

**TOWN OF PARMA
ZONING BOARD OF APPEALS
October 18, 2012**

Members Present: Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas
Jim Zollweg

Others Present: Jack Barton, Gary Comardo

Public Present: Karen Leonardi, Ben Gustafson, Greg Perna, Paula Crawford, Ray Helfrich, James DeSimon.

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. It was explained that a quorum of three is required to pass a motion.

NEW BUSINESS

1. GREG PERNA – 67 DELAVERGNE DRIVE

The application of Greg Perna, owner, for three area variances at 67 Delavergne Drive. The applicant is proposing to construct a new 840 square feet single family dwelling on a lot that is 40 feet wide, 150 feet deep and 6,000 square feet in area. The proposed home will have a 6.5 feet setback from the easterly property line. The applicant is requesting relief from Town Zoning Article 5 subsection 165-35.E.2.a which requires that the minimum total living area excluding the area of the garage and porch shall be 1,000 square feet, Town Zoning schedule 1 which requires lots to be a minimum width of 85 feet, a minimum depth of 120 feet and at least 12,000 square feet in area. Schedule 1 also requires a minimum side setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

Ben Gustafson, engineer for the project, explained that the lot is currently vacant. Approximately 4 years ago the dwelling on that lot was in disrepair and demolished, without the owner understanding what the ramifications of demolishing the dwelling would be. It was explained that the previous structure had a setback of 4 feet and it was approximately 800 sq. feet. He explained that this new structure would have a new septic system, a side setback of 6.5 feet and a handicap ramp. The structure proposed is 1000 sq. feet; the livable area is 840 sq. feet. In the proposed structure the entrance would be into the main living area with rooms off of that space. This layout would allow for easier movability throughout the house for the applicant who is disabled.

Chairperson Robillard asked if the applicant would be living there year round. Mr. Perna stated that this would be his permanent residence. Tim Thomas asked where the garage is going to be located. Mr. Gustafson said it would be on the North side of the house. Chairperson Robillard asked if it is possible to purchase some of the open space to the east from the neighbor. Mr. Gustafson said that there has been no attempt, that the neighbor has made it clear on other occasions that he is worried about this project impeding on his property, and has said that he wants to maintain that property for his future use. Chairperson Robillard asked about the style of the home. Mr. Gustafson said that the layout of the house will be the same as the proposed plans but the manner of the construction (ex. crawl space, slab) may be different depending on the flood plain.

Board Discussion: Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR and no further review is required.

Public Comment:

Chairperson Robillard read a letter from Mr. and Mrs. Michael Crawford, owner of 78 East Wautoma Road. They stated that while they welcome any improvements to their street, they are concerned about the size of the dwelling and the side setback request of 6.5 feet instead of the 10 feet required. The concern stems from a recent

fire on the street that not only destroyed the house on fire, but also put the neighbor's house at risk because the houses are so close. While they understand that little can be done about the existing homes, they feel that any new construction should have to meet current requirements.

Public Hearing Closed.

Tim Thomas stated that he used to live on Delavergne Drive and he does not see how building a larger home would lessen the risk to neighbors from fire. Tim Thomas asked Jack Barton if the handicap ramp is a setback issue. Jack Barton said no because of a recent change to the code it is ok. Stephen Shelley asked Jack Barton if the 14 feet deep garage meets code. Jack Barton said that the garage would meet code; there is no minimum depth requirement, only a minimum width and area.

Dean Snyder asked if at this setback distance does the fire code require anything different. Jack Barton explained that there is a setback minimum of 5 feet. There would be no need to fire rate the construction. Dr. Snyder said that this would actually be an improvement over the previous dwelling which was only 4 feet off the property line.

A **Motion** was made by Tim Thomas to approve the application of Greg Perna, owner, for three area variances at 67 Delavergne Drive. The applicant is proposing to construct a new 840 square feet single family dwelling on a lot that is 40 feet wide, 150 feet deep and 6,000 square feet in area. The proposed home will have a 6.5 feet setback from the easterly property line. The applicant is requesting relief from Town Zoning Article 5 subsection 165-35.E.2.a which requires that the minimum total living area excluding the area of the garage and porch shall be 1000 sq. feet, Town Zoning schedule 1 which requires lots to be a minimum width of 85 feet, a minimum depth of 120 feet and at least 12000 sq. feet in area. Schedule 1 also requires a minimum side setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

In making the motion to approve the three area variances:

- I don't believe the benefit can be achieved by other means feasible to the applicant.
Relevant to the requirement of 1000 sq. feet, the living area that the applicant is proposing is 840 sq. feet. The design of the home that the applicant is proposing maximizes the functionality of the living area for the applicant who happens to be disabled. The 1000 sq. feet that is required, to the passerby, it would be very difficult to tell that it is 160 sq. foot less than what is required by code.
Relevant to the width, depth and area variance, there are numerous properties up and down Delavergne Drive that are either far less than that requirement and some cases a little more. It is part of the character of this neighborhood, many of these places were summer residences over the years and converted to new homes and even though it does not meet our code requirements for width, depth and area it is certainly consistent with other properties on the north and south side of the street.
Relevant to the setback requirement of 6.5 feet vs. the 10 feet that was required, it was stated by the applicant that the previous home had approximately a 4 foot setback, so this is an improvement and will help with the overall look of the home and make it more centered on the lot, while also providing access to get behind the property between the proposed home and the property to the west. Although there is an open parcel to the east, the owner wishes to maintain that for future use leaving no opportunity to acquire any portion of that land to address this requirement.
- There will be no undesirable change in neighborhood character or to nearby properties. This is consistent with the waterfront area and this particular road. There are several properties that are similar in nature.
- The request is substantial if compared to our code however this is very heavily mitigated by the nature of the waterfront properties.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the nature of the lot sizes along the lake in that area, when using the balancing test; the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

This proposal represents a marked improvement over the previous located home as recorded on the May 18, 1999 Survey Map.

Seconded by Dean Snyder. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

2. KAREN LEONARDI – 1110 OGDEN PARMA TOWN LINE ROAD

The application of Karen Leonardi, owner, for a Special Permit at 1110 Ogden Parma Town Line Road. The applicant is requesting a new Special Permit for an accessory apartment in accordance with Town Zoning Article 9, subsection 165-76. The previous Special Permit expired in March, 2007. This property is currently zoned Medium Density Residential (MD).

Karen Leonardi, owner explained that when the house was being constructed she came in front of the board to request a variance and special permit to add an in-law apartment for her parents to live in, which was granted. In 2006 she went through a divorce and did not realize that the renewal had come up and she had to renew that special permit. When she contacted the Town she was told that in 2007 her ex said that he did not want to renew the permit. She is now going through a refinance and when the appraiser called the Town they told him that the Special Permit had expired.

Tim Thomas asked if there was a functioning kitchen. Ms. Leonardi replied yes. Chairperson Robillard asked when the time comes and your parents are no longer living there, will it be converted back to a single family. Ms. Leonardi stated that this would never be used for a rental or a two family. There is only a door between the two parts of the house and would not be used in any other aspect than it is right now. Jim Zollweg asked the applicant to clarify the names of the occupants. Ms. Leonardi said the names are Gary and Judy VanDeViver. Jim Zollweg also wanted to clarify for the applicant that if the house were to ever sell the special permit would expire and that the house could not be advertised as having an in-law apartment. Jim Zollweg also inquired about the ages of the occupants because the code calls out that accessory apartments are intended for the elderly or infirmed. Ms. Leonardi stated that both of her parents are over 62.

Board Discussion: Jack Barton reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR and no further review is required.

Public Comment: None. Public Hearing Closed.

Dean Snyder asked if the accessory apartment is less than 35% of the existing residence. The accessory apartment is 930 sq. feet and the house is 2000 sq. feet. This apartment is larger than what is allowed by the code. Because of the variance granted in 2001, this is acceptable.

A **Motion** was made by Jim Zollweg to approve the application of Karen Leonardi, owner, for a Special Permit at 1110 Ogden Parma Town Line Road. The Special Permit is for an accessory apartment in accordance with Town Zoning Article 9, subsection 165-76. This accessory apartment will house the applicant's parents, Gary and Judy VanDeViver and this Special Permit will carry a two year term at which point it will need to be renewed. At the end of this current occupancy of Mr. and Mrs. VanDeViver this permit will also expire, it is only applicable to these residents. There is a sustainable area variance from September 2001.

Seconded by Dean Snyder. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

3. 5018 RIDGE ROAD, LLC – 5018 RIDGE ROAD WEST

The application of 5018 Ridge Road LLC, for a Special Permit at 5018 Ridge Road West. The applicant is proposing to display and sell motor vehicles which is allowed with a Special Permit. The applicant is also requesting to erect a 60 square feet mounted sign along with a 32 square feet free standing sign and is requesting relief from Town Zoning Article 14, subsection 165-111.C which states that no sign shall be placed or erected on the roof of the building and subsection 165-113.B.2 which limits the total signage on the south front of the

building and the free standing sign to 82.5 square feet. This property is currently zoned Highway Commercial (HC).

Board Discussion: Jack Barton reported that notifications were not in order.

There was discussion by the board and Mr. Schultz about the signage and a Special Permit.

A **Motion** was made by Tim Thomas to table the application of 5018 Ridge Road LLC, for a Special Permit at 5018 Ridge Road West to the November 15, 2012 meeting without prejudice to allow proper notifications to go out.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

MINUTES OF AUGUST 16, 2012

The ZBOA minutes of August 16, 2012 were reviewed. A **Motion** was made by Jim Zollweg to approve the August 16, 2012 minutes as submitted. Seconded by Dean Snyder. **Motion carried (3-0)** (Ayes: Veronica Robillard, Dean Snyder, Jim Zollweg; Abstain: Stephen Shelley, Tim Thomas).

MINUTES OF SEPTEMBER 20, 2012

The ZBOA minutes of September 20, 2012 were reviewed and the following recommended changes were made: Page 8, Para 2, line 2 change "call" to "calls"; page 8, Para 2, line 4, change "it" to "them"; Page 9, Para 4, line 3 take out the word "would"; Page 10, Para 2, line 4 change: "to" to "from"; Page 13, Para 6, line 6, change "applicant" to "application". A **Motion** was made by Tim Thomas to approve the September 20, 2012 minutes as amended. Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

OTHER BUSINESS

There was discussion on further training opportunities, proposed Code changes and 43 Delavergne Drive.

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder, seconded by Jim Zollweg to adjourn the meeting at 9:00 p.m. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster, Recording Secretary