the neighboring properties. Art Fritz confirmed that the front setback is 35 feet, and the Board concurred.

Public Comment:

Jim Smith – owner of 449 Bennett Road: Stated he did not have a problem with this application.

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. Art Fritz reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Roger and Lori Koss, owners, for area variances at 500 Bennett Road to construct a wrap around porch with a front setback of 35 feet and a kitchen addition on the north side of the dwelling with a front setback of 71 feet and this grants relief from Town Zoning schedule 1 which requires a 75 feet front setback. This property is currently zoned Rural Residential. The applicant has done a good job of addressing all the criteria required for approval. I don't believe the benefit can be achieved by other means feasible to the applicant. There will be no undesirable change in neighborhood character or to nearby properties. The request is somewhat substantial but considering the addition of 1 foot to allow an 8 feet porch is not that substantial. There will be no adverse physical or environmental effects. The alleged difficulty is self-created in the fact that he wants to add on to this home, but the location of the house, which was built pre-1900's, is definitely not self-created. In 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. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

2. BEVERLY HIGINSON – 207 HUFFER ROAD

Application was received from Beverly Higinson, owner, for an area variance at 207 Huffer Road. Applicant is proposing to subdivide this property to a dimension of 100 feet wide by 250 feet deep, .574 acres in area, and is requesting relief from Town Zoning Article 10, subsection 165-80.D, which states, in part, that no lot shall be reduced in size if its area of dimensions will be smaller than required by this chapter. This property is currently zoned Agricultural Conservation (AC) which requires lots to be 300 feet wide, 350 feet deep, and 3 acres in area.

Rich Maier introduced himself as the land surveyor for this property. He explained that this is a pre-existing, non-conforming 100 feet wide lot. He reported that Beverly is asking to subdivide her property and sell a portion to her neighbor of 25+ years. Beverly can no longer maintain this property and this neighbor would like more land. He noted 15 neighboring lots with similar dimensions. He stated this will not change the character of the neighborhood and there will be no detriment resulting from this division of property. Beverly wants to assure that someone will enjoy the use of this property and the neighbor is definitely interested in purchasing it.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order with the exception of Rich Maier, who owns 183 Huffer Road and is presenting this application. The request was returned by Monroe County as a matter of local determination. Art Fritz 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 of Beverly Higinson, owner, for an area variance at 207 Huffer Road to subdivide this property to a dimension of 100 feet wide by 250 feet deep, .574 acres in area, and this grants relief from Town Zoning Article 10, subsection 165-80.D, which states, in part, that no lot shall be reduced in size if its area of dimensions will be smaller than required by this chapter. This property is currently zoned Agricultural Conservation (AC) which requires lots to be 300 feet wide, 350 feet deep, and 3 acres in area. This approval is based on the condition that a bonafide evidence of sale and the merge of the sold off portion of property with 211 Huffer Road be completed within 6 months. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. As stated by the applicant's representative, the applicant is getting up in years and finds it difficult to maintain a property of this size and will be selling a portion to her neighbor. There will be no undesirable change in neighborhood character or to nearby properties. This will be a mirror image transfer of property lines with no visual change as you drive by and no change to the overall neighborhood. The request is substantial but significantly mitigated by the fact that it is essentially a mirror image of the existing property. There will be no adverse physical or environmental effect. The alleged difficulty is 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. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

3. GEORGE BORRELLI – 474 TRIMMER ROAD

Application was received from George Borrelli, owner, for an area variance at 474 Trimmer Road. Applicant is proposing to construct a 20 feet by 20 feet (400 square feet) overhang addition to an existing accessory structure and is requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which states in part that the total area of accessory buildings shall not exceed 600 square feet. The proposed addition will increase the accessory building area to 1,000 square feet. This property is currently zoned Medium Density Residential (MD).

George provided a picture of the proposed accessory structure on his 1.042 acres. He explained he will use this structure to store his lawn mower and bagger, snowmobile, tractor, wheelbarrow, summer yard furniture and similar equipment. He noted he uses the existing 600 square feet barn for repairs and tinkering and storage of tools, and parks a small dump truck in there. He reported he did construct this a couple of years ago and thought because it is an open overhang, he did not need a permit or variance. He estimated the cost for this was \$600 plus labor. He explained he is selling his property and the prospective buyer liked this lean-to.

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. Art Fritz reported this is a Type II SEQR with no further action required.

Discussion was held on the lack of justification to allow this 400 square feet accessory structure.

Following discussion, a **Motion** was made by Dean Snyder to deny the application received from George Borrelli, owner, for an area variance at 474 Trimmer Road to construct a 20 feet by 20 feet (400 square feet) overhang addition to an existing accessory structure and to deny relief from Town Zoning Article 5, subsection 165-33.C.2 which states in part that the total area of accessory buildings shall not exceed 600 square feet. The proposed addition will increase the accessory building area to 1,000 square feet. This property is currently zoned Medium Density Residential (MD). In making this determination to deny, I believe the benefit can be achieved by other means feasible to the applicant. The existing lean-to can be removed from the structure. There will be no undesirable change in the neighborhood character or to nearby properties. The lean-to is shielded from neighboring properties and has no effect on the neighbors. The request is substantial. The proposed lean-to exceeds the allowed 600 square feet of accessory structures by 67%. There will be no adverse physical or environmental effect. The alleged difficulty is self-created in that the applicant built this structure without the appropriate building permits and approval. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion carried (4-1)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Nays: Tim Thomas)

Chairperson Robillard polled the Board for their reason for denial:

Dean Snyder: stated his motion speaks for his reasons.

Patrick Buskey: Even with the dump truck in the garage, the amount of equipment does not justify increasing the 600 square feet limit.

Stephen Shelley: This denial is consistent with past applications.

Chairperson Robillard: Justification was not demonstrated.

4. SUZANNE DINICOLA – 4621 RIDGE ROAD WEST

Application was received from Suzanne DiNicola, owner, for modification of the existing Special Permit at 4621 Ridge Road West. Applicant is proposing to construct a sales and showroom building and expand the area of outside display vehicles east of existing display area. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

Matt DiNicola recalled this special permit was modified February of 2003. He explained that he purchased the property to the east, formerly 4615 Ridge Road West, and now wishes to have 175 spaces for display and customer parking for this 6 acres of land. He noted the natural drainage will continue to be directed to the pond. He noted that eventually this property will be paved. The office and showroom will be planned in the future.

Public Comment:

Kevin Deal – 1745 Manitou Road: Stated he lives south of Ridge Road, behind the DiNicola's property. He stated he is all for this business. His only concern is that the trees remain that separate him from this property, which provides a buffer. His only other concern was of drainage, but feels the applicant is addressing this.

Matt DiNicola assured Mr. Deal that he will not remove any existing trees.

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. Art Fritz reported this is a Type II SEQR with no further action required.

Chairperson Robillard explained that a special permit is for a set amount of time and could be withdrawn if conditions are not kept. The conditions of the existing permit are: 30 display 10 customer parking spaces, 2 handicapped parking spaces, and 14 employee parking spaces.

Dean Snyder referred to Zoning Article 165-78 that states the display area must be paved or the cars for display must be inside a showroom. Matt stated his current building is 5000 square feet.

Discussion was held on how to handle the original conditional use permit and special permit issued in June of 2000.

Following discussion, A **Motion** was made by Tim Thomas to approve the application of Suzanne DiNicola, owner, for modification of the existing Special Permit at 4621 Ridge Road West to construct a sales and showroom building and expand the area of outside display vehicles east of existing display area. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit. The following conditions set forth will apply to properties, the eastern portion of 4615 Ridge Road West, now known as 4621, and the western portion of 4621 Ridge Road West, as follows:

- No more than 140 display spaces total
- All display areas will be paved
- No repairs or storage of junk cars
- No outside speakers
- No on-street parking
- Lighting to be directed away from Ridge Road West and neighboring properties
- Hours of operation: Monday through Friday, 9 am – 9 pm, Saturday, 9 am to 5 pm, no Sunday hours
- The applicant shall provide the Town of Parma Building Department an updated site plan based on the conditions set forth.
- For a period of one year, to be renewable 12/2008.

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

OTHER BUSINESS

2008 Meeting Dates: After review of the proposed meeting dates for 2008, the only change requested was the February date, which will be February 28, 2008.

MINUTES OF NOVEMBER 15, 2007

The following change to the minutes was recommended: page 2, last Para, line 4, change “75 feet” to “32 feet”; several typographical errors were noted. A **Motion** was made by Dean Snyder to approve the November 15, 2007 minutes with the recommended changes. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley and seconded by Dean Snyder to Adjourn the meeting at 10:10 p.m.

Respectfully submitted,
Diane Grundon, Recording Secretary