

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
FEBRUARY 28, 2008**

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

**Members Excused:** Mark Kalen (Alternate), Carm Carmestro (Board liaison)

**Others Present:** Art Fritz

**Public Present:** See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board, with a quorum of three required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

**PUBLIC HEARINGS**

**1. GATTI ENTERPRISES, LLC – 5017 RIDGE ROAD WEST**

Application of Gatti Enterprises, LLC, owner, for an area variance at 5017 Ridge Road West. Applicant is proposing to develop site, construct a 7,920 square feet commercial building and create 39 parking spaces and is requesting relief from Town Zoning schedule 2 which requires 60 spaces. This property is currently zoned General Commercial (GC).

Chairperson Robillard recalled that this application was tabled at the January ZBOA meeting to provide the applicant additional time to comply with the Board's requirement that the applicant bring before the Board an analysis of a mutual use agreement for parking.

Chairperson Robillard read a letter dated February 19, 2008, from John Sciarabba, of Land Tech Surveying and Planning, as a follow up to the January ZBOA meeting. He referred to Town Code Section 165-125.G, which states "the off street parking requirements of two or more uses, structures, or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures, or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use. Said document shall bind the owner, his heirs and assigns to maintain the required joint use throughout the life of such uses and shall be approved by the Town Attorney." Mr. Sciarabba then stated that the town attorney has reviewed this section of code and believes that the Planning Board would be more suited to make a determination regarding the joint use of parking. Therefore, he requested this application be referred to the Planning Board and tabled by the Zoning Board until a determination is made.

A **Motion** was made by Tim Thomas to table the application of Gatti Enterprises, LLC, owner, for an area variance at 5017 Ridge Road West, so it can be referred back to the Planning Board to address the shared parking access as stated in Section 165-125.G, without prejudice until the March ZBOA meeting. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

## NEW BUSINESS

### 2. DOUGLAS FLOOD – 907 BURRITT ROAD

Application of Douglas Flood, owner, for a time extension of an area variance granted to property located at 907 Burritt Road. Applicant is requesting relief from Town Zoning chapter 165, subsection 165-22. The applicant has received an area variance for lot width on lot #2 of a proposed subdivision and is now requesting a six month extension of time to complete the subdivision approval process. 165-22 requires that approvals be completed within 6 months of the variance approval. This property is currently zoned Rural Residential (RR).

Douglas explained that he owns property on Burritt Road which is now part of a subdivision. He recalled that an area variance was granted for lot width on lot #2 but the process is not quite completed for the subdivision. He noted they are on the agenda for the March 6<sup>th</sup> Planning Board when the final plan will be presented. All documents related to this application have been provided to the Planning Board. He stated they didn't anticipate needing the entire six months to complete this process, but an additional 2-3 months will probably be needed, therefore, he stated he is asking for a six month extension. Douglas stated he felt the previously granted six month timeframe was an arbitrary timeframe and this type of process to meet all requirements typically take this long. He noted that all perk tests have been completed and all the materials required by the Department of Health have been completed but they do not have the final approval yet.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Art Fritz reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Dean Snyder to approve the application of Douglas Flood, owner, for a time extension of an area variance granted to property located at 907 Burritt Road and this grants relief from Town Zoning chapter 165, subsection 165-22 by allowing a six month extension. The applicant has received an area variance for lot width on lot #2 of a proposed subdivision and this allows a six month extension of time to complete the subdivision approval process. 165-22 requires that approvals be completed within 6 months of the variance approval. This property is currently zoned Rural Residential (RR). I believe this extension will have no adverse effect on all the parties involved. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

### 3. DANNIC HOLDINGS – 5028 RIDGE ROAD WEST

Application of Dannic Holdings, owner, for area variances at 5028 Ridge Road West and 1799 Hilton Parma Corners Road. The applicant is proposing to resubdivide properties, demolish existing structure at 5028 Ridge Road West, and construct a new commercial building with 8 fuel dispensing stations. The applicant is proposing a lot depth of 188.38 feet and a side setback at 10.5 feet from the northerly property line and is requesting relief from Town Zoning schedule 1 which requires a minimum lot depth of 200 feet and a minimum side setback of 20 feet. Applicant is proposing six signs totally 169 square feet of signage area on the new building and island canopy and a 22.5 feet high free standing sign with 128 square feet of signage area and is requesting relief from Town Zoning Article 14, subsection 165-113.B which states in part that each business shall be permitted one sign placed flat against the building and that a free standing sign shall not exceed 16 feet in height or 32 square feet in area. The property located at 1799 Hilton Parma Corners Road is proposed to have an existing accessory structure have a side

setback from the southerly property line of 10.5 feet and relief is requested from Town Zoning schedule 1 which requires a 20 feet side setback. These properties are currently zoned Highway Commercial.

Daniel Shum introduced himself as the attorney representing this application. He introduced Ray Helfrich owner of the property. He reported that this application has been presented to the Planning Board, who recommended they go to the Zoning Board to obtain two variances. He described the proposed Hess Corporation business as having a new commercial building with 8 fuel dispensing stations under a single canopy on the northwest corner of Routes 104 and 259. The plan is to demolish the existing house and the entrance will be moved to the west. The Route 259 entrance will be further south and will be smaller than the existing entrance. The existing building will be demolished and rebuilt to the rear to comply with setbacks. Mr. Shum provided drawings of the site and buildings. He noted that the steel building will remain, which results in the setback variance requirement. The alternative to maintain the proper setback from Ridge Road, would put the new structure within 4 feet of the existing steel building. It was recommended by the building code to place the new building this far away from the steel building. He noted that as a result of all the proposed changes, the green surface will be increased. The existing sign in front will be placed in approximately the same location but will be taller. The Hess sign was shown on the drawing. The building will be the same typically built for Hess. There will be a backlit sign on the south side and west side of the canopy. The development of this site as proposed by Hess will be a benefit to the property. The proposed plan to move the building back and take down the existing house to the west will be an improvement over the used car lot that exists. There will be no detriment to neighboring properties. There will be no change in the character of the neighborhood. He noted similar canopies and signage in the area. Mr. Shum stated that the northeast corner has more signage than what is proposed. The south east Mobile station also has a large canopy and advertising there as well. He noted the Kwik-Fill canopy and K&K in the area have canopies and signage similar to what is proposed. He stated that the benefit can not be achieved by other feasible means, as there is no available land to bring this into compliance. Also, if the steel building were demolished, it would provide 4 more feet, but this is not practical. Mr. Shum stated that this request is very close to compliance to code, both in the buildings and signage. He felt that this proposal will have a positive impact on the environment, and the site drainage will be improved. The drainage plan will be presented to the Planning Board. The alleged difficulty is self-created, but they are trying to improve the site and work with the parameters available, with only a couple of variances needed. He described this as a 24/7 operation with no food service. Tim Thomas questioned the depth portion that falls short. Mr. Shum stated that the measurement falls short only where the building is on the property. He explained that the canopy will have two signs, one on the south and one on the east side. There will be a sign on the building, "Hess Express" over the door, and a smaller auxiliary sign on the building indicating a Mountain Top coffee shop. In addition there will be a free standing sign out front. Dan stated that there are no other plans to have any subsidiary operations other than the coffee shop. If in the future they wanted more, it would require coming back to the Zoning Board.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Art Fritz reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Dannic Holdings, owner, for area variances at 5028 Ridge Road West and 1799 Hilton Parma Corners Road to resubdivide properties, demolish the existing structure at 5028 Ridge Road West, and construct a new commercial building with 8 fuel dispensing stations. The applicant is proposing a lot depth of 188.38 feet and a side setback at 10.5 feet from the northerly property line and this grants relief from Town Zoning schedule 1 which requires a minimum lot depth of 200 feet and a minimum side setback of 20 feet. The applicant is proposing six signs totaling 250 square feet: 122 square feet square feet of signage area on the new building and on the island canopy; and a 22.5 feet high free standing sign with 128 square feet of signage area. This grants relief from Town Zoning Article 14, subsection 165-113.B which states in part that each business shall be permitted one sign placed flat against the building and that a free standing sign shall not exceed 16 feet in height or 32 square feet in area. The property located at 1799 Hilton Parma Corners Road is proposed to have an existing accessory structure have a side setback from the southerly property line of 10.5 feet and relief is requested from Town Zoning schedule 1 which requires a 20 feet side setback. These properties are currently zoned Highway Commercial. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. I believe they have come to a reasonable compromise in placing the building to the north. It will not create an undesirable change in neighborhood character or to nearby properties. This will improve the situation with the removal of the house and replacing it with an attractive new building. The request is not substantial. There will be no adverse physical or environmental effects. The alleged difficulty is self-created because the project does not have to go forward, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Dean Snyder. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

#### **4. JEFF KELLY – 426 LIGHTHOUSE ROAD**

Application of Jeff Kelly, owner, for area variances at 426 Lighthouse Road, owner is proposing to construct a two story accessory building in the side yard with a wall height of 22 feet and is requesting relief from Town Zoning Article 10, subsection 165-82.C which states in part that accessory buildings shall be located in the rear yard and that said building shall not exceed a wall height of 12 feet. 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 Rural Residential (RR).

Jeff stated he is looking to build a garage because he has multiple vehicles. He bought the 100 x 250 feet lot next door to his existing 250 feet by 187 feet property to provide an area to build this accessory building. He explained his need for this building to store multiple pieces of equipment, children's toys, lawn mowing and yard maintenance equipment, along with his multiple vehicles. He explained the wall height of 22 is needed because he needs a 10 feet high door to accommodate his three cargo vans with ladder racks. He noted that these vans are used for his business, which he operates out of his home. He explained the second floor area will be used for storage, mainly his equipment and personal storage, such as hand tools and things of that nature. He reported he has 5 employees who use these vans, but do not park their cars on his property. His employees take the vans home with them. He stores the vans inside his building when he doesn't have work. He explained that this is a corner lot with no rear yard, thus a variance is needed to place this accessory building in the side yard. He stated that the building will have 744 square feet on the 1<sup>st</sup> and 2<sup>nd</sup> floors, for a total of 1500 square feet.

**Public Comment:**

**Gregg Pacelli – 125 Curtis Road:** Stated he lives across the street. He questioned the side setback from the north property line. Jeff stated that the setback will comply and he has plenty of room. He noted he will put a driveway in to access the garage. In answer to a question, he stated that the structure will be 28 feet tall. He noted the building will be built to match the house.

Gregg stated that he disapproved this application because of the overall height of the building.

**Arlive Davis -134 Curtis Road:** Stated she lives next door to the applicant. She stated her opinion that this will be out of character with the neighborhood. She felt this will cause a lot of commotion.

**Steve Frisbee – 134 Curtis Road:** Stated his opinion that this accessory structure is too large for the lot.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Art Fritz reported this is a Type II SEQR with no further action required.

The applicant provided a drawing of an alternative plan that has 12 feet high walls, but still a two story building which has a lower peak. It was noted that this alternative plan meets the square footage limit. The applicant asked the Board to withdraw his request for a wall height variance. He noted the footprint will be the same, with 744 square feet for the 1<sup>st</sup> floor and the 2<sup>nd</sup> floor, but the height is diminished.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Jeff Kelly, owner, for area variances at 426 Lighthouse Road, owner to construct a two story accessory building in the side yard and this grants relief from Town Zoning Article 10, subsection 165-82.C which states in part that accessory buildings shall 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 Rural Residential (RR). This approval with the two following modifications to the advertised application:

- 1) This structure will have a 12 feet wall height, as a two story construction as originally proposed
- 2) The accessory structure will be located 81.5 feet from the easterly property line. The accessory structure is not to exceed 24 feet x 31 feet.

In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. The applicant has demonstrated the need to provide storage for his business vehicles which will be an improvement to the neighborhood by keeping them out of sight on weekends and holidays periods. There will be no undesirable change in neighborhood character or to nearby properties. By revising the size of the structure, the placement of the accessory structure to the reviewed location will provide a less obstructive view from Lighthouse and Curtis Roads and have less impact to neighbors to the east. The request is somewhat substantial, but this is a corner lot and is unique, and this mitigates this. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, but this is mitigated by the unique nature of a corner lot. 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 (4-1)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Nays: Patrick Buskey)

**5. MATT DINICOLA – 4621 RIDGE ROAD WEST**

Request for clarification on conditions of Special Permit granted in December, 2007.

It was noted that Mr. Dinicola was not present to relay his questions. Following review of the Motion approved at the December 2007 for Matt Dinicola, it was the consensus of the Board that the motion reflected the conditions granted for this application.

**MINUTES OF JANUARY 17, 2008**

The January 17, 2008 minutes were reviewed. There being no changes or additions, a **Motion** was made by Tim Thomas to approve the January 17, 2008 minutes as submitted. Seconded by Patrick Buskey. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

**ADJOURNMENT**

There being no further business, a **Motion** was made by Stephen Shelley and seconded by Tim Thomas to Adjourn the meeting at 9:10 p.m.

Respectfully submitted,  
Diane Grundon, Recording Secretary