

**TOWN OF PARMA
ZONING BOARD OF APPEALS
MAY 21, 2009**

Members Present: Tina Brown
Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas

Others Present: Jack Barton, Jim Zollweg

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 noted that this is a five-member board and a quorum of three is required to pass a motion.

Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. JOHN KASEMAN – 5560 RIDGE ROAD WEST

Application of John Kaseman, owner, for area variances and modification to an existing Special Permit at 5560 Ridge Road West. Applicant is proposing to demolish the existing building and construct a new 40 feet by 120 feet office and showroom with a side setback from the westerly property line of 5 feet and is requesting relief from Town Zoning chapter 165, schedule 1, which requires 20 feet. The lot width of this parcel is 72.71 feet and the applicant is requesting relief from Town Zoning schedule 1 which requires a lot width of 200 feet. Applicant is proposing to modify the existing Special Permit to allow 18 display vehicles in front of the new structure. This property is currently zoned Highway Commercial (HC).

Jack Barton read a letter received from the engineering firm representing Mr. Kaseman with regard to this application, which stated the applicant has chosen to withdraw his application.

A **Motion** was made by Tim Thomas to accept the application withdrawal from John Kaseman for area variances and modification to an existing Special Permit at 5560 Ridge Road West. Seconded by Stephen Shelley. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

NEW PUBLIC HEARINGS

2. CHRISTOPHER KLCH – 616 OGDEN PARMA TOWN LINE ROAD

Application of Christopher Klch, owner, for an area variance at 616 Ogden Parma Town Line Road. Applicant is proposing a 12 feet by 36 feet addition to the front of the home with a setback of 66.4 feet from the road right of way and is requesting relief from Town Zoning chapter 165, schedule 1, which requires a 75 feet front setback. This property is currently zoned Medium Density Residential (MD).

Chris explained his wish to expand their small two-story Cape Cod style house, which was built in 1958, and has only 800 square feet on the first floor. Included in the proposed addition will be an extended living room, a master bedroom and a porch. He stated they considered moving to a larger home, but would like to remain here. He explained that they have a large family and like to entertain, but their house does not provide adequate room for this. He explained that there is no

alternative location for this addition. He provided a copy of a letter from the Monroe County Department of Health regarding his septic system location, which prevents placement in the back of the house.

Public hearing: 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 Christopher Klch, owner, for an area variance at 616 Ogden Parma Town Line Road for a 12 feet by 36 feet addition to the front of the home with a setback of 66.4 feet from the road right of way and this grants relief from Town Zoning chapter 165, schedule 1, which requires a 75 feet front setback. This property is currently zoned Medium Density Residential (MD). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant would prefer to put this addition on the rear of the house, but the location of the septic system prevents this. In addition, the home was built in 1958 and, as evidenced by other homes in the area, is small in square footage by today's standards, and they need additional living space for their lifestyle. The application is being approved for 6' (+ or -) for the addition and 6' (+ or -) for the porch addition, to provide some flexibility during the construction. There will be no undesirable change in neighborhood character or to nearby properties. Other homes in this neighborhood were built around the same time and of the same style, with similar additions. The request is substantial, relative to the setback, but the house was built in 1958 and predates current codes. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, but the location of the septic system is a primary driver for this variance. Using the balancing test, the benefit to the applicant outweighs any detriment of the health, safety and welfare of the community. Seconded by Stephen Shelley. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

3. MARC HRYHORENKO – 146 FERGUSON DRIVE

Application of Marc Hryhorenko, owner, for area variances at 146 Ferguson Drive. Applicant is proposing an addition to the existing detached garage in the front yard with a front setback of 22.3 feet and a side setback from the easterly property line of 8 feet, and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building and schedule 1 which requires a 40 feet front setback and a 10 feet side setback. This property is currently zoned Waterfront Residential (WF).

Marc questioned the legal notice for his application. Jack Barton explained the reason for the description of the front and side setbacks on a corner lot.

Marc explained his plan to add onto his existing garage and to raise the floor of his garage about a foot due to poor drainage on Ferguson Drive. He recalled rain and snow melt-off which goes down his driveway and into the garage. A newly built home on Ferguson has forced the volume of water going into his garage to increase. Marc stated he sometimes has so much water in his garage that his garage door freezes shut. He explained he wants to store his 26 feet long x 6 feet wide boat with a motor on a trailer and vehicle inside the garage, since both have been broken into several times over the past year. He noted he has purchased a street light from RG&E to try to deter these break ins. He stated his boat is currently stored under an overhang.

Public hearing: 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 Marc Hryhorenko, owner, for area variances at 146 Ferguson Drive for an addition to the existing detached garage in the front yard with a front setback of 22.3 feet and a side setback from the easterly property line of 8 feet, and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building and schedule 1 which requires a 40 feet front setback and a 10 feet side setback. This property is currently zoned Waterfront Residential (WF). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. As evidenced by a number of prior applications for waterfront properties, which are very unique and presents challenges for variances, I believe the applicant has complied with variances as much as possible. The existing garage has been there for at least one-half of a century and this addition will substantially enhance it. The setbacks are not out of line with other structures in the area, and due to the uniqueness of waterfront properties, most of these properties require their garages or sheds to be placed in the front yard. There will be no undesirable change in neighborhood character or to nearby properties. The existing structure has been there for one-half a century and the addition to the existing garage will enhance the aesthetics and will not create any visual obstruction of the lake from neighboring homes. The request is substantial but mitigated by the nature of this lakefront property. The applicant has justified the need for the proposed size of the structure to store his boat and vehicle. There will be no adverse physical or environmental effect. The alleged difficulty is not self-created due to the unique nature of lakefront property, as evidenced by numerous other applications. 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 approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

4. RICHARD AND CAROL KLUTH – 485 WILDER ROAD

Application of Richard and Carol Kluth, owners, of property located at 485 Wilder Road. Applicants are proposing to merge 485 and 491 Wilder Road which each have a single family dwelling and are requesting relief from Town Zoning Article 10, subsection 165-82.A which states in part that no lot shall have erected upon it more than one principal building. This property is currently zoned High Density Residential.

Richard provided a map of these properties which were originally one large parcel which was farmed. The property was divided as part of an inheritance. Now, he explained they are trying to absorb his sister's half of this parcel into one parcel, as it was originally. He stated they are not selling this property, they just want to have it back the way it was. He referred to the map, noting three other properties in close proximity that have two houses on one parcel. He stated this merge would result in a benefit to them with their taxes. He noted they currently live at 485 Wilder Road, which is one acre. He explained that 491 Wilder has 107 acres and the house is used as a tenant home for relatives only. Currently his nephew lives there and pays only for utilities. He stated they are not looking at this as a business. Jack Barton confirmed that both these properties are zoned HD.

Public hearing: 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 Richard and Carol Kluth, owners, of property located at 485 Wilder Road to merge 485 and 491 Wilder Road which each have a single family dwelling and this grants relief from Town Zoning Article 10, subsection 165-82.A which states in part that no lot shall have erected upon it more than one principal building. This property is currently zoned High Density Residential. In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant would like to re-establish this property to its previous situation in the 1800's. The farm was artificially divided to provide inheritance to two siblings and this is no longer necessary. There will be no undesirable change in neighborhood character or by nearby properties. This property will essentially continue to be operated and appear the same. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, but using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

5. RICHARD AND TAMMY MAIER – 183 HUFFER ROAD

Application of Richard and Tammy Maier, owners, for an area variance at 183 Huffer Road. Applicants have converted their garage to habitable space and are requesting relief from Town Zoning Article 5, subsection 165-31.E.3 which states in part that each principal dwelling shall have a garage. This property is currently zoned Agricultural/Conservation (AC).

Rich Maier stated he owns this parcel of land that is 100 feet wide and has a total of 2 acres. He provided a sketch map and layout of what will be placed inside the garage. He explained that the house was built in 1962 with a basement that required the laundry water to be pumped out. The existing garage was very small, too small for a vehicle, and they used it only for storage. He stated that four years ago he converted this to living space without a building permit. The laundry facilities were moved to this garage space to avoid the need to pump the water. He noted that the septic system takes up the width of the back yard. He stated he is now trying to sell the house and build a larger home. The garage isn't usable as a garage and he found out that he needed a variance to sell this house without a garage. He noted that garage doors were left in place and it looks like a garage from the outside. He stated he realizes that he would have to make this living space come into compliance with all building codes and obtain a building permit and pass inspection.

Public hearing: 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 Richard and Tammy Maier, owners, for an area variance at 183 Huffer Road. Applicants have converted their garage to habitable space and this grants relief from Town Zoning Article 5, subsection 165-31.E.3 which states in part that each principal dwelling shall have a garage. This property is currently zoned Agricultural/Conservation (AC). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. This is a small ranch-style home that was built with a substandard garage and a laundry room in the basement. The laundry room location in the basement is inappropriate for the occupants in this small ranch due to the inconvenience of going up and down stairs and which requires a substandard pump system. The size of the garage is substandard due to today's requirements and could not reasonably be used as a garage. There will be no undesirable change in the neighborhood character or to nearby properties. From the exterior, the house appears to have the same garage it was built with. The request is substantial. There will be no adverse physical or environmental effects. The outside appearance of the house will remain the same. 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 Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

6. MARY ABBATE – 41 MARJORIE LANE

Application of Mary Abbate, owner, for an area variance at 41 Marjorie Lane. Applicant is proposing to construct a 16 feet by 20 feet accessory storage shed in the northwest corner of the parcel and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This parcel 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).

David Abbate, Mary Abbate's son, explained that the existing garage space is insufficient to store all their patio furniture and lawn equipment. They have to park their cars outside of the garage. He stated they are looking to build a shed to relocate the lawn equipment, patio furniture, and garden stuff to provide room in the garage for their cars. He provided a picture of the shed they plan to build. He noted that the door is larger than a regular door but smaller than a garage door. He stated the house was built in 2006.

Public hearing: 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 Mary Abbate, owner, for an area variance at 41 Marjorie Lane to construct a 16 feet by 20 feet accessory storage shed in the northwest corner of the parcel and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This parcel 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 the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. This is a corner lot, with 2 front yards, 2 side yards and no rear yard, and there have been numerous other applications similar to this for corner lots. There will be no undesirable change in the neighborhood character or to nearby properties. The request is not substantial because of the unique nature of this corner lot. There will be no adverse physical or environment effects. The alleged difficulty is not self-created because of the 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 Stephen Shelley.

Motion unanimously approved (5-0) (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

7. JAMES KESSELRING – 20 CLEARVIEW AVENUE

Application of James Kesselring, owner, for area variances at 20 Clearview Avenue. Applicant is proposing to construct an accessory storage shed in the front yard with a side setback from the easterly property line of 3 feet and a front setback from the southerly property line of 12 feet, and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard and schedule 1 which requires a 10 feet side setback and a 40 feet front setback from property lines. Applicant is also requesting that a 4 feet high closed style fence be allowed to remain in the front yard. He is requesting relief from Article 16, subsection 165-128.A.2 which states in part that closed fences shall not be permitted along any front lot line and that fences along the front lot line shall not be higher than 3 feet above the adjacent ground level. This property is currently zoned Waterfront Residential (WF).

James explained that the shed will be inconspicuous to the neighbors, and will be right next to a privacy fence. This placement will not result in any obstruction of the view of the lake. He provided a picture of the proposed shed. He stated that if the shed were placed in compliance with zoning code, it would result in an obstruction of the view of the lake by two neighbors. He felt this is the least conspicuous location. He noted they had a previous variance for the shed in August of 2008, but it expired before he could build it. The proposed shed will be 12' x 16', built from 2 x 6's, with T111 siding. He stated that 8' high side walls were planned, but he prefers the side walls to be 9' from the ground up to allow for leveling. The peak will be 12' high. The septic system location prevents moving the shed further from the lot line. He listed items to be stored in the shed, including a lawn tractor with 4' deck, snow blower and garden tools.

He explained that he repaired an existing fence and did not realize they were not in compliance with zoning code. He stated a chain link fence was there before, which separated the two properties, but was deteriorating. The 4' replacement fence is the same height as the chain link fence was and he made it the same style as the neighbor's fence for continuity. He noted the fence is off 1 ¼" but continues with the fence that runs to the lake shore.

Public hearing:

Jack and Mary Ann Wade – 6 Lighthouse Beach Road: Stated they feel the shed would be too close to their property line and too close to their house. They asked that other options be considered to keep it farther away from their property.

James responded that the septic system is 10' from the property line and this prevents placement farther away from the lot line.

Mary Ann provided a picture of the properties and asked why the shed couldn't be placed to the side of the property on the west along the driveway, which wouldn't obstruct anyone's view. She also suggested it be placed right next to the garage.

Jim responded that the adjoining property drains east and his property drains west and it is always wet there. Also, there is a natural swale on the west side because the land slopes steeply near his house, which prevents placement near his garage.

Discussion was held on whether the septic system placement would allow for the shed to be placed in a 10' side setback. James offered to consult with Mr. Crowley, who installed the leach field, to see how far he can come out from the lot line or consider other alternative locations.

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 stated that this shed will be placed on piers, which would allow water to run underneath. He stated the importance of reviewing an elevation view indicating the swale and low point of the property, location of the existing leach field, and fence elevation.

Following discussion, a **Motion** was made by Tim Thomas to table the application of James Kesselring, owner, for area variances at 20 Clearview Avenue, without prejudice, to the June 18 ZBOA meeting, to allow the applicant additional time to provide the following information:

- An elevation view location of the proposed shed relative to the existing berm, the low point of the swale, and the fence on the easterly property line, and the existing leach field taper.
- Consideration of other alternative location options.

Seconded by Dean Snyder. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

SPECIAL PERMIT RENEWALS

8. CRAIG BRYCE - 645 MANITOU ROAD

Application was received from Craig Bryce, 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 recent fire safety inspection, which did not identify any violations. He reported there were no complaints on file.

A **Motion** was made by Tim Thomas to approve the renewal of a special permit requested by Craig Bryce 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, 2010.

Seconded by Stephen Shelley. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

9. RUSSEL ANGELO – 5200 RIDGE ROAD

Application was received from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West. This property is zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton referred to the recent fire safety inspection which did not identify any violations. He reported no complaints were on file.

A **Motion** was made by Stephen Shelley to approve the application from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West, with the following conditions:

- No more than 30 cars to be displayed for sale.
- No on-street parking. There must be adequate space for customer parking.
- Exit and entrance driveways are to be provided.
- All repairs to be performed within the existing structure, not outside.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Sunday.
- Signs to conform to current zoning.
- Lighting to be directed away from the road.
- Special Permit for a period of one year, renewable in April, 2010.

Seconded by Tim Thomas. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

MINUTES OF MARCH 19, 2009

The March 19, 2009 ZBOA minutes were reviewed. The following changes were recommended: page two, Para 6, change “doped” to “dropped off.”; page 3, line 2, change to “Hilton Parma Corners Road”; page 4, Para 1, second bullet, change wording to “as they pertain to how code; and “The variance for parking spaces is substantial...”; page 5, add closing quotation marks; page 7, add changes to February 19, 2009 minutes. A **Motion** was made by Tim Thomas to approve the March 19, 2009 ZBOA minutes with the recommended changes. Seconded by Stephen Shelley. **Motion approved (4-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas; Abstain: Tina Brown)

OTHER

Accessory structures in front setback. Jack Barton pointed out that there is no front setback indicated in the zoning code for accessory structures. He explained that this is because accessory structures must be located in the rear yard of the house. If the accessory structure is located behind the house, the front setback is not an issue, even if the house does not meet front setback requirements. The Board agreed with this interpretation.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Stephen Shelley, to adjourn the meeting at 9:45 pm.

Respectfully submitted,
Diane Grundon, Recording Secretary