

TOWN OF PARMA
ZONING BOARD OF APPEALS
August 16, 2007

Members Present: Patrick Buskey
Mark Kalen (alternate)
Dean Snyder
Stephen Shelley
Tim Thomas

Members Excused: Veronica Robillard

Others Present: Art Fritz

Public Present: See attached list

The meeting was called to Order by Acting Chairperson, Tim Thomas, at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He stated that this is a five-member board, with one Board member absent and the alternate Board member, Mark Kalen, present. He explained that a quorum of three is required to pass a motion. Chairperson Thomas offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. R2F2, INC. – 5570 RIDGE ROAD WEST

Application of R2F2, Inc., for area variances at 5570 Ridge Road West. Applicant is proposing an addition to the front building with a front setback of 11 feet from the road right of way and a side setback of 19 feet from the westerly property line and is requesting relief from Town Zoning schedule 1 which requires a 100 feet front setback and a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Chairperson Thomas recalled that this application was tabled at the July meeting, due to the applicant not being present at that meeting and to provide him additional time to complete the required notifications.

Richard Ferretti provided a map of the property, pointing out where the proposed addition will be. He explained that the location of the existing building dictates where this addition will be placed, as it is an extension of the original building. He stated that the addition will be used as a show room for the bike shop. He explained that this will be a big improvement for Ridge Road. The new face will be part of the entire building. He noted that the width to access the back of the property with the proposed addition will be 19 feet, with existing rear width at 18'8". Mark Kalen confirmed that this width will not impede access by fire equipment. Richard noted that there is a fire hydrant directly across the street. Richard stated that a garbage truck goes back to pick up garbage every day.

Dean Snyder questioned the dimensions of 11'2 ½" from the front of the building to the road right-of-way, comparing it to an instrument survey done in 2004. Following discussion regarding the discrepancy in dimensions, the applicant stated he wished to table this application in order to verify the actual dimensions and variance required.

A **Motion** was made by Dean Snyder to table, without prejudice, the application of R2F2, Inc., for area variances at 5570 Ridge Road West until the September meeting to provide the applicant an opportunity to recheck some important dimensions and provide the ZBOA with more information. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

NEW PUBLIC HEARINGS

2. MOLLY AND SALLY WILLIS – 188 HINKLEYVILLE ROAD

Application was received from Molly and Sally Willis, owners, for an area variance at 188 Hinkleyville Road. Applicants are proposing an 8 feet by 12 feet addition to the rear (east side) of the home and are requesting relief from Town Zoning schedule 1, which requires a front setback of 75 feet from the Hinkleyville Road right of way. The proposed addition will have a front setback of 51 feet. This property is currently zoned Medium Density Residential (MD).

Robert Tubbs introduced himself as the contractor who will be building this addition on this corner lot. He explained that the original house was built in the 1800's and the kitchen, dining room and laundry room are crammed in a small space. He noted this area with the new addition will house a kitchen, dining room and powder room. The laundry room will be removed from this area. This addition will be located on the back side of the house and alternate placement of the addition would not bring it any farther from Hinkleyville Road. He noted the roof pitch will be adjusted to allow this addition. He provided pictures of the existing house and a drawing of the finished addition.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Thomas 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 Dean Snyder to approve the application of Molly and Sally Willis, owners, for an area variance at 188 Hinkleyville Road for an 8 feet by 12 feet addition to the rear (east side) of the home and this grants relief from Town Zoning schedule 1, which requires a front setback of 75 feet from the Hinkleyville Road right of way. The proposed addition will have a front setback of 51 feet. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. This is a very small building on a corner lot. The applicant has done everything in their power to minimize the impact to surrounding neighbors. There will be no undesirable change in neighborhood character or to nearby properties. The addition of this nature built on a house built in the 1800's will improve the look of the neighborhood. The request is substantial. There will be no adverse physical or environmental effect. Although 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 Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

3. JAMES AND JOY BRUST – 11 JOHNSDALE TERRACE

Application was received from James and Joy Brust, owners, for an area variance at 11 Johnsdale Terrace. Applicants are requesting to allow an existing deck to remain at a side setback from the northerly property line of 13 feet. Applicants are requesting relief from town Zoning Article 11, subsection 165-87, which requires a 16 feet side setback. This property is currently zoned Rural Residential (RR).

Joy Brust stated they purchased this cul-de-sac property two years ago. She explained that when they moved into the home, there was an existing deck which the previous owner did not obtain a permit to build and which did not meet side setback requirements. She stated they removed an 11 x 24 feet section of the deck, thinking it would remove the need for a variance, but it still requires a side setback variance. She explained there is nothing they can do to get the deck to meet code and still have a usable deck.

Board Discussion: Chairperson Thomas 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.

Art Fritz noted that the 16 feet side setback for this deck may not be accurate. Discussion was held on the discrepancy of setbacks indicated on the tape map.

Following discussion, a **Motion** was made by Stephen Shelley to table, without prejudice, the application of James and Joy Brust, owners for an area variance at 11 Johnsdale Terrace until the September meeting to allow the applicants an opportunity to come back with verified measurements. Seconded by Dean Snyder. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

4. THOMAS AND STACY AVANGELISTA – 313 NORTH AVENUE

Application was received from Thomas and Stacy Avangelista, owners, for a special permit and area variance at 313 North Avenue. Applicants are proposing to construct a 1,389 square feet accessory apartment and are requesting a special permit to construct the apartment and relief from Town Zoning Article 9, subsection 165-76.E which states, in part, that an accessory apartment shall not exceed 35 percent (1,156 square feet) of the total floor area of the principal building. This property is currently zoned Agricultural Conservation (AC).

Tom stated their home is located on 16+ acres, 10 acres of which are leased back to a local farmer and 2-3 acres used for their house. He explained that the proposed addition will take up a portion of the yard that they mow. The remaining acreage will not be affected. Any trees removed for this project will be transplanted. He felt this proposal will not be detrimental to nearby properties and will add to the character of the neighborhood. He stated that the architect who drew up the plan is well known and the addition will blend in with the existing structure. He noted that their current residence is 700 feet back from the road. He explained that based on usable floor space and the need for future handicapped accessibility, he felt the size of the accessory apartment is needed for this in-law apartment. Art Fritz confirmed a note from 7/7/07 by a physician which confirms the in-law has arthritis and may in the future need a handicapped accessible living area. He reviewed the blueprint of the existing house. The accessory apartment will have a kitchen, small dinette, living area with a full basement for storage, a master bedroom off a common hallway and bathroom with a tub and wheelchair accessible shower and a single car garage. The entrance to the main house will be through a guest bedroom separated by a sliding door. It was noted that Jack Barton had calculated that the existing house is 3303 square feet, 1156 square feet is the allowed square footage for an accessory apartment, and 1389 is requested. Discussion was held on whether this square footage calculation included the garage for the main house and/or the addition. Chairperson Thomas asked Mr. Avangelista when the need for this in-law apartment ceases to exist, what would he plan to do with this accessory apartment. Thomas explained that he would remove the kitchen or sell the house as an in-law house to someone who needs this situation. Dean Snyder read the Zoning code which stated that this special permit is required to be renewed in two years and it requires the property to be owned by the same person. Also, the kitchen and bathroom must be removed once the special permit is no longer needed or the applicant must show there is an unhindered access to the main home. Dean Snyder expressed his concern that the way this apartment is proposed, there is significantly more than 35% of the total floor area of the principal building. The proposed addition is more like a separate house. Art Fritz stated he spoke with Jack and he stated that he based the 3303 square feet including the garage and the in-law apartment also included the garage. Chairperson Thomas stated that this confirms that the advertised dimensions are correct, and the request is 20% over the 35% allowed square footage for an accessory apartment. Chairperson Thomas asked Thomas if he considered making this apartment smaller to bring it closer to code. Thomas stated he would have to work with the

architect on this. Chairperson Thomas asked if this is being constructed according to ADA guidelines. Thomas stated that it was not at this time. He noted that the interior doors are not handicapped accessible doors but could be changed in the future when that is needed.

Dean Snyder stated he felt that this apartment's square footage is acceptable for this 16 acre property and is appropriate for the property but suggested that the applicant modify the layout of the apartment for easier conversion to the main house in the future for unhindered access.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Thomas 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 Thomas asked the applicant if he was willing to investigate a redesign of this in-law apartment to provide an unhindered access in the future or to reduce the overall size. Thomas agreed to come back with a new plan.

A **Motion** was made by Dean Snyder to table, without prejudice, the application of Thomas and Stacy Avangelista, owners, for a special permit and area variance at 313 North Avenue, to allow the applicant to bring new information that may include: (1) an alternative design which reduces the square footage of the accessory apartment closer to the maximum of 35% or (2) redesign to improve the unhindered internal access after the need of the accessory apartment is no longer necessary. Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

5. JAMES AND CATHERINE SEIFERT – 870 HAMLIN PARMA TOWN LINE ROAD

Application was received from James and Catherine Seifert, owners, for area variances at 870 Hamlin Parma Town Line Road. Applicants are proposing to construct a 36 feet by 36 feet accessory storage building in the front yard. Applicants are requesting relief from Town Zoning Article 10, subsection 165-82.C3, which states, in part, that detached accessory buildings shall be located in the rear yard. Relief is also requested for an existing swimming pool and deck located in the front yard, per Article 16, subsection 165-129B which states, in part, that swimming pools shall be located in the side or rear yard. This property is currently zoned Rural Residential (RR).

Catherine provided an aerial view of her property, which was taken in 1970. She noted this is a 5-acre corner lot, with 2 front yards and two side yards. She explained that last year she put up a pool and deck around the pool behind the house toward the rear lot line, after obtaining the required building permits. Technically, because this is a corner lot, the pool and deck are in the front yard facing West Avenue. She noted that the pool and deck are not visible from the road. She noted in the photograph that all the previous accessory buildings have been taken down or have fallen down. She explained that they are requesting to build an accessory storage building. She provided a drawing of the proposed building, which will face west with the door facing Hamlin Parma Town line Road.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Thomas 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 Dean Snyder to approve the application of James and Catherine Seifert, owners, for area variances at 870 Hamlin Parma Town Line Road to

construct a 36 feet by 36 feet accessory storage building in the front yard. This grants relief from Town Zoning Article 10, subsection 165-82.C3, which states, in part, that detached accessory buildings shall be located in the rear yard. Also granted is relief for an existing swimming pool and deck located in the front yard, per Article 16, subsection 165-129B which states, in part, that swimming pools shall be located in the side or rear yard. This property is currently zoned Rural Residential (RR). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. There will be no undesirable change in the neighborhood character or to nearby properties, since this new structure replaces two previously existing deteriorated structures. The request is substantial. There will be no adverse physical or environmental effect. The difficulty is partially self-created. The applicant owned the parcel with at least two barns in very poor condition and in approving this applicant, will improve the safety and character of the neighborhood. The swimming pool and deck were both built with appropriate permits but there is the question of definition of front or side yards. These three structures are located on a corner lot which does not have a back yard, so this approval is stated as being in the front yard. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare to the community. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

6. RICHARD STARWALD – 422 LIGHTHOUSE ROAD

Application was received from Richard Starwald, owner, for area variances at 422 Lighthouse Road. Applicant is proposing to subdivide his property and reduce his lot width to 120 feet and reduce the lot size to .688 acres and is requesting relief from Town Zoning schedule 1, which requires a minimum lot width of 260 feet and an area of 2 acres. This property is currently zoned Rural Residential (RR).

Richard explained his wish to reduce his expenses, as he is eligible to retire. He is looking to reduce the amount of land he has, since he doesn't need the extra land. He stated that his neighbor to the south expressed an interest in buying some of his land and has made a verbal offer to him. Art Fritz stated that this application takes a substandard lot and makes it more substandard and also creates a second substandard lot. Chairperson Thomas stated that a valid purchase offer would be needed in order to consider this application. Dean Snyder suggested that the Board consider whether reducing a non-conforming lot is allowed. Chairperson Thomas read zoning article 165.89.A. Richard stated that both properties on each side of him have less width. Art Fritz explained that when Mr. Starwald's house was built and others in his neighborhood, a 120 feet lot width was the minimal lot size. Zoning has since changed and it does not meet current codes.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Thomas 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 side setback that would result if this application were approved. In order to comply with the current setback requirement, he could only reduce his lot by 75 feet, otherwise the applicant would have to apply for a side setback variance. A 40 feet side setback to the south has to be maintained. Discussion was held on the option of tabling this applicant to give the applicant time to further investigate and justify this request, which the applicant agreed to.

A **Motion** was made by Dean Snyder to table the application of Richard Starwald, owner, for area variances at 422 Lighthouse Road, without prejudice, until the September ZBOA meeting in order to provide the applicant the opportunity to generate more compelling arguments to support

this application. Seconded by Mark Kalen. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

7. DOUGLAS FLOOD – 907 BURRITT ROAD

Application was received from Douglas Flood, owner, for an area variance at 907 Burritt Road. Applicant is proposing to subdivide his property into an 8 lot subdivision and lot 2 is proposed to be 251.38 feet wide. Applicant is requesting relief from Town Zoning Schedule 1 which requires lots to be 300 feet wide. This property is currently zoned Agricultural Conservation (AC).

Nick Montanaro, surveyor, reported that this 40-acre property, owned by Douglas Flood since 1980, is being subdivided. They have conferred with the Planning Board and as a result have reduced this subdivision to 8 lots. They originally wanted 10 lots, but were denied a rezoning to rural residential. He noted that part of this property is being farmed. He explained that in order to get these 8 lots, because of the road frontage on Burritt Road, requires a variance for the width of lot 2. He stated that preliminary perks showed the northwest corner is best for the septic system on lot 2. He felt that this request is not substantial, since the proposed width is 251.38 feet and the lots range from 3 to 5 acres. This would not impact the neighborhood. He showed neighboring lots that are smaller. Nick noted that they tried to compensate the lack of width by making the lot deeper. Nick stated that they are looking to alleviate some drainage issues.

Public Comment:

Rick Bauer – 1213 Hilton Parma Town line Road: Stated he works for Nothnagle Realty, who is involved in selling these lots. He stated his opinion that this will not change the character of the neighborhood. Dean Snyder responded that this will change the neighborhood because this is now open land. Rick stated that he felt this would benefit the neighbors and provide homes with green space that is desired by others. They have worked with the planning board and reduced the number of lots.

The public hearing was closed.

Board Discussion: Chairperson Thomas 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 Douglas Flood, owner, for an area variance at 907 Burritt Road to subdivide his property into an 8 lot subdivision and lot 2 is proposed to be 251.38 feet wide. This grants relief from Town Zoning Schedule 1 which requires lots to be 300 feet wide. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant, other than further reducing the number of lots. There will be no undesirable change in neighborhood character or to nearby properties. This will improve the neighborhood character. The existing deteriorating house will be demolished. The request is substantial. The requested reduction in required width is 17% and the applicant has offered a 17% increase in acreage over the minimum required, therefore the applicant has offset this width. There will be no adverse physical or environmental effects. Although 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 Dean Snyder. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

OTHER

Art Fritz requested that Zoning Board member's cell phone numbers be provided.

Dean Snyder referred to several applications reviewed at this meeting that were lacking appropriate drawings, and requested that the importance of accurate drawings be emphasized to future applicants.

MINUTES OF JULY 19, 2007

The following changes were recommended: page 3, Para 1, line 10, remove “minimally” substantial; page 6, Para 1, last line, change to “Motion carried (3-2) (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley; Naves: Patrick Buskey, Tim Thomas).”

A **Motion** was made by Dean Snyder to approve the July 19, 2007 ZBOA minutes with the recommended changes. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Patrick Buskey, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder and seconded by Patrick Buskey to Adjourn the meeting at 9:45 pm. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Veronica Robillard)

Respectfully submitted,
Diane Grundon, Recording Secretary