

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
JUNE 19, 2008**

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

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

**Others Present:** Jack Barton

**Public Present:** See attached sheet

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:04 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board and that a quorum of three is required to pass a motion.

**PUBLIC HEARINGS**

**1. JULIE MCWHERTER – 220 HINKLEYVILLE ROAD**

Application of Julie McWherter, owner, for an area variance at 220 Hinkleyville Road. The applicant is proposing to replace an existing wooden fence along the southerly property line with a new 4 feet high open style white vinyl fence which extends into the front yard and is requesting relief from Town Zoning, Article 16, subsection 165-128.A.2 which states in part that open style fences in the front yard shall not be higher than 3 feet above the adjacent ground level. This property is currently zoned Medium Density Residential (MD).

Julie explained she is looking to replace the existing fence that was built in the mid-1980's because it is starting to rot and look unsightly. She provided a picture of the existing fence, noting it is on the edge of the property line of 226 Hinkleyville Road. She explained she has hired New York State Fence and they told her a variance would be required for the replacement fence. She noted many of the homes in her neighborhood were built close to the road. She noted her neighbor is closer to the road than she is. She explained that this fence will provide a division of the properties and for aesthetics. She described the replacement fence to be 4' high white vinyl picket fence with 4' x 4' posts, which will be similar to the existing fence. The picket spaces will be 3". There will be 104 running feet total fence, approximately 30 feet of which will be front yard fence. She noted the height on the existing fence is 4'. Jack Barton explained that the fence is measured at the highest point which is considered the height of the fence.

**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.

Dean Snyder referred to zoning in 1984, when this fence was originally constructed. The zoning requirement at that time was not significantly different from current zoning, with only a 3' high fence allowed in the front yard. This fence was not allowed when it was built and no variance was applied for. Julie stated she did not want to have a 4' high fence with a change to a 3' high fence in the front. She stated this would not look right. She reported that neighbors like the fence and often refer to it when giving directions to their homes. Julie stated this fence is just inside her property line. David Romanski, who stated he lives at 220 Hinkleyville Road with Julie, stated

the neighbor at 226 offered to run the fence on his lot line. It was noted that the neighbor at 226 could put this 4' high fence along his property line without a variance. Chairperson Robillard suggested that this application be tabled until the applicant can talk to the neighbor at 226 to plan this fence together and place it on the property line. It was suggested that a letter be presented by the neighbor stating that he approves of this proposal, is in favor of the 4' fence at a zero setback and have Julie be the owner of the fence.

A **Motion** was made by Tim Thomas to table the application of Julie McWherter, owner, for an area variance at 220 Hinkleyville Road, without prejudice, until the July ZBOA meeting to allow the applicant an opportunity to obtain a letter from her neighbor stating his approval regarding placing a 4 feet high fence at a zero setback. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

## **2. FRANK AND NICHOLINA TRINCA – 164 FERGUSON DRIVE**

Application of Frank and Nicholina Trinca, owners, of property located at 164 Ferguson Drive for area variances to address side setback, front setback and location on the property. Applicants are proposing to demolish an existing garage and small accessory structure and construct a new 3 car detached garage in the front yard with a side setback of 3 feet from the easterly property line and a front setback of 24 feet from the road right of way and are requesting relief from Town Zoning Article 10, subsection 165-82.C3 which requires a detached garage be located in the side or rear yard and schedule 1 which requires a 10 feet side setback and a 40 feet front setback. This property is currently zoned Waterfront Residential (WF).

Frank explained they are looking to demolish the existing garage and storage shed and replace it with a new 3 car garage. The new garage would start in the same corner of the existing garage which is 24 feet from the road. He explained that due to the septic system, they can't go back farther. He stated they live on the lake and have no basement. This new garage will provide storage for 2 cars and a boat and allow room to store things that most people would store in their basement. Also, lawn mower and yard maintenance equipment will be stored here. Tim Thomas noted that if the garage were shifted more to the left, less variance would be needed. Frank explained that the lot is only 65 feet wide and they would like to use the area where the storage shed is as yard space. He stated this plan makes it much more useable and makes the yard look larger.

**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 Frank and Nicholina Trinca, owners, of property located at 164 Ferguson Drive for area variances to construct a new 3 car detached garage in the front yard with a side setback of 3 feet from the easterly property line and a front setback of 24 feet from the road right of way and to grant relief from Town Zoning Article 10, subsection 165-82.C3 which requires a detached garage be located in the side or rear yard and schedule 1 which requires a 10 feet side setback and a 40 feet front setback. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. This neighborhood has a somewhat unique layout in that the properties cannot have basements due to the flood zone. Because of that, these homes are deficient in storage area and need storage outside of the primary structure. There will be no undesirable change in neighborhood character or to nearby properties. This proposal is consistent with neighboring properties in size and setback for accessory structures. The request is substantial. There will be no adverse physical or environmental effect. The alleged difficulty is self-created, however, using the balancing test, the benefit to the applicant far 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)

### **3. JONATHAN AND MICHELLE TAHARA – 230 HAMLIN PARMA TOWN LINE ROAD**

Application of Jonathan and Michelle Tahara, owners, of property located at 230 Hamlin Parma Town Line Road for area variances to address the amount of accessory structure area on the property and the location of a proposed structure on the property. Applicants are proposing to construct a 2,000 square feet accessory storage building in the side yard and a pool house in the rear yard which will bring the total accessory storage area on the property to 2,150 square feet and are requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which limits the total area of accessory structures to 2,000 square feet and Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned Agricultural Conservation (AC).

Jonathan provided a photo of this 4 acre property, noting he cleared an area and created a large side yard by turning the house to face the road. He noted he is 450 feet off the road. He explained he cannot be seen from the road on this heavily treed lot. He stated that in order to place this structure elsewhere on the property would require destroying the tree line. He noted the creek with 100 feet easement in the rear. He stated this placement would allow the structure to blend in with the neighborhood and provide privacy. He explained he needs a structure this large to provide room for the four vehicles he is restoring, storage for personal items, tools and equipment he needs for the restoration hobby. He noted that the 3 car garage is used for their 3 personal vehicles. He stated that they are also looking to construct a pool house to provide storage for pool equipment.

**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 Jonathan and Michelle Tahara, owners, of property located at 230 Hamlin Parma Town Line Road for area variances to construct a 2,000 square foot accessory storage building in the side yard and a pool house in the rear yard which will bring the total accessory storage area on the property to 2,150 square feet and this grants relief from Town Zoning Article 5, subsection 165-31.C.2 which limits the total area of accessory structures to 2,000 square feet and Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned Agricultural Conservation (AC). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. This property has a unique layout and is well buffered from other houses and due to trees and location of the proposed structures, this application minimizes any detriment to the neighbors. There will be no undesirable change in neighborhood character or to nearby properties. Again, this relatively new property is well laid out and the proposed location is consistent with the neighboring houses. The request is substantial. There will be no adverse physical or environmental effect. The alleged difficulty is self-created. In granting relief for the amount of storage area, the difference between the allowable storage and the proposal included a pool house necessary to store items for the pool because the pool is located far from the house and barn and thus warrants this. In using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

#### **4. JAMES SMITH – 254 NORTH AVENUE**

Application of James Smith, owner, of property located at 254 North Avenue for area variances to address the amount of accessory storage area on the property and wall height. Applicant is proposing to construct a 1,950 square foot accessory storage structure bringing the total area of accessory structures on the property to 8,700 square feet. The proposed structure will have a wall height of 14 feet. The applicant is requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which limits the total area of all accessory structures on a property to 2,000 square feet and Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Agricultural Conservation (AC).

Jeanette Smith provided a tape map of their 88 acre property which indicated where the building location is proposed. She stated her son has a hobby of rebuilding and restoring vehicles, mainly Volkswagens. He also has a dragster. He currently has 10 cars, but not all on their property currently. He would like room to keep all of them on this property and is required to keep them indoors. She noted that the existing barns are old and unsuitable to keep cars in them. He needs a fire-safe place. She explained that he needs a wall height of 14 feet to accommodate the engine hoist. The cow barn does not meet his needs. She explained that this is her son's hobby. He does not restore cars for personal gain. There is no customer base. He belongs to car clubs and there is no commercial use. Tim Thomas asked about the other small structures on the property. Jeanette explained that there is farm equipment in some of them and her son has cars in some of them. Jeanette described the numerous existing buildings, stating that the large barn will stay. She explained they are historic and sentimental. This was her husband's family property for many generations. She reported that several buildings are falling down, but her husband plans to spend his retirement restoring some of them. Much of these buildings are not useable. Jack Barton noted that the old storage buildings were preexisting and non-conforming.

**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 James Smith, owner, of property located at 254 North Avenue for area variances to construct a 1,950 square feet accessory storage structure bringing the total area of accessory structures on the property to 8,700 square feet. The proposed structure will have a wall height of 14 feet. This grants relief from Town Zoning Article 5, subsection 165-31.C.2 which limits the total area of all accessory structures on a property to 2,000 square feet and Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. 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. There are several large older buildings in various stages of disrepair that initially appear they could be removed but the unique nature is that these buildings have historic value. The owner is not willing to remove these buildings due to historic and sentimental value and has plans to renovate and preserve these buildings during his retirement. There will be no undesirable change in neighborhood character or to nearby properties. The location of the buildings is at a significant distance from the road. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is self-created, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion Carried (3-2)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder; Nays: Patrick Buskey, Tim Thomas)

#### MINUTES OF MAY 15, 2008

The May 15, 2008 minutes were reviewed. Page, 2, last Para, a typo was noted; on page 4, Para 2, line 4, change "4' fence" to "6' fence." A **Motion** was made by Tim Thomas to approve the May 15, 2008 minutes with the recommended changes. Seconded by Stephen Shelley. **Motion Carried (4-0)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Abstain: Patrick Buskey)

#### OTHER BUSINESS

**August ZBOA Meeting Date:** Due to several members being unavailable on the originally scheduled August 21<sup>st</sup> date, it was the consensus to change the August ZBOA meeting to August 14<sup>th</sup>.

#### ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder and seconded by Tim Thomas to Adjourn the meeting at 9:05 p.m. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,  
Diane Grundon, Recording Secretary