

**TOWN OF PARMA
ZONING BOARD OF APPEALS
AUGUST 19, 2010**

Members Present: Tina Brown
Veronica Robillard
Stephen Shelley
Tim Thomas
Jim Zollweg (alternate)

Members Excused: Dean Snyder

Others Present: Jack Barton, Jim Roose (Board Liaison)

Public Present: See attached list

The meeting was called to Order by Chairperson 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. She offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. LINDA MARY JUDD – 423 MOUL ROAD

Application of Linda Mary Judd, contract vendee, for two area variances and a Special Permit at 423 Moul Road. Applicant is proposing to construct a 1,296 square foot stable with six outside horse run areas that will be partially covered (the covered area of 864 square feet), a 7,200 square foot riding arena and two 432 square foot lean-to's for horses in the pastures. The aggregate area of structures for horses is 10,244 square feet and the applicant is requesting relief from Town Zoning Article 10, subsection 165-82.CC.2 which states in part that no structure or combination of structures used in the housing, storage or exercising of horses shall exceed 6,000 square feet in area. Applicant is proposing to locate paddock areas on each side of the stable and is requesting relief from Town Zoning Article 10, subsection 165-82.CC.3 which states in part that any exercise/building pens shall be located to the rear of the stable. Applicant is also requesting a Special Permit to allow horse boarding facilities in accordance with Town Zoning Article 9, subsection 165-57 which is allowed with a Special Permit. This property is currently zoned Agricultural/Conservation (AC).

Chairperson Robillard recalled this application was tabled at the July meeting, per the applicant's request, to allow her to discuss compliance with the agriculture and markets law at the July 20th public hearing before she presents this to the ZBOA again and to allow the applicant time to consider other options or alternatives to bring this into compliance and attempt to get the square footage closer to the ordinance.

Jack Barton reported this request went through SEQR and was returned by Monroe County as a matter of local determination with no further action required. The Parma Town Board tabled a decision on the zoning revision to further investigate definitions. Further discussion will be held at the September Town of Parma Board meeting. Linda was present and stated that if this new law passes, she will not need the variances or special permit requested in her application. She requested this application be tabled until September.

A **Motion** was made by Tim Thomas to table the request of Linda Mary Judd, for two variances and a special permit at 423 Moul Road, without prejudice, until the September ZBOA meeting unless there is a favorable action by the Town of Parma Board on the agriculture and markets law. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

NEW PUBLIC HEARINGS

2. DONALD AND NANCY TOWN – 15 CLEARVIEW AVENUE

Application of Donald and Nancy Town, owners, for an area variance at 15 Clearview Avenue. Applicants are proposing to erect a 5 feet high ornamental fence along the front property line ending at the easterly and westerly property lines and are requesting relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that open fences along these lines shall not be higher than 3 feet above adjacent ground. This property is currently zoned Waterfront Residential (WF).

Donald recalled that their application for a 7 feet high fence and gate in the front yard was granted in January of this year for 18 Clearview Avenue. He explained they are the owners and operators of the Lighthouse Bed and Breakfast. He stated they are looking to enclose 100' in length with an ornamental fence which would run from the gate on the left hand side. This fence will be set back 20' from the edge of the road. He described a road swale and ditch which prevents placement elsewhere. The fence will continue the same as the existing fence that comes off the gate. The fence will dead end at the neighbor's property where there is a berm. He again noted that this will allow people to enjoy the lighthouse but keep the property secure.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

A **Motion** was made by Tim Thomas to approve the application of Donald and Nancy Town, owners, for an area variance at 15 Clearview Avenue to erect a 5 feet high ornamental fence, similar to the fence in the submitted picture illustrated with the finials, along the front property line ending at the easterly and westerly property lines and this grants relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that open fences along these lines shall not be higher than 3 feet above adjacent ground. 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 property is part of a historic lighthouse and the applicant decided to enhance this property and provide security from onlookers and have chosen this aesthetically pleasing fence. There will be no undesirable change in neighborhood character or to nearby properties. Considering the nature of lakefront properties and historic property, this will beautify the area. The request is substantial but is somewhat mitigated by this historical unique property. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, but again mitigated by the unique nature of this historical property and the need for security on their off season. 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: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

3. DONALD AND NANCY TOWN – 16 CLEARVIEW AVENUE

Application of Donald and Nancy Town, owners, for an area variance at 16 Clearview Avenue. Applicants are proposing to erect a 5 feet high ornamental fence along the front property line ending at the easterly and westerly property lines and are requesting relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that open fences along these lines shall not be higher than 3 feet above adjacent ground. This property is currently zoned Waterfront Residential (WF).

Donald stated that this fence will continue along the same line as the fence for 15 Clearview Avenue. Jack Barton explained that a post must be placed right on the property line or just inside between 15 and 16 Clearview. It cannot be continuous with the fence on 15 Clearview.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

A **Motion** was made by Tim Thomas to approve the application of Donald and Nancy Town, owners, for an area variance at 16 Clearview Avenue to erect a 5 feet high ornamental fence, similar to the fence in the submitted picture illustrated with the finials, along the front property line ending at the easterly and westerly property lines and this grants relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that open fences along these lines shall not be higher than 3 feet above adjacent ground. 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 property is part of a historic lighthouse and the applicant decided to enhance this property and provide security from onlookers and have chosen this aesthetically pleasing fence. There will be no undesirable change in neighborhood character or to nearby properties. Considering the nature of lakefront properties and historic property, this will beautify the area. The request is substantial but is somewhat mitigated by this historical unique property. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, but again mitigated by the unique nature of this historical property and the need for security on their off season. 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: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

MINUTES OF JUNE 17, 2010

The June 17, 2010 minutes were reviewed and the following changes/additions were recommended: page 4: change to "Rick Holden." A **Motion** was made by Tim Thomas to approve the June 17, 2010 ZBOA minutes with the recommended change. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

MINUTES OF JULY 15, 2010

The July 15, 2010 minutes were reviewed and the following changes/additions were recommended: page 2: last Para line 5, change “alternative” to “alternate”; page 3, Para 2, line 2 change to: “keep property maintenance issues”; page 5, under Tina Brown: change to “The additional parking would create an undesirable change and there are other means feasible to achieve the benefit. Change Stephen Shelley to: “The way the ordinance is written, being a small lot would limit the number of cars allowed”; Change Veronica Robillard to: “ The recommendation of schedule 2 from the Parma Ordinance would be unreasonable...”. Several grammatical errors were pointed out. A **Motion** was made by Stephen Shelley to approve the July 15, 2010 ZBOA minutes with the recommended changes. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

OTHER BUSINESS

Mico Transmissions, Inc.: The applicant has filed Article 78 with the intention to appeal.

Bottle Redemption Center: Jack Barton asked Board members to review this type of business and provide their opinion regarding what district/districts this would be the best fit.

1137 Hilton Parma Corners Road: Jack Barton described a complaint about an illegal dog kennel. The letter described the business and barking and was signed “concerned citizens of Parma.” Art Fritz, ZEO, inspected this property and found no violations. There was no one to contact regarding the inspection findings, as the letter was not signed with names and addresses.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas seconded by Tina Brown, to adjourn the meeting at 8:30 pm. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

Respectfully submitted,
Diane Cook, Recording Secretary