

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
OCTOBER 16, 2008**

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

**Members Excused:** Mark Kalen (alternate)

**Others Present:** Jack Barton, Carm Carmestro (Board Liaison), Bob Prince (ZEO)  
Peter Rodgers (Town of Parma Attorney) (8:10 pm)

**Public Present:** See attached sheet

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 noted that this is a five-member board and that a quorum of three is required to pass a motion. She noted that microphones were set up for this meeting, in anticipation of a large number of people attending tonight.

**TABLED PUBLIC HEARINGS**

**1. MIGIRDIC COLAKOGLU, CONTRACT VENDEE – 1220 HILTON PARMA  
CORNERS ROAD**

Application of Migirdic Colakoglu, contract vendee, for area variances at 1220 Hilton Parma Corners Road. Applicant is proposing a 40' x 66' addition to the existing building with proposed side setbacks of 15.3 feet from the easterly property line and 14.3 feet from the northeasterly property line and is requesting relief from Town Zoning schedule 1 which requires a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled that this application was tabled at the September meeting pending clarification on the building design and visual impact on the neighborhood. Also pending was a diagram of the interior layout sufficient to determine if the requested building dimension is required to meet the applicant's needs. This information is necessary for the ZBOA to determine whether the full dimensions of this variance are required.

Nancy Colakoglu, wife of the applicant and secretary/treasurer of the company, requested that this application be tabled to allow the applicant additional time to provide the information requested by the Zoning Board. She stated they are waiting for the architect's depiction of the building and variance for the parking lot. She stated they will be prepared at the November meeting.

A **Motion** was made by Tim Thomas to table the application of Migirdic Colakoglu, contract vendee, for area variances at 1220 Hilton Parma Corners Road, without prejudice, to the November ZBOA meeting, as per the applicant's request to allow additional time to provide the requested information. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

**PUBLIC HEARINGS**

**2. DANIEL AND PAULA FARLEY – 1147 HILTON PARMA CORNERS ROAD**

Application of Daniel and Paula Farley, owners, for area variances at 1147 Hilton Parma Corners Road. Applicants have enlarged an existing shed to 12 feet by 16 feet with a side setback of 5 feet from the southerly property line and a rear setback of 8 feet from the westerly property line and are requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback and a 25 feet rear setback. This property is currently zoned Agricultural/Conservation (AC).

Dan explained that he expanded an existing shed that was on the property when they bought it. He stated they did not realize the larger shed did not meet zoning requirements. He noted that this shed was put up prior to zoning changes, approximately 15 years ago. He stated they are a growing family and needed more storage. The location of the existing shed is ideal, due to poor drainage in other areas of their property. He reported that the existing shed was 6' x 8' and they expanded it to 12' x 16'. He explained they didn't realize he needed a permit to do this, since he was adding onto an existing shed. He noted the addition was placed away from the side setbacks.

**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.

Jack Barton noted that the existing shed was probably built when this property was zoned R-1. The setbacks for this shed at that time were not in compliance.

**Public Comment:**

**Susan Putnam – 1143 Hilton Parma Corners Road:** Stated she has lived here for many years and the shed has been there for as long as she can remember. She attested to the drainage problem. She noted that the shed is not easily visible.

The public hearing was closed.

Following discussion, a **Motion** was made by Dean Snyder to approve the application of Daniel and Paula Farley, owners, for area variances at 1147 Hilton Parma Corners Road. Applicants have enlarged an existing shed to 12 feet by 16 feet with a side setback of 5 feet from the southerly property line and a rear setback of 8 feet from the westerly property line and this grants relief from Town Zoning schedule 1 which requires a 10 feet side setback and a 25 feet rear setback. This property is currently zoned Agricultural/Conservation (AC). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant had a need to both increase the amount of storage and to improve the quality of the building impacting the neighborhood. There will be no undesirable change in the neighborhood character or to nearby properties. This will, in fact, be a desirable change, as attested by one of the neighbors that the new shed looks more appropriate than the previous shed. When the shed was originally built, it nearly complied with existing requirements for a 5' rear setback and a 10 feet side setback. The actual setbacks were 5' and 8.4'. In making modifications, the applicant has maintained these same setbacks. The request is substantial. 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 Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

### 3. JAMES QUICK – 553 MANITOU ROAD

Application of James Quick, owner, for an area variance at 553 Manitou Road. Applicant is requesting to allow existing shed to remain in the side yard by requesting relief from Town Zoning Article 10, subsection 165-82.C.3, which requires sheds to be located in the rear yard. This property is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned High Density Residential (HD).

James explained that when purchased this property in 1990, the property behind him was farm land. He moved this shed in August, when he was informed by the Town that either he move it into compliance or apply for a variance. Now, the farm land has been developed and a new roadway was put in. This resulted in making his property a corner lot. This resulted in his shed, that he already moved once, being out of compliance. He provided a picture of the shed as it appears now, noting that it was originally built as a dog house with dog runs, on a concrete pad. He noted that the previous owner took the dog runs with him. The shed now sits on 3” patio blocks.

#### **Public Comment:**

**Carlo Callea – 90 Burritt Road:** Stated he owns the Mercy Flight Subdivision and confirmed that Mr. Quick is the victim of circumstances. The road they put in the subdivision did make Mr. Quick’s property a corner lot.

**Bob Wagner – 557 Manitou Road:** Stated they live to the south of Mr. Quick. He stated he had absolutely no issue with this request.

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.

Tim Thomas pointed out that this type of situation could be handled by an administrative variance, as discussed at previous meetings. Dean Snyder pointed out that on the survey map of October 1990, the existing shed was 12’ x 16’. He questioned if this is the same shed. James replied that this is the same shed, that the survey map was incorrect.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of James Quick, owner, for an area variance at 553 Manitou Road to allow the existing shed to remain in the side yard and this grants relief from Town Zoning Article 10, subsection 165-82.C.3, which requires sheds to be located in the rear yard. This property is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned High Density Residential (HD). In making this determination to approve, I do not believe that the benefit can be achieved by other means feasible to the applicant. I think this is a classic example that the applicant did not create this situation himself. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial. Zoning code prohibits sheds in a side yard but this is a unique circumstance, caused by a development project in the rear of his property and the addition of an access road which resulted in the applicant’s property becoming a corner lot. There will be no physical or environmental effects. The alleged difficulty is not self-created because it was a development access road that made his lot a corner lot and resulted in the need for a variance by the applicant. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Patrick Buskey.

Discussion was held regarding the fact that the shed's location at its original location is preferable. The applicant stated he would prefer to put it back. Chairperson Robillard stated that if the applicant wished to do this, he would be required to submit a new application.

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

#### **4. ANTHONY RANDALL – 1459 MANITOU ROAD**

Application of Anthony Randall, owner, for area variances at 1459 Manitou Road. Applicant is proposing to construct a 2,100 square feet accessory storage building in the front yard and is requesting relief from Town Zoning Article 5, subsection 165-32.C.2, which limits the total area of accessory buildings to be located in the rear yard. This property is currently zoned Rural Residential (RR).

It was noted that there was no one in attendance to present this application.

Following discussion, a **Motion** was made by Tim Thomas to table the application of Anthony Randall, owner, for area variances at 1459 Manitou Road, to the November 20, 2008 ZBOA meeting without prejudice. The applicant is not here and based on the lengthy agenda tonight, we prefer to table this instead of postponing the hearing if the applicant arrives later in the evening. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Chairperson Robillard announced that we have surpassed the limits for the number of people allowed in this meeting room, and the ZBOA meeting would be re-located at the West Avenue location. A recess was called at 7:35 pm and Chairperson Robillard reported the meeting would reconvene at the West Avenue location at approximately 8:00 pm.

The ZBOA meeting was reconvened at 8:10 p.m. Chairperson Robillard noted that there was no microphone system available. Peter Rodgers, Town of Parma attorney, was present.

#### **5. GREECE COBRA SOCCER CLUB, INC. – 134 PARMA CENTER ROAD**

Application of Greece Cobra Soccer Club, Inc., owners, for an appeal at 134 Parma Center Road. Pursuant to Town Zoning Article 4, subsection 165-19.B.1, which states the Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this chapter. The owners have proposed a soccer field complex. The Building Department has determined that the proposed use does not comply with current zoning regulations for the district in which the property is located in. The owners have requested an interpretation of Town Zoning as it applies to their proposal. The owners are also requesting a Special Permit in accordance with the requirements of Article 9 of this chapter if the Zoning Board of Appeals acts in favor of their appeal. This property is currently zoned Rural Residential.

Mr. Rodgers, Town Attorney, noted that applications 5 and 6 were identical, with the exception of the addresses. This application will be presented to represent both applications. There were no objections to this.

He explained the procedure for this request. It has two parts: threshold determination issue and appeal for determination of interpretation of Zoning Article 4, subsection 165-19.B.1. He asked for representatives to speak to the Board regarding the request. The Board will be hearing the information regarding this application to decide whether it sustains or reverses the building department's determination.

Chairperson Robillard noted the many concerned citizens present at this meeting, noting there will be an opportunity for their opinions to be heard at future meetings. She explained that tonight it will be just the ZBOA members who will be questioning the applicants.

Peter Weishaar, attorney, stated he represented the Greece Cobra Soccer Club in presenting this application. He introduced Al LaRue, engineer for this project, and Carlo Callea and Gary Passeno, representatives of the Soccer Club, all available for questions.

Mr. Weishaar provided a general overview of the club, as follows: This club is a New York State not-for-profit corporation, tax exempt charter. The proposed project is the development of two contiguous parcels at 134 and 140 Manitou Road, consisting of 140 acres on Parma Center Road, just north of Bailey Road. 16 soccer fields are proposed with a gravel access road and parking area, maintenance building, and 3 picnic pavilions. There will be hiking trails on the undeveloped parcels. The developed parcel will require 80 acres with the remaining undeveloped land constituting 42% of the entire combined parcels.

He described the original project which was 25 soccer fields with lighting. This project has been redesigned to reduce the impact on the neighborhood. The developed area is proposed to be pushed away from the residential properties on Parma Center Road. They intend to leave the woods between the homes and the soccer fields to provide a buffer. There will be no lighted fields. He explained this is a seasonal proposed use. The games will primarily run on the weekends and the park will be open from approximately April 1<sup>st</sup> through the end of October, 7 am to dusk. The gates will be closed at the end of the season, with the goals moved off the fields to leave open space.

He reiterated that this is a not-for-profit organization and will not operate for financial gain.

He explained that this is a Rural Residential district (RR), which unfortunately does not address a project of this type. The Town of Parma building inspector's position is that this project would be permitted in a Highway Commercial district (HC). The Club does not agree with the building inspector's opinion that this is a recreational facility and is not allowed in a rural residential district. Mr. Weishaar stated his opinion that this is not a commercial entity. Highway Commercial districts where the building inspector stated this would fit, allows a full range of services and selling retail merchandise. Permitted uses in a HC are akin to a bowling alley, theatre, miniature golf courses, golf driving range and skating rinks. These uses are not similar to the proposed project. There will be no retail services. It is not a business or a commercial enterprise. The Club presents this project for consideration as a permitted Special Use in a Rural Resident district. This is consistent with allowed uses of a Rural Residential district: golf courses, camping grounds and animal boarding facilities. This involves open land, low grass, open grass and trees. He believes the zoning code could be interpreted to allow this as an allowed use, as per the Town of Parma attorney's letter of July 2008. The interpretation would be consistent with the code.

Mr. Weishaar referred to the written proposal provided to the ZBOA members which gives an extensive overview of the project. He referred to Fork's Park located at 447 Manitou Road which is a commercial entity located in a General Commercial District which is more restricted than a HC. He stated his opinion that prior to March 1998, the property where Fork's Park is was a residential district. He also referred to the Town of Parma Town Hall Park. This property is similar, and with further review, he felt the Cobra Soccer proposal is less intense than this Town Hall Park, which is located in a more restricted district. It is open year around and includes a playground, skate park, lighted areas for tennis, basketball, baseball, soccer, football, and paved access road. He stated that this is just down the road from this proposal.

Mr. Rodgers reported that Fork's Park was established prior to current zoning code and is grandfathered and irrelevant to this discussion.

Mr. Weishaar requested information on what the zoning was when the Fork's Park was established. Was it permitted in a residential district? Mr. Rodgers, again, stated Fork's Park was established prior to current zoning and is irrelevant.

Mr. Weishaar stated the Club feels that this property is more consistent with uses in an RR district in that it conserves open space and maintains undeveloped land. He reiterated that 42% of the land will remain undeveloped and will be available for use by the public.

He offered that the project engineer and club members were available to answer any questions.

Chairperson Robillard stated the Board was going to start their review process.

Dean Snyder asked for a definition of this business. Is this going to be free or do members have to pay anything. Will this soccer park be available to other groups or only for the Cobra Soccer Club's use?

Gary Passeno, President of the Greece Cobra soccer club, replied that there will be a small fee which will cover the cost of maintaining the fields. The Club currently pays \$85 per game to use fields at other locations, such as Grace and Truth Park. They anticipate that they will charge approximately \$50 per game for fields used by two non-Club teams. There will be no charge when one of the teams is a Club team. There will be no charge for the hiking trail or pavilion.

Dean Snyder questioned if profits realized from concession sales fits into a not-for-profit organization.

Mr. Weishaar replied that this is about the soccer field, not selling t-shirts and snacks. They are not in the business of selling. They are looking to play soccer. The fees charged for use of the fields will be used to maintain the fields. Any sale of merchandise would be incidental.

Tim Thomas also questioned not-for-profit tax code issues. Tim stated that a not-for-profit organization can take revenue in but cannot show a profit. Mr. Weishaar reiterated that the Cobras are concerned with the kids playing soccer. The revenue made on concessions is incidental. He asked if there was going to be tournaments. The attorney replied "yes."

In answer to the question, Mr. Weishaar stated he didn't know what the revenue from concession sales is currently. Dean Snyder stated that based on Zoning Code, he felt this is a commercial enterprise.

Mr. Weishaar noted that the Town of Parma collects fees. Chairperson Robillard reported that the Town is a government agency. Peter Rodgers restated the question as "does the Town of Parma fall under the same rules as a not-for-profit" organization. Mr. Rodgers stated "no" because it is a government agency.

Dean Snyder read the purpose of a Rural Residential district and a Highway Commercial district, as follows:

**Code 165-32.A. Rural Residential (RR) District purpose:** The purpose of the Rural Residential District is to regulate land for low-density residential development in areas with limited opportunities for public sewers and having soils with poor percolation rates so as to preserve the rural character, to retain the open space, and to conserve the natural resources.

**Code 165-40-A. Highway Commercial (HC) District purpose:** The purpose of this district is to provide for and regulate in an orderly fashion the development of a full range of service and

retail commercial uses, including more intensive uses which deal in bulk retail merchandise or businesses or trades which are dependent upon a high volume of traffic. Such uses shall not, however, be permitted to develop in such concentrations or in such a manner as to impede traffic or become a nuisance or hazard to the public welfare and safety.

Based on these definitions, Dean questioned which district this proposal falls into. He questioned how this proposal falls into the character of a RR district. He stated he had a difficulty putting this project into a RR district. He noted that the principal uses in a RR district include golf courses and animal boarding facilities. Golf driving ranges are a more intense use and RR district does not allow them. How can we allow this? He questioned is this a park with a soccer field or a soccer field with a park. He stated he believes it is the latter.

In comparing the uses in a HC district, which allows commercial recreation use, to allowed uses in a RR district, I believe this proposal fits in the HC district not in the RR district in this town. Dean Snyder noted that he did not agree with the Town Attorney's letter of July which states that this fits in a RR district with a high volume of traffic.

Patrick Buskey questioned the volume of cars that would result if this proposal were approved. Carlo Callea estimated the daily volume would be 288 cars. Mr. Weishaar noted that this will be on the weekends mainly, not during the week.

Dean Snyder asked if there was a way to run this project without having a high volume of traffic leaving at the same time. Gary reported the Club has 400 kids, ages 9 to 19, boys and girls. There is a fee to join, but the concession sales profits keep this fee low. Games start around May 31<sup>st</sup> and end around August 1<sup>st</sup>. Teams play once a week. In early May, use of the fields begins with practices held two times a week. Gary explained that cars will come and go during the day, with volume the same for practices and games.. He stated that the Cobras only have a tournament the 2<sup>nd</sup> week of July. Over the course of a day, there will be an estimated 1000 cars at the soccer fields. Each game lasts one hour, so cars will be coming and going during the day. Games start at 5:00, some at 6:00 pm. He noted these are travel teams and sometimes play at two other locations.

Mr. Weishaar stated that the notion that the concession revenue is needed to run this Club is not true because there is no debt for the land (it was donated) and the park is shut down for several months a year with a gate. No snowplowing is necessary.

Patrick Buskey stated that this project is dependent on a high volume of traffic. He questioned how this is similar to a golf course. Mr. Weishaar replied that the differences are : no clubhouse, no alcohol services. Similarities are open field. He referred to permitted uses in an RR district which includes golf courses, public or parochial schools and churches.

Chairperson Robillard asked Peter Rodgers to share his thoughts on the discussion held tonight. Mr. Rodgers stated that the code on this project is ambiguous and requires a reasonable interpretation by the ZBOA as to applicableness of this application as a Special Use Permit. The RR district code includes a special use permit. Analysis is needed to compare this proposal to permitted uses under a RR district, i.e. school or church or golf course. Revenue is not an issue, as of the allowed uses do have revenues that are incidental, such as a school. A school has soccer fields. Is this proposal more or less intense than a school field? With respect to some permitted uses, is the intensity greater, less than or the same? The ZBOA needs to compare the permitted uses to see if the intensity is analogous or not. If not, the appeal should be denied. The Board should not consider revenue, but traffic intensity compared to schools and churches. Is the intensity analogous to permitted use?

Dean Snyder suggested that the Board consider: (1) does the proposed soccer project fit into the RR district, and if not, (2) does it fit into another district better. A HC district calls out for a recreational facility, i.e., driving range. Looking at the intensity of traffic, I believe this fits better into a HC district.

Mr. Rodgers stated that the ZBOA members need to ask: what is the primary purpose of the applicant's business. Is it similar to a commercial enterprise or to a not-for-profit organization, that is making revenue incidental, such as a church (bingo, dinners, car washes, etc.). If it is determined that it is appropriate to a special permit, the Zoning Board needs to determine if a Special Use Permit is appropriate. Mr. Rodgers stated that the focus of the ZBOA should be to compare this proposal with specific uses permitted in a RR district, considering the primary purpose and intensity of use as proposed.

Stephen Shelley stated that he felt this use is much more intense with a high volume of traffic compared to a golf course. Tim Thomas stated he agreed with Mr. Shelley. He suggested that the ZBOA members assign a degree of intensity to each use.

Chairperson Robillard asked the Board for comments. She asked Jack Barton to comment on the building department's decision that this application does not fit into an RR district. Jack Barton explained that the current zoning was established in 1998 and reflects the current Master Plan, which was last updated in 1989. Jack stated that they considered the request looking at it to see if it would work in the RR district or if it would fit someplace else better. They could not relate this use to any of the permitted uses. After the building department looked at all districts, it was determined this project fits best in a HC district.

Tim Thomas asked why this is being considered as a Special Permit versus a Use Variance. Jack Barton stated the applicant could have applied for a Use Variance but they chose a Special Permit. Tim Thomas questioned Mr. Weishaar if they chose to apply for a Special Permit rather than a Use Variance because it was easier to obtain? Mr. Weishaar stated that this was the reason. Chairperson Robillard explained the conditions of a Special Permit, which has a time frame and it is a possibility that a renewal will not be granted. Mr. Weishaar stated he understood this.

Chairperson Robillard asked if there was an intent to use these fields for anything else than soccer. Carlo Callea replied that they want to open this up to Hilton-Parma residents to use it for soccer, lacrosse, football, and field hockey. Chairperson Robillard asked if the use of these fields could be extended, considering the additional uses. Gary Passeno stated that it could be extended for use from April through October. Chairperson Robillard asked if these other activities may increase the use of these fields. Gary replied "yes", that this would create a greater volume of traffic.

Chairperson Robillard asked whether this club is private or public. Mr. Callea responded that this land would be allowed to be used by residents for such activities as walking their dogs. Mr. Weishaar stated that this might be better characterized as semi-private. He reiterated that 57.1 acres will be kept undeveloped.

Chairperson Robillard stated that comparing this to the Town recreational activities is not appropriate. Mr. Weishaar believes that the comparison of use should be considered.

Dean Snyder questioned how many parking spaces would be provided. Al LaRue estimated 426 parking spaces would be provided.

Dean Snyder compared the Parma Town Hall Park and a private park, noting if this project infringes on neighbors, it can't be changed. In a Town facility, we have the opportunity to change it.



Dean Snyder stated he would like to compare line by line each permitted use for a RR and HC district and get back with this for future discussion. Mr. Rodgers concurred that this was an excellent idea because this decision may be scrutinized by a higher court which would determine whether the ZBOA's decision is reasonable or capricious and would look for supportive documentation with a comparison of intensity and character as it applies to the purpose of RR and HC districts. If there is an appeal, they will ask for the basis of the decision of the ZBOA, which reflects the outcome of the decision and how they came to the decision.

Dean Snyder asked who can override the ZBOA. Mr. Rodgers reported that the decision can be reviewed by a Monroe County Judge *via* an Article 78 procedure. They can petition the court to review a decision of the ZBOA. A judge will challenge a Board to show that they acted reasonably or was their decision arbitrary or capricious. Chairperson Robillard reiterated that given the range of information and opinions we have heard from the applicants and attorneys, the Board members need to reflect on the information presented tonight. Dean Snyder asked if at the next meeting we decide to agree with the applicant, not the building department, will there be an opportunity to schedule the Special Permit hearing to the next meeting? Can the Board adjourn to the next meeting to allow the public an opportunity to attend? Mr. Rodgers stated that after the threshold of determination is made, then a Special Permit hearing can be scheduled for a future meeting. Tim Thomas suggested that a special ZBOA meeting be scheduled for this if it continues as a Special Permit. Chairperson Robillard stated that we can consider this after a determination is made.

Following discussion, a **Motion** was made by Dean Snyder to table the application of the Greece Cobra Soccer Club, Inc. for an appeal at 134 Parma Center Road, without prejudice, until the November 20, 2008 ZBOA meeting in order for the Board members to access more definitive information concerning uses in Rural Residential and Highway Commercial districts. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

## **6. GREECE COBRA SOCCER CLUB, INC. – 140 PARMA CENTER ROAD**

Application of Greece Cobra Soccer Club, Inc., owners, for an appeal at 140 Parma Center Road. Pursuant to Town Zoning Article 4, subsection 165-19.B.1, which states the Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this chapter. The owners have proposed a soccer field complex. The Building Department has determined that the proposed use does not comply with current zoning regulations for the district in which the property is located in. The owners have requested an interpretation of Town Zoning as it applies to their proposal. The owners are also requesting a Special Permit in accordance with the requirements of Article 9 of this chapter if the Zoning Board of Appeals acts in favor of their appeal. This property is currently zoned Rural Residential.

Following discussion, a **Motion** was made by Dean Snyder to table the application of the Greece Cobra Soccer Club, Inc. for an appeal at 140 Parma Center Road, without prejudice, until the November 20, 2008 ZBOA meeting in order for the Board members to access more definitive information concerning uses in Rural Residential and Highway Commercial districts. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

**SPECIAL PERMIT RENEWALS**

**7. DAVID DECONINCK – 645 MANITOU ROAD**

Application was received from David DeConinck, 645 Manitou Road, for renewal of a special permit allowing outside storage of no more than eight (8) pieces of construction equipment.

Jack Barton referred to the September 11, 2008 fire safety inspection, which did not identify any violations on that day. He reported there were no complaints on file.

A **Motion** was made by Dean Snyder to approve the renewal of a special permit requested by David DeConinck to allow outside storage of construction equipment at 645 Manitou Road with the following original conditions:

- No more than 8 pieces of construction equipment stored outside.
- No outside storage of junk, trash, or dismantled vehicles.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Saturday; 12 Noon to 5:00 pm Sunday.
- No sales of any kind.
- Renewable in April, 2009.

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

**8. RICHARD AND TAMMY HEFFRON AND MARY ANN ROETHEL –  
1429 MANITOU ROAD**

Application was received of Richard and Tammy Heffron and Mary Ann Roethel, owners, for renewal of a Special Permit to allow an in-law apartment. The property is currently zoned Rural Residential (RR) which allows this as a special permit.

Jack Barton reported there were no complaints on file.

Following discussion, a **Motion** was made by Tim Thomas to approve the renewal of a Special Permit to Richard and Tammy Heffron and Mary Ann Roethel, owners, at 1429 Manitou Road to allow an accessory apartment in the existing garage which has been converted into an in-law apartment, with the following conditions:

- Approval is granted for two years, to be renewed October 2010.
- If title to the property changes, or the family member requiring extended care no longer occupies the accessory unit, the permit shall not be renewed and the facilities that provide for independent occupancy (i.e., kitchen and bath facilities) shall be removed. As an alternative to the removal of these facilities, the occupant of the principal residential unit shall submit plans to show that there is unhindered internal access to the entire dwelling as a condition of the continuation of the Certificate of Occupancy. The applicant is to inform the Town when the accessory apartment is not needed.

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

**9. JOHN BURGESS – E.R.B. KENNELS – 347 MOUL ROAD**

Application was received of John Burgess for renewal of a Special Permit allowing a dog kennel at 347 Moul Road

Jack Barton referred to the ZEO's October 9<sup>th</sup> inspection which revealed no violations. He noted that this business is not currently operating, but the applicant wishes to continue the special permit.

A **Motion** was made by Stephen Shelley to approve the request for renewal of a Special Permit for John Burgess to allow a dog kennel at 347 Moul Road with the same conditions as the original Special Permit approval, to be renewed in 5 years, October 2013. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

**10. DEBRA LOWRY – LOWRY AUTO SALES – 5018 RIDGE ROAD WEST**

Application was received of Debra Lowry for renewal of a Special Permit to allow used car sales at 5018 Ridge Road West.

Jack Barton reported no complaints on file. He noted that a recent inspection report from the ZEO was not available in the file.

A **Motion** was made by Tim Thomas to approve the application for renewal of a Special Permit to Debra Lowry to allow used car sales at 5018 Ridge Road West, with the following conditions:

1. Hours of operation to be Monday-Friday, 8:00 a.m. to 8:00 p.m.; Saturday, 8:00 a.m. to 6:00 p.m.; no Sunday hours
2. Directional lighting so that none spills onto other's property
3. No on-street parking
4. To be renewed in 5 years, October 2013
5. Fire marshal and ZEO to inspect and approve.

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

**11. DAN RICOTTA, PLATINUM AUTO – 5064 RIDGE ROAD**

Application was received from Daniel Ricotta, owner, AKA Platinum Auto, for renewal of their special permit at 5064 Ridge Road West to allow the display and sales of automobiles. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton referred to the September 29<sup>th</sup> fire marshal inspection which revealed no violations. He reported there were no complaints on file.

A **Motion** was made by Stephen Shelley to approve the application received from Daniel Ricotta, owner, AKA Platinum Auto, for renewal of the modified special permit granted on December 21, 2006 to allow the display and sales of automobiles at 5064 Ridge Road West, with the following conditions:

1. This special permit allows 71 display spaces and 13 customer and employee parking spaces, as presented on the plan, with the 6 display spaces on the west and 8 display spaces on the east.
2. Hours of operation to be 10 am to 6 pm, Monday through Friday; 10 am to 3 pm on Saturday; and Sundays by appointment only.
3. This approval is for a period of two years, to be renewed June, 2010.

This property is currently zoned Highway Commercial (HC) which allows this use with a special permit. Seconded by Tim Thomas. **Motion Unanimously Carried (5-0)** (Ayes: Patrick Buskey, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

### **MINUTES OF SEPTEMBER 18, 2008**

The following changes were recommended: page 4, Para 3, line 4, change “asphalt” to “access will be reduced...”; page 5, Para 1, line 5, change to “...259 and Parma Center Road..is the primary....”. A **Motion** was made by Dean Snyder to approve the September 18, 2008 ZBOA minutes with the recommended changes. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

### **OTHER BUSINESS**

**November ZBOA Agenda:** Discussion was held on the November ZBOA meeting. Due to the unique nature of the Greece Cobra Soccer Club applications and in anticipation of a lengthy discussion, Chairperson Robillard requested that new applications be placed first on the agenda, followed by the tabled items from the October meeting. The Greece Cobra Soccer Club applications will be heard last. Jack Barton stated that he will reserve the West Avenue location for the November meeting in case the meeting needs to be re-located to a larger facility.

### **ADJOURNMENT**

There being no further business, a **Motion** was made by Tim Thomas and seconded by Stephen Shelley to Adjourn the meeting at 10:20 p.m. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,  
Diane Grundon, Recording Secretary