

**TOWN OF PARMA
ZONING BOARD OF APPEALS
NOVEMBER 20, 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 (Building Inspector)
Peter Rodgers (Town of Parma Attorney) (8:15 pm)

Public Present: See attached sheet

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m., at the alternate location of the Quest School Auditorium, 225 West Avenue, in the Village of Hilton, due to the large number of public in attendance. She explained the function of the ZBOA and the decision-making process. She noted that a full five-member board was in attendance and that a quorum of three is required to pass a motion. She recalled the decision to hear the new public hearings prior to the tabled hearings, due to the anticipated lengthy discussion regarding the Greece Cobra Soccer Club application. She introduced the Board members, noting the name tags were not available at this location.

PUBLIC HEARINGS

1. BRUCE COLEMAN – 213 BURRITT ROAD

Application of Bruce Coleman, owner, for area variances at 213 Burritt Road. Applicant is proposing to construct a 12 feet by 16 feet storage shed with a 10 feet side setback from the westerly property line and a 10 feet rear setback and is requesting relief from Town Zoning schedule 1 which requires a 10.06 feet side setback and a 10 feet rear setback. This property is currently zoned Rural Residential (RR).

Bruce explained that the location of his septic system in back makes this the only possible placement. He described a 10 feet swale and wet area prevents other placement also. Also, this placement allows more area of his yard to be used. He noted he is planning to take the existing shed down on the southeast corner.

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 of Bruce Coleman, owner, for area variances at 213 Burritt Road to construct a 12 feet by 16 feet storage shed with a 10 feet side setback from the westerly property line and a 10 feet rear setback, and this grants relief from Town Zoning schedule 1 which requires a 10.06 feet side setback and a 10 feet rear setback. 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. At present, the locations of the septic system and swale make it impractical to place the shed according to code. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial but mitigated by the swale and septic system

locations. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created but this is mitigated by the septic system and swale location. 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)

2. DAN WEGMAN – 68 LAKESIDE BOULEVARD

Application of Dan Wegman, owner, for area variances at 68 Lakeside Boulevard. Applicant is proposing to construct a 30.4 feet by 42 feet addition to an existing garage. The existing garage received Zoning Board of Appeals approval in 1969 for side setbacks of 5 feet and a front setback of 45 feet, however, the existing structure was constructed with a northerly side setback of 4.6 feet, a southerly side setback of 4.8 feet, and a front setback of 35.4 feet. Applicant is requesting variances to address the existing setbacks. The following variances are required for the addition: (1) north and south side setbacks; (2) lot coverage; (3) accessory structure on a lot without a principal structure; and (4) storage area. The proposed addition will have a northerly side setback of 3.9 feet, a southerly side setback of 5.2 feet, lot coverage of 38% or 2019 square feet, and accessory storage area of 2019 square feet. Applicant is requesting relief from Town Zoning schedule 1, which requires a 10 feet side setback and maximum lot coverage of 30% or 1,621 square feet, and Article 5, subsection 165-35 which identifies this structure as an accessory structure and limits accessory storage area to 400 square feet. This property is currently zoned Waterfront Residential (WF).

Dan explained he lives at #40 Lakeside Boulevard and is looking to increase the amount of storage area he has in his existing garage at #69. He noted that in this lakefront district, his home does not have a basement. He stated that variances are needed to increase the size of his existing garage. He explained that he needs more inside storage for items for his four children, an every day car and a classic car, and a 22' fishing boat with trailer. He stated all the items to be stored are personal items. He noted the new addition will not be visible from the road, maybe just the roof peak.

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 Dean Snyder to approve the application of Dan Wegman, owner, for area variances at 68 Lakeside Boulevard to construct a 30.4 feet by 42 feet addition to an existing garage. The existing garage received Zoning Board of Appeals approval in 1969 for side setbacks of 5 feet and a front setback of 45 feet, however, the existing structure was constructed with a northerly side setback of 4.6 feet, a southerly side setback of 4.8 feet, and a front setback of 35.4 feet. The applicant is requesting variances to address the existing setbacks. The following variances are required for the addition: (1) north and south side setbacks; (2) lot coverage; (3) accessory structure on a lot without a principal structure; and (4) storage area. The proposed addition will have a northerly side setback of 3.9 feet, a southerly side setback of 5.2 feet, lot coverage of 38% or 2019 square feet, and accessory storage area of 2019 square feet. This grants relief from Town Zoning schedule 1, which requires a 10 feet side setback and maximum lot coverage of 30% or 1,621 square feet, and Article 5, subsection 165-35 which identifies this structure as an accessory structure and limits accessory storage area to 400 square feet. This property is currently zoned Waterfront Residential (WF). The property is somewhat unique, located in a waterfront residential area, where the houses there typically do not provide the amount of storage seen in the Town. Therefore, the applicant has a much more significant need. Items to be stored inside include: a classic car, every day car, 22 feet boat with trailer, and

items for their four children. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant, based on my previous statement. There will be no undesirable change in neighborhood character or to nearby properties. The current building already exceeds the setback minimum and the new building will be a somewhat insignificant change from the existing building. The character will be somewhat increased by the applicant being able to store items inside the garage. 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 carried (4-1)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Nays: Patrick Buskey)

3. MIGIRDIC COLAKOGLU – 1220 HILTON PARMA CORNERS ROAD

Application of Migirdic Colakoglu, contract vendee, for an area variance at 1220 Hilton Parma Corners Road. Applicant is proposing to operate a motor vehicle repair business which, with the addition that is proposed, will require 46 parking spaces under Town Zoning schedule 2. 19 spaces are proposed for this property. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard read a letter dated November 19, 2008, from Randall LaDieu which explained that Mr. Colakoglu broke his leg and just been discharged from the hospital. The letter requests that the hearing for this application be postponed until the January 15, 2009, Zoning Board of Appeals meeting, as the applicant is unable to provide the requested information.

A **Motion** was made by Stephen Shelley to table the application of Migirdic Colakaglu, contract vendee, 1220 Hilton Parma Corner Road, without prejudice, until the January 15, 2009 ZBOA meeting, per the applicant's request. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

4. MARSHA AND BRUCE MOSKOWITZ – 8 ALDER BEACH ROAD

Application of Marsha and Bruce Moskowitz, owners, for variances at 8 Alder Beach Road. Applicants are proposing to demolish the existing dwelling and construct a new two story single family home with side setbacks of 7.2 feet from the easterly and westerly property lines and no garage. Applicants are requesting relief from Town Zoning schedule 1, which requires a 10 feet side setback and Article 5, subsection 165-35.E.3 which states, in part, that each principal dwelling shall have a garage. This property is currently zoned Waterfront Residential (WF).

Mr. Richard Maier, land surveyer, stated he represented Marsha and Bruce with regard to this application. He explained the plan to demolish the existing dwelling and construct a new two story home which will be more centered on the lot. There will be no garage. This will follow other homes in the area. He stated the existing shed will remain. Dean Snyder asked why the existing shed couldn't be enlarged to make a garage. Mr. Maier responded that it could be enlarged but that is not in the current plan.

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 of Marsha and Bruce Moskowitz, owners, for variances at 8 Alder Beach Road to demolish the existing dwelling and construct a new two story single family home with side setbacks of 7.2 feet from the

easterly and westerly property lines and no garage. This grants relief from Town Zoning schedule 1, which requires a 10 feet side setback and Article 5, subsection 165-35.E.3 which states, in part, that each principal dwelling shall have a garage. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The proposed placement of the new home puts it a little more in line with the required setbacks. There will be no undesirable change in neighborhood character or to nearby properties. The request is somewhat substantial but this is located in a waterfront residential district where the lots are unique compared to other districts in the Town. The proposed placement and lack of a garage are similar to other homes in this waterfront district. The request is substantial but mitigated by the uniqueness of the waterfront property. There will be no adverse physical or environmental effects. The alleged difficulty is self-created, but because the owner is going to demolish the existing structure and they are unable to meet setbacks in this waterfront district, due, in part, by the location of the septic system, 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. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

TABLED PUBLIC HEARINGS

5. 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 and October meetings 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.

Chairperson Robillard read a letter dated November 19, 2008, from Randall LaDieu which explained that Mr. Colakoglu broke his leg and just been discharged from the hospital. The letter requests that the hearing for this application be postponed until the January 15, 2009, Zoning Board of Appeals meeting, as the applicant is unable to provide the requested information.

A **Motion** was made by Stephen Shelley to table the application of Migirdic Colakaglu, contract vendee, 1220 Hilton Parma Corner Road, without prejudice, until the January 15, 2009 ZBOA meeting, per the applicant's request. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

6. 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).

Chairperson Robillard recalled that this application was tabled at the October meeting due to the absence of the applicant.

Kris Schultz, survey engineer, provided a list of items stored in the barn. He also provided aerial photographs of the property, indicating three existing sheds, one near the pond and two southeast on the property. He reported that all three sheds are in disrepair and need to come down. He noted the house is placed near the rear of the lot. He explained the proposed placement minimizes the impact to existing trees and the proposed site is well shielded, 380 feet back from the road. The proposed placement makes it difficult to see from the road and is shielded from the neighbor to the north. He noted that all surrounding lots are large acreage lots. Jack Barton noted that construction for this shed was started and a stop work order was issued. Kris noted that the driveway will be a single lane car path, not visible from the road. Tim Thomas questioned why this shed was not being placed on the northwest corner. Kris noted that the house is placed way back on this large lot, with 3-4 acres of mowed lawn. Placement in the northwest corner would not be a good use of the property. The proposed placement is the best possible location because it is shielded from the neighbors and the road. If the shed were placed behind the house, it would be in full view of the neighbors. Kris noted that the existing path to the proposed shed was part of the old Hawk's nest nursery and will be used as the driveway to the shed.

Public Comment: Chairperson Robillard read a letter, as follows:

Robert and Ruth Conrad: Stated they were the neighbors to the immediate sought and use a common driveway with the Randall's. They stated their full support of the request for two variances. They stated the application will have no negative impact on their property.

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 Stephen Shelly to approve the application of Anthony Randall, owner, for area variances at 1459 Manitou Road to construct a 2,100 square feet accessory storage building in the front yard and this grants 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). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. There are some other options for placement, but they would not be as desirable to the neighbors. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial, but this placement reduces the impact to the neighbors. There will be no adverse physical or environmental effects. The alleged difficulty is self-created, but the alternatives would not be as desirable to the neighbors. This approval with the condition that the three existing sheds are removed. 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.

Motion carried (4-1) (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley; Nays: Tim Thomas)

A recess was called by Chairperson Robillard at 8:00 pm. The meeting reconvened at 8:15 pm, with the Town Attorney, Peter Rodgers, in attendance.

7. 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.

Chairperson Robillard recalled that the Board members tabled this application at the October meeting to provide additional time to research information to prepare them to work towards a decision. She opened the Board to present questions to the applicants or to discuss their findings. Mr. Weishaar distributed two documents at this meeting. The first was an 8 page document that listed each special permitted use comparing the intensity of use to their proposed soccer field complex. The second was a letter dated November 20 which addressed the unapproved minutes from the October 16th ZBOA meeting. Chairperson Robillard noted that this information was just handed out and did not give the Board members an opportunity to review it prior to this meeting. Mr. Weishaar again introduced Al LaRue, engineer for this project, and Carlo Callea and Gary Pasano, representatives of the Soccer Club, stating they were available for questions.

Dean Snyder asked if the following estimations were accurate, as the numbers given previously were inconsistent. He estimated 15 to 18 kids on a soccer team (32 players per field) x 16 fields (noted the attorney's letter stated 15 fields). Mr. Weishaar confirmed there are 16 fields. This has the potential of 480 players on the property at one time. Mr. Pasano stated that all 16 soccer fields would not be used at one time with the exception of the tournament the second weekend in July. Also, some teams will be playing in other areas, as it is a travel league. In answer to a question, Mr. Pasano stated that each team would use the fields for practice two nights a week and Friday night for games, in addition to the weekends.

Tim Thomas recalled that it was stated at the October meeting that these fields would be opened up to local teams. Gary stated that the local teams are already playing at their own soccer fields and probably wouldn't be using these fields. Al LaRue noted that their numbers were based on 80% usage: 600 cars in x 26 days; 600 cars out x 26 days; 500 tournament cars in x 1 weekend a year; 500 tournament cars out x 1 weekend a year.

Chairperson Robillard referred to the Cobra Soccer Club's web site, which stated there were 400 players on 25 teams. Mr. Pasano clarified these numbers: the 8-12 year-old teams have 12 players; the 13 year old and older teams have 18 players. Most teams do not carry 18 players.

Chairperson Robillard read one of the goals of the Cobra Soccer Club listed on the web site: "A facility of this type could also be used to promote community-oriented service activities, such as Special Olympics, YMCA, or tyke programs, which would encourage our players and their families to become active in the community." She referred to the October minutes where it was stated that the fields would be open to Hilton residents for soccer, lacrosse and football. Chairperson Robillard questioned how much increased volume this would create. Mr. Pasano stated that if this were open to other activities for Hilton, this would just be moving them from existing fields to this one.

Chairperson Robillard suggested that the data that was presented by the applicant is incomplete. The information that we heard in October, as well as the information on the web site, indicates a far broader volume potential than has been presented.

Dean Snyder stated that in comparing the intensity of RR district uses to the soccer complex, he preferred to base the volume on potential use:

- 18 trips/field x 16 fields = 288 trips/day.
- With the potential to operate 7 days a week: 288 trips x 7 days x 26 weeks = 32,000 trips per season. This would be full capacity.

Dean suggested this is the potential that we should use.

Dean asked for an accounting of the soccer club's budget for the past year. Mr. Callea responded that this was unavailable, but the major cost was for indoor fees. Dean asked how many players at a cost of \$300/player per year. Mr. Callea stated there were 400 players in the club.

Patrick Buskey referred to the handout presented this evening by the applicant, noting that the church they chose for comparison was not a typical church. It is a very large church located in the Town of Greece. Chairperson Robillard questioned where they obtained the information on the Hilton High School. Mr. Callea stated he called the school office but did not recall who he spoke to. He stated that he felt they were very conservative estimates. Chairperson Robillard stated after several attempts to get this same information from the school, she was told they could not provide that information.

Chairperson Robillard questioned what are the proposed restroom facilities for this number of people. Mr. Callea responded that restroom facilities would be located in the maintenance building. Mr. LaRue stated the building would be designed according to potential use.

Dean Snyder recommended going on a line by line basis of the allowed uses in a Rural Residential district and compare the impact of these uses to the information provided by the applicant for the proposed soccer complex.

He referred to Town Zoning Article 165-32. Rural Residential (RR) district.

A. Purpose: the purpose of the Rural Residential (RR) 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.

B. Permitted principal uses:

- (1) One single family dwelling
- (2) Customary agricultural operations with restrictions.

C. Permitted accessory uses:

- (1) Customary home occupations or professional offices conducted by the resident only, provided that there is no external evidence of such occupations, except one sign not exceeding two square feet in area.
- (2) A one-story garage, greenhouse, storage barn or utility shed. Excluding the garage, the total area of all permitted accessory structures shall not exceed 1,500 square feet, provided that such building or use is incidental to the principal use. This requirement shall not apply to farm operations.
- (3) Decks or porches, provided that the total area does not exceed the first floor area of the primary dwelling.

- (4) Tennis courts or swimming pools for the private, non-commercial use of the residents of the premises.
- (5) Seasonal storage of recreational vehicles shall be permitted only if the vehicle is owned by an occupant of the residence.
- (6) The keeping of horses and other animals according to the requirements of Article X of this chapter.
- (7) Dish antennas/towers according to the requirements of Article X of this chapter.

Dean Snyder stated that each of these uses listed in B. and C. would have an extremely lower impact than this proposal and this proposal will have a more negative effect. All Zoning members were in agreement.

D. **Special permitted uses:** The following uses may be permitted by the Zoning Board of Appeals according to the requirements of Article IX of this chapter:

- (1) **Temporary housing to support an individual agricultural operation. *Minimal use comparison. All were in agreement.***
- (2) **Churches, parish houses or convents.** Compare the amount of trips, 288 trips/day average for the soccer complex. A church typically has 200-300 worshipers, average two ride together. Estimated 200 cars on Sunday, maybe members of the church go back one time per week = estimated 500 trips. Referred to the First Bible Baptist Church which has 2155 cars per week, but average church would be a small percentage of this. Dean also noted that most activities for a church, parish house or convent are held inside.
 - *Dean Snyder stated that the soccer complex proposal has more intense use.*
 - *Tim Thomas agreed, stating he is looking at the impact on the neighbors.*
 - *Patrick Buskey agreed, and referred to Zoning Article 165.55. (general provisions for special permitted uses) (C) which states that the operation of the proposed special permitted use is no more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use. He felt that a large church would have a similar traffic impact, but use during the activity would be less.*
 - *Stephen Shelley agreed.*
- (3) **Public or parochial schools, public libraries or public museums.** Dean Snyder referred to the Hilton High School, which would have much more impact than a library or a museum. Weekly traffic would be a little more but the majority of activity occurs inside during the day but some outdoor games are held. If a school were allowed, it would have to pass a Special Use Permit and be no more objectionable than other surrounding uses. It would have the same number of cars as a soccer complex first thing in the morning and then the majority of buses leaving at 2-3 pm., which is typically outside of the times when people are going to and from work. Football practices would involve students who are already in school. After games there may be a back-up of traffic. Average number of cars would have very little impact because of staggered times. Football games are not held on a daily basis, estimated 6-8 games per year. Fields used for practices would create minimal noise; actual games would create more noise and have a similar quantity of car traffic but less than sporting events in afternoons and evening. School traffic is not year around. The summer months would be considerably less.
 - *Dean Snyder stated that the noise and traffic intensity from a high school would be less than the proposed soccer complex.*

- *Stephen Shelley agreed.*
 - *Veronica Robillard agreed and noted that a high school is probably more intense than elementary schools.*
 - *Tim Thomas agreed, noting the frequency is more for a school but most of the activity is held inside.*
 - *Patrick Buskey agreed, noting the amount of traffic would be similar to a school, but soccer tournaments and games would be greater than a school. The principal use for a school is not a sport facility and not similar in use to a soccer complex.*
- (4) **Golf courses, excluding indoor recreation facilities.** Dean Snyder noted that golf courses have staggered start and finish times and is not a spectator sport. He stated there would be minimal impact on traffic.
- *Dean Snyder stated that the amount of land use and conditions of land use have a minimal footprint on traffic and noise and is much less than a soccer complex.*
 - *Veronica Robillard agreed.*
 - *Stephen Shelley agreed.*
 - *Tim Thomas agreed.*
 - *Patrick Buskey agreed. He stated he is not a golfer, but an 18 hole golf course would have a low number of people per acre. A driving range could accommodate 30 people per hour, which is also less intense.*
- (5) **Hospitals, convalescent homes, homes for the aged, nursing homes or proprietary care facilities.** Dean Snyder stated the majority of activity is held indoors with staggered traffic. Sirens do have an impact on noise, which he felt most people accepted because others are being helped.
- *Dean Snyder stated these would have a less impact on traffic.*
 - *Veronica Robillard agreed.*
 - *Patrick Buskey agreed, and stated it is not even a close comparison.*
 - *Tim Thomas agreed.*
 - *Stephen Shelley agreed.*
- (6) **Adult day-care, child care and nursery schools.**
- *Dean Snyder stated that these would have much less capacity, with minimal impact on traffic and noise as compared to a soccer complex.*
 - *Tim Thomas agreed. There are no “mega” daycares.*
 - *Stephen Shelley agreed.*
 - *Veronica Robillard agreed.*
 - *Patrick Buskey agreed.*
- (7) **Animal boarding facilities.**
- *Dean Snyder stated this would be allowed under a Special Use Permit. There would be a finite number of traffic in and out. Noise would be addressed during the application process for a SUP. This would have a small impact relative to purpose compared to a soccer complex.*
 - *Tim Thomas agreed, noting that a Special Permit for this limits the number of animals, noise, etc.*
 - *Veronica Robillard agreed.*
 - *Stephen Shelley agreed.*
 - *Patrick Buskey agreed.*

(8) Funeral homes; (9) Tourist Homes; (10) Cemeteries.

- *Dean Snyder stated it is very clear that there would be a significantly less impact on noise, traffic and neighboring properties for all these uses compared to a soccer complex.*
- *Tim Thomas agreed.*
- *Veronica Robillard agreed.*
- *Stephen Shelley agreed.*
- *Patrick Buskey agreed.*

(11) Essential services, excluding structures, maintenance facilities or storage yards for area utility services.

- *Dean Snyder referred to the RG&E sub-station on Route 259, noting minimal traffic, non-existent noise and minimal impact on neighboring properties as compared to a soccer complex.*
- *Tim Thomas agreed.*
- *Veronica Robillard agreed.*
- *Stephen Shelley agreed.*
- *Patrick Buskey agreed.*

(12) Accessory apartments.

- *Dean Snyder stated that from the outside this use would look like a residence, and there was no comparison to a soccer complex.*
- *Tim Thomas agreed, noting an example of this would be an in-law apartment.*
- *Veronica Robillard agreed, noting this is granted through a Special Permit for a finite amount of time.*
- *Stephen Shelley agreed.*
- *Patrick Buskey agreed.*

(13) Camping grounds. Dean Snyder referred to the numbers provided by

Mr. Callea, which estimated a 1000 site campground, with 1000 cars in x 7 days a week and 1000 cars out x 7 days = 14,000 cars/week x 28 weeks = 392,000 cars a year.

- *Dean Snyder questioned how large of a campsite would be allowed. He suggested that a 1000 site campground would not be approved and is not an accurate assessment of what the Zoning Board would allow.*
- *Tim Thomas agreed, noting supporting structures to support such a large campground would not be allowed.*
- *Patrick Buskey agreed, stating he felt that 100 acres could not support 10 campsites per acre.*
- *Stephen Shelley agreed.*
- *Veronica Robillard agreed.*

(14) Mining, excavations or land filling subject to the requirements of Article XV this chapter.

- *Dean Snyder stated that if this were allowed, it could only have the same impact as other allowed uses in this district. This would be much less impact compared to a soccer complex.*
- *Veronica Robillard agreed.*
- *Tim Thomas agreed.*
- *Stephen Shelley agreed.*
- *Patrick Buskey agreed.*

Patrick Buskey referred to the applicant's statement that compared the proposed soccer complex to a golf course. He read Zoning Article 165-63. Golf Courses, excluding indoor recreational facilities. The Zoning Board of Appeals may approve a permit for a public or private golf course, excluding indoor recreation facilities, within the AC agricultural Conservation, RR Rural Residential and MD medium Density Residential Districts, provided that the following standards and conditions are maintained:

- A. The minimum lot size shall be 50 acres for a nine-hole course or for an "Executive Par 3" course.
- B. The minimum lot size shall be 100 acres for an 18 hold course.
- C. A golf driving range may be permitted as an accessory use to a golf course. The driving range shall not be operated as a separate use.
- D. The golf course shall be designed to minimize stray golf shots from crossing onto private properties or public rights-of-way. An open buffer area of not less than 20 feet in depth shall be provided along the boundaries of the golf course property. This open area shall contain natural growth or vegetation as well as small signs identifying the property.
- E. A restaurant serving alcoholic beverages may be permitted as an accessory use to a golf course.
- F. Any seasonal use of the golf course for such activities as cross country skiing or snowmobile trails shall be subject to Zoning Board of Appeals approval. The operator shall submit a proposed site plan to the Planning Board delineating the locations proposed for such activities.

Dean Snyder stated his opinion that this code describes a golf course as having a minimal impact compared to a soccer complex. As previously discussed, a golf course would have staggered traffic and is not a spectator sport. All Board members were in agreement.

Chairperson Robillard reported that the ZBOA has determined that the proposed soccer complex is not appropriate in a Rural Residential District, and stated the next step is to determine if there is an appropriate district in the Town of Parma for this application. She recalled the Building Department's suggestion that this soccer complex would fit in a Highway Commercial District. She read the purpose of a Highway Commercial District, as follows:

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.

It was noted that 30 businesses in our Town may have higher levels of traffic and have more signage impact, and she felt this district accommodates an application of this type.

Dean Snyder referred to the HC district purposes, specifically permitted use 165-40B.(8) - Commercial recreation facilities, including bowling alleys, theaters, miniature golf course, golf driving range, ending or video games, skating rinks or ball courts, giving his opinion as follows:

Is the Park a Commercial Recreation Facility? Our Town Code explicitly defines a business as "including the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, and includes offices, recreational and amusement enterprises and any operation where the above described activities are conducted in return for remuneration of any type. For the purpose of this chapter, "business" shall have the same meaning as "commercial", and reference to commercial districts or zones shall be interpreted as referring to "business districts."

Although it is well settled that a town zoning ordinance may discriminate between private, non-profit entities and commercial enterprises that otherwise conduct the same activities, it doesn't appear our Town has elected to do that in this section (it does appear they have done it in other sections such as 165-69 Non-profit social centers for charitable, cultural or community purposes). The Town could have included this exception if that was their intention. Therefore, I assume the non-for-profit status of this business is inconsequential, having no bearing on the decision of this Board.

My understanding of the proposed project includes collecting a significant fee from each of the club members as a condition of them using the fields. It also includes rental of the fields to other athletic clubs for a fee. I would interpret this falls within our Town's definition of a business, since it involves a transaction involving the disposition of a commodity, including recreation enterprises in return for remuneration of any type. It was stated that a fee of \$300 is charged each player for a season; 400 players in the club are estimated, which equals \$120,000.

My opinion is that our Town Code therefore considers this a commercial enterprise since the code equates the meaning of "commercial" with the meaning of "business."

Is the soccer complex dependent upon a high volume of traffic? The applicant's premise that the Highway Commercial only allows uses that are dependent on high volumes of traffic is incorrect. Although it does "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 on a high volume of traffic", it in no way precludes uses that are NOT dependent on high volumes of traffic. If it did preclude those uses, it would not allow 165-40.B.(7) Public Utility Substations, or (9) Customary Agricultural Operations.

Is there a past precedent that supports the Club's application? The applicant uses the example of the Town Park, which I understand is not subject to town code requirements. As discussed at the previous meeting, if the Town Park operates in a manner such as it has a negative impact on the residents, each resident has the opportunity to bring this to the attention of their elected officials. If the elected officials ignore their concerns, they can be voted out of office. A privately owned property has no such recourse once it is approved. Therefore, the Town Park's presence is inconsequential in this matter.

The applicant also uses the example of Fork's Park as a past precedent which supports this application. Fork's Park is a 60 acre (Cobra 138.8) site with 40 acres (Cobra 58.7) undeveloped, 33% (Cobra 57%) developed. These are significant differences.

The applicant failed to share the fact that the application of Fork's Park was made under a previous Zoning Code that had different districts and requirements. Although the applicant claims "it is unclear how Fork's Park was established", my opinion is that the information provided to the applicant through the FOIL records makes it very clear. There was no Highway Commercial District in the Code as of 1984. The applicant shares the information that the County recommended to deny the request but failed to state why.

The letter dated July 22, 1987, from the County of Monroe stated: "The current zoning ordinance does not specify outside recreational uses as a permitted use in any zoning classification in the ordinance. ... This department believes that an outdoor recreational facility is a very appropriate use for this floodplain area. Two alternatives are possible to allow outdoor recreational uses on this property. The Town could amend the current zoning ordinance to include a new zoning classification for outdoor recreational facilities, or amend the current zoning ordinance to include outdoor recreational uses as a conditional use within the residential district. In the latter case, a set

of criteria and a specific procedure for granting such permits should also be set forth within the ordinance...”

Rather than amend the zoning code (which was going through major changes in the near future which indeed allowed this type of operation in a HC District), the Board approved the zoning district change with specific restrictions on their operation.

Again, it is important to note that the new code includes this type of operation in a Highway Commercial (contrary to the applicant’s contention that the Zoning ordinance fails to provide for all lawful uses of land within the municipality). The code calls out specifically for the Fork’s Park proposal which had the potential for 8 baseball diamonds.

Chairperson Robillard requested that each Board member comment on Dr. Snyder’s comments, which are as follows:

Tim Thomas: Agreed, noting that the soccer complex is a tax exempt organization which is the only element that doesn’t fit into the HC district, but all other aspects of the operation fits into a HC district.

Veronica Robillard: Agreed, and reiterated that the revenue generated is incidental. We are looking at this as a not-for-profit.

Dean Snyder recalled that in the HC district code, the Town has not separated not-for-profit from for-profit, as it has in other districts.

Chairperson Robillard stated that we are considering intensity of use. She asked if there was anything else we need to pursue before proceeding with a motion.

There being no further discussion, a **Motion** was made by Dean Snyder to uphold the determination of the Town of Parma Building Department that the proposed soccer field complex at 134 Parma Center Road and 140 Parma Center Road does not comply with current zoning regulations for a Rural Residential (RR) district. A Rural Residential district has several purposes: most important, to preserve the rural character, to retain the open space, and to conserve the natural resources. The significance of a large proposal such as we saw this evening would create traffic and noise and have a negative impact on surrounding properties. The Board went through each Special Permitted Use in an RR district and the Board has found that the proposal has more impact on the rural residential character than each of the permitted uses and special permitted uses. The Board reviewed the Highway Commercial District permitted principal uses and found in Zoning Article 165-40.B.8 the requirements which satisfy the needs of this application. The Board found there is an appropriate place in our code to support this type of activity in a Highway Commercial District not a Rural Residential District. Based on that information, the Board concurs with the Building Department’s determination that the proposed use does not comply with current zoning regulations for a Rural Residential District. Seconded by Tim Thomas.

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

Mr. Rodgers stated that the Motion is clear. The Board has upheld the Building Department’s determination that the proposed soccer field complex does not comply with current zoning regulations for the Rural Residential district it is located in. They have also identified that this application does fit in a Highway Commercial District.

8. 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.

(Refer to the Motion in application #7 above, which addresses this application.)

A recess was called by Chairperson Robillard at 9:50 pm. The meeting was reconvened at 10:10 pm.

MINUTES OF OCTOBER 16, 2008

Chairperson Robillard referred to a letter from Peter Weishaar, dated November 20, 2008, which suggested some additions, deletions and explanations to the October 16, 2008, with reference to the Greece Cobra Soccer Club applications. The Board reviewed each item carefully and made changes which they felt were applicable.

The following changes were recommended:

Page 5: Para 4, line 6, change to “The games will primarily run on the weekends and the park will be open from approximately April 1st through the end of October, 7 am to dusk.” Para 5, .starting at line 2, change to “The building inspector’s position is that this project would be permitted in a Highway Commercial District (HC). This Club does not agree with the building inspector’s opinion that this is a commercial recreational facility and is not allowed in rural residential district.” Change Fork Park to Fork’s Park on all pages.

Page 6: Para 6: Change to: “Gary Pasano, 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 team 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.”

Page 8, Para 6, change “Gary responded” to “Mr. Callea responded...”

A **Motion** was made by Tim Thomas to approve the October 16, 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

ZBOA Meeting Dates for 2009 Jack Barton provided a list of the 2009 dates for the ZBOA meetings, requesting that the Board members review the dates and identify any conflicts at the December meeting.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas and seconded by Stephen Shelley to Adjourn the meeting at 10:30 p.m. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary