

TOWN OF PARMA
ZONING BOARD OF APPEALS
July 23, 2015

Members Present: Dan Melville
Veronica Robillard
Tim Thomas
Stephen Shelley
Jim Zollweg

Others Present: Art Fritz, Dennis Scibetta, Kyle Mullen, Dean Snyder

Public Present: Clatyon Weddington, Tom Morgan, Charles K. Palmer, Robert Burnside

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

TABLED FROM THE JUNE 18, 2015 MEETING

1. CLAYTON WEDDINGTON – 510 PECK ROAD

The application of Clayton Weddington, owner, for an area variance at 510 Peck Road. The applicant is proposing to construct a 25' x 29' garage with a 5' side setback from the west property line. The applicant is requesting relief from Town Zoning Article XI, subsection 165-87.A.1 which states in part that the minimum side setback shall not be less than 10 feet. This property is currently zoned Agricultural/Conservation (AC).

Chairperson Robillard explained that this was tabled for lack of notifications. There was discussion about an additional variance being requested in a subsequent application and that the subsequent new application cannot be heard until after this application is disposed of. After further discussion the applicant withdrew this application.

NEW BUSINESS

2. CLAYTON WEDDINGTON – 510 PECK ROAD

The application of Clayton Weddington, owner, for an area variance at 510 Peck Road. The applicant is proposing to construct a 25' x 29' garage with a 5' setback from the west property line and a 5' setback from the rear property line. The applicant is requesting relief from Town Zoning Article XI, subsections 165-87.A.1 and .2 which state in part that the minimum side and rear setback shall not be less than 10 feet. This property is currently zoned Agricultural/Conservation (AC).

Chairperson Robillard stated that when comparing the two applications the difference was with the 5' setback in the rear but she is concerned that the Board did not receive any additional information. The current map shows a 20' side setback and a 10' rear set back and an existing shed. Clayton Weddington, owner explained that the existing shed is going to be removed. Mr. Weddington explained that if using the correct setbacks this will sit really close to the septic and leach field. Chairperson Robillard stated that the map does not show where the applicant wants to put the proposed garage, it also does not show the septic or leach fields.

Board Discussion: Art Fritz 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. There are no comments from the Building Department and no letters in the file.

Tim Thomas stated that for the Board to grant relief they need to have something of substance and right now he has not been given any evidence stating why it can't be built to code. They would need a depiction of where that leach field is. Stephen Shelley thinks that the applicant might be worried about if he needs to expand the leach field in the future. Chairperson Robillard stated that they cannot issue a variance on

possible future circumstances. Chairperson Robillard asked who drew the map provided. Mr. Weddington stated it came from the Town Hall and he did not know who drew the structure on the map. Art Fritz explained that the Building Department would not draw a map for an applicant. Dan Melville felt that the Board needs something showing the septic but also if there is an easement on the property. Chairperson Robillard asked if he had a permit when he built the original structure. Art Fritz stated that the current structure was built before the code changes so no variances were needed.

Public Comment: None
Public Hearing Closed

Tim Thomas is concerned that the applicant does not even know who drew the map provided and he would like to see an updated plan with the requested setbacks. He would prefer to table this so the applicant can provide the needed information. It was relayed to the applicant that the County Health Department can help with information on the leach field.

After discussion a **Motion** was made by Tim Thomas to **table** the application of Clayton Weddington, owner, for an area variance at 510 Peck Road to the August 20, 2015 meeting to allow the applicant the opportunity to revisit the plan that was submitted to the Board for the accessory structure to redraw it with the requested setbacks as well as to provide the Board with some clarity as to the proximity of the structure to the existing leach bed system. The Board is somewhat concerned that the applicant did not know who did these drawings which adds credence to this being tabled. The requested information should be to the Building Department so that the information can be in the Board Packets.

Seconded by Dan Melville. **Motion carried to table (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

3. MARJORIE COLLINS – 153 MOUL ROAD

The application of Marjorie Collins, owner, for an area variance at 153 Moul Road. The applicant is proposing to construct a 8' x 10' shed in the side yard with a front and side setback of 10 feet. The applicant is requesting relief from Town Zoning Article X, subsection 165.82.C.3 which states in part that all accessory buildings shall be located in the rear yard. This lot is a corner lot which, by definition, has two front yards, two side yards, and no rear yard. The applicant is also requesting relief from town Zoning Article XI, subsections 165-87.A.1 and .2 which state in part that the minimum side and rear setback shall be no less than 10% of the lot depth and width which, in this case, is 15 feet. This property is currently zoned Rural Residential (RR).

Charles Palmer, agent for the owner, explained the owner would like to build a shed behind the house. Chairperson Robillard asked why it can't be 15' from the property line. Tom Morgan, neighbor and owner of 227 Lighthouse Road stated that this backs up to his yard and if it was put at a 15' setback it would be really close to the house and would create an alley way of sorts. He further explained that this yard is very well maintained and will not be an eye sore. This will not even really be noticeable to people passing by. Stephen Shelley asked about the tree and if it would need to come down. Mr. Morgan explained that this tree was not her tree but is the neighbors tree. Jim Zollweg asked if there is an existing structure currently there. Mr. Morgan stated there is not but that there is a pop up camper that will possibly be stored in the driveway when the shed is put in place.

Board Discussion: Art Fritz 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. There are no comments from the Building Department and no letters in the file.

Public Comment:

Tom Morgan – 227 Lighthouse Road, he is for this application.

Dean Snyder – After looking at the drawing he felt that the 10' side setback would give the applicant a 10' clearance between the house and the shed.

Public Hearing Closed

A **Motion** was made by Tim Thomas to **approve** the application of Marjorie Collins, owner, for an area variance at 153 Moul Road. The applicant is proposing to construct an 8'x 10' shed in the side yard with a front and side setback of 10 feet. The applicant is requesting relief from Town Zoning Article X, subsection 165.82.C.3 which states in part that all accessory buildings shall be located in the rear yard. This lot is a corner lot which, by definition, has two front yards, two side yards, and no rear yard. The applicant is also requesting relief from town Zoning Article XI, subsections 165-87.A.1 and .2 which state in part that the minimum side and rear setback shall be no less than 10% of the lot depth and width which, in this case, is 15 feet. This property is currently zoned Rural Residential (RR).

In making the motion to approve I will be addressing both variance requests together:

- The benefit cannot be achieved by other means feasible to the applicant. To put the shed at the required setback would put the shed four to five feet away from the existing dwelling and NYS Fire Code requires a five foot minimum setback between structures which is very important and the second issue is if this is put at 15 feet it would be creating an alley way of sorts between the shed and the house.
- There will be no undesirable change in neighborhood character or to nearby properties. The applicant unfortunately has a corner lot which our code calls out as having two front yards, two side yards and no rear yard and we have had several applications with residents in similar situations.
- The request is somewhat substantial. It was pointed out that the 10% guideline was put into place in 1998 when the code changed and this residence is preexisting that date.
- There will be no adverse physical or environmental effects. As evidenced by one of the neighbors, the property has always been well maintained and he endorses the application.
- The alleged difficulty is not self-created because of the unique nature of the property having two front yards, two side yards and no rear yard. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Jim Zollweg. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Tim Thomas, Stephen Shelley, Jim Zollweg).

4. STEPHEN and STACEY CUDZILO – 135 LIGHTHOUSE ROAD.

The application of Stephen and Stacey Cudzilo, contract vendees, for an area variance at 135 Lighthouse Road. The applicants are proposing to use an existing 1,372 square feet structure with a one foot side setback as a stable for horses. The applicants are requesting relief from Town Zoning Article X, subsection 165-82.CC.3 which states in part that any stable shall be set back at least 100 feet from any side boundary line. This property is currently zoned Rural Residential (RR).

Chairperson Robillard shared a letter from Stacey Cudzilo received by the Building Department today stating that she would like to withdraw the application because the building in question is partially on the neighbor's property and not a foot into the property line. Dennis Scibetta stated that there are serious code violations on this property.

Robert Burnside, owner of 139 Lighthouse Road is the neighbor to the South and stated that he has some concerns.

MINUTES OF JUNE 18, 2015

The ZBOA minutes of June 18, 2015 were reviewed. **Motion** was made by Tim Thomas to **approve** the June 18, 2015 minutes as presented. **Seconded** by Stephen Shelley. **Motion carried (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Dan Melville to adjourn the meeting at 7:45 p.m. **Motion carried (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster
Recording Secretary