

TOWN OF PARMA
ZONING BOARD OF APPEALS
August 18, 2016

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

Others Present: Dennis Scibetta, Art Fritz

Public Present: Steven Bauman, Becky Bauman, Pete Decker, Donald K. McLeod, Jeremiah Clifford, MaryLou Clifford, Michelle Smith, Michael Vinci, Dennis Baszynski, Janice Baszynski

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. Chairperson Robillard explained that we would be taking the agenda out of order tonight and starting with the application of 46 Winding Country Lane before moving on to our tabled item and new items on the agenda.

1. DONALD and MARY McLEOD – 46 WINDING COUNTRY LANE

The application of Donald and Mary McLeod, owners, for an area variance at 46 Winding Country Lane. The applicants are proposing to construct a 1,200 square foot pole barn and are requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Don McLeod, owner, explained that he would like to build a pole barn so that he can store items he currently stores outdoors inside and out of the elements. He explained that this pole barn will be 30'x40' behind two tree lines so it will be obscured from view. He stated that there is an existing shed and that the shed will be removed and the contents of that shed will be moved into the pole barn as well. Tim Thomas asked how many acres the lot is. It is approximately 2.5 acres. The setback from the shed to the closest neighbor will be about 150 feet.

Board Discussion: Dennis Scibetta 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 were no letters in the file.

The applicant stated that there will be a work bench, collector cars, 2 zero turn lawnmowers, a boat, garden tools and a gator in the building. Dan Melville asked what the flooring will consist of. The applicant stated it would be stone for now but it would be cement before any cars are stored in the building.

Public Comment:

Dennis Baszynski, 49 Winding Country Lane, asked how tall the building will be. The applicant stated it would be 10' high. Dennis Scibetta explained that the applicant could go as high as 12' but is only planning on 10'.

Jeremiah Clifford, 198 Ogden Parma Town Line Road, asked if there was any chance this would be used for a business. The applicant stated that this will be used for personal storage only; he has no intention of having a business there. Dennis Scibetta stated that the zoning prohibits a business at that location.

MaryLou Clifford, 198 Ogden Parma Town Line Road, was concerned that because this variance will stay with the property if it is ever sold a future owner could want to put a business in this pole barn and what would happen if they did. Dennis Scibetta stated they would have to come to the Zoning Board and ask for a Use Variance, Chairperson Robillard stated that Use Variances are very hard to obtain because of the

criterion that needs to be met. Tim Thomas stated that the Board sees very few Use Variances because they are very hard to obtain. Chairperson Robillard stated that on the agenda tonight there are a lot of pole barns and they are more frequent these days because people have a lot of things. This Board reviews all of the information and makes a decision on a case by case based on what is best for the neighborhood.

Public Hearing: Closed

Dennis Scibetta explained that the applicant has been working with the Building Department for approximately a year to best place the pole barn.

After discussion, a **Motion** was made by Tim Thomas to **approve** the application of Donald and Mary McLeod, owners, for an area variance at 46 Winding Country Lane. The applicants are proposing to construct a 1,200 square foot pole barn and are requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

In making this motion to approve the application:

- The benefit cannot be achieved by other means feasible to the applicant. Currently the items are stored outside in view of the neighbors and in the elements. The applicant has provided the Board with a detailed layout of where these items will be placed with dimensions. The size is adequate for what he is trying to do and will secure these items. The existing shed will be removed.
- There will be no undesirable change in neighborhood character or to nearby properties. These items will be stored inside versus outside. There are mature pear and pine trees that will mostly block the accessory structure from the view of neighbors and passersby's.
- The request is substantial. This is a 100% increase from what is allowed.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

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

TABLED BUSINESS FROM JULY 21, 2016

2. DEREK AND MICHELLE SMITH – 131 UNDERWOOD AVENUE

The application of Derek and Michelle Smith, owners, for an area variance at 131 Underwood Avenue. The applicants are proposing to construct a 12'x12' shed with a rear setback of 5 feet and are requesting relief from Town Zoning Article V, subsection 165-34.E.1, Schedule 1, which states that the rear setback is to be 10 feet. This property is currently zoned High Density Residential (HD).

Michelle Smith, owner, stated that they are looking for a 5' setback instead of the 10' setback to help block the view of the neighbors junk behind them on the neighboring property which sits almost on the property line. The neighbor's property is in the Village and the Smith property is in the Town.

Board Discussion: Dennis Scibetta 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 were no letters in the file.

Public Comment: None

Public Hearing: Closed

The applicant stated that they did talk to the secretary of the company that is using the building and they stated that they did not have an issue with this application. Chairperson Robillard asked if the shed is already there. The applicant stated it was but it can be moved and is not permanent. Chairperson Robillard asked if this shed is for the pool use. The applicant stated no, it is being used to store kid's toys.

There was discussion about 5' vs. 10' and the commercial property behind them. The applicant stated that there are storage containers, old fencing, metal drainage pipes, old gas pumps, and light poles just lying at the back of the property on the property line and had pictures to show the Board. The business does not have a barrier fence separating the properties. She feels that the shed being placed in the proposed location will block the junk and also help prevent the neighbor from using the back part of her property. Eventually they want to put in a natural barrier. This is unique because this property is in the Town and borders a Village property. The applicant stated that the neighbor has cleaned up the property significantly since they moved in a year ago. Tim Thomas was not sure that moving a shed 5' forward would help block that view. Stephen Shelley felt that if the property next to them had a 5' setback then it may not be unreasonable to have a similar setback. Tim Thomas asked if it is currently on blocks. Applicant stated it was. Dennis Scibetta stated that there have been discussions with the Village and the owner of the commercial property is supposed to put up a barrier fence but that has not happened. Tim Thomas stated that what the Village does or doesn't do, this Board has no control over because they do not have jurisdiction over the Village.

Jim Zollweg stated that the Village only has a 5' setback and the business is not even complying with that setback. After looking at this and at the pictures most of the junk sits directly behind where the shed would be placed so this would help to block that view. Jim Zollweg felt that having the shed closer to the property line would create an improved view angle to enjoy the property.

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Derek and Michelle Smith, owners, for an area variance at 131 Underwood Avenue. The applicants are proposing to construct a 12'x12' shed with a rear setback of 5 feet. Approval would provide relief from Town Zoning Article V, subsection 165-34.E.1, Schedule 1, which states that the rear setback is to be 10 feet. This property is currently zoned High Density Residential (HD). This property at 131 Underwood is a residential property that directly contacts a commercial property. The commercial property furthermore has a setback regulation in a different municipality that is less stringent than the setback required by our Town. Additionally, the adjoining property is commercial and does not have the usual buffer provided between a commercial and residential property. This does not have the neighborhood character that we would expect to be part of a residential neighborhood in the Town of Parma. Because of the location of the material the closer the shed is placed to the property line the greater the degree of concealment of the unsightly materials.

In making this motion the balancing test was considered:

- The benefit cannot be achieved by other means feasible to the applicant. I do not see another way that the concealment can be provided without moving the shed closer to the property line. Essentially this will increase the size of the residential character of the yard.
- There will be no undesirable change in neighborhood character or to nearby properties. This will improve the view from the Town side.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created as these difficulties have been created by two different municipalities sharing a lot line and the behavior of another property. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

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

3. JAMES BAUMAN – 1082 PECK ROAD

The application of James Bauman, owner, for two area variances at 1082 Peck Road. The applicant is proposing to construct a 2,940 square foot pole barn with a wall height of 16 feet and is requesting relief from Town Zoning Article V, subsection 165-31.C.2 which limits the total area of accessory structures to 2,000 square feet and Town Zoning Article X, subsection 165-82.C.2 which states in part that the wall height shall not exceed 12 feet. This property is currently zoned Agricultural/Conservation (AC).

Becky Bauman, owner, stated that they are looking to build and pole barn for Agricultural Use and she provided a layout of hay and farm equipment that would be stored in this pole barn. It would be 42'x70'x16' and they have 19.2 acres of which 6 acres are being farmed. It will be brown and natural colors. Tim

Thomas asked why they are here if this is being used for Agricultural Use. Steve Bauman explained that he is looking to get out from working on the farm and so his son and nephew will be taking this over in the future so his nephew is looking to establish a barn on his property. Chairperson Robillard asked what they farm. Mr. Bauman stated that they farm corn, wheat, straw, and soybeans. There are no animals on the property.

After further review and discussion Dennis Scibetta stated that these applicants should not be here for a variance because of the Agricultural Use they have an unlimited amount of space for the Agricultural Use for the barn and they would only have to come in if there was a setback issue and there is not in this matter. All that is needed is an Agricultural Permit.

Upon further discussion it was discerned that the applicant did not need to come to the Board. This request does not warrant a Zoning decision based on the Agricultural Use of the requested pole barn and the district that it is in and it does not require the variances for size and wall height. This meets the criteria of the Zoning Schedule.

4. MICHAEL VINCI – 202 OGDEN PARMA TOWN LINE ROAD

The application of Michael Vinci, owner, for an area variance at 202 Ogden Parma Town Line Road. The applicant is proposing to construct a 768 square foot pole barn on property that has an existing 96 square foot shed, which would bring the total of accessory structures on the property to 864 square feet. The applicant is seeking relief from Town Zoning Article V, subsection 165-31.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Michael Vinci, owner, explained that the new pole barn will be 24'x32' and he intends to keep the existing shed on the property. He stated he will be using this to store patio/pool furniture and accessories; ATV's which are currently stored in his brother's barn that he would like to bring back. He would like to put it in the back corner of the lot. Chairperson Robillard asked how he will access it. He stated that he will not be putting a driveway to it; if he has to he will drive his truck back there. There will not be a vehicle back there. Dan Melville asked if there would be a concrete floor and electricity. The applicant stated yes. He stated this would be for personal use and not used for a business. There is approximately 30 feet of trees that this will sit in front of. The neighboring lots are shallower than his.

Board Discussion: Dennis Scibetta 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 were no letters in the file.

Public Comment:

Jeremiah Clifford, 198 Ogden Parma Town Line Road, stated that the applicant takes good care of his property and feels that this is a good thing.

Public Hearing: Closed

After discussion, a **Motion** was made by Tim Thomas to **approve** the application of Michael Vinci, owner, for an area variance at 202 Ogden Parma Town Line Road. The applicant is proposing to construct a 768 square foot pole barn on property that has an existing 96 square foot shed, which would bring the total of accessory structures on the property to 864 square feet. The applicant is seeking relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

In making this motion to approve the application:

- The benefit cannot be achieved by other means feasible to the applicant. Many items that he will be putting in the accessory building are currently stored off site at his brother's barn making it inconvenient to access those items easily. The applicant provided a detailed layout of the accessory building and how the items will be arranged in order to maximize the proposed size he is requesting.

- There will be no undesirable change in neighborhood character or to nearby properties. This would be in the NW corner of a 1.1 acre parcel where it will have limited viewing by neighbors and passersby's.
- The request is substantial. This is approximately a 40% increase over what is allowed.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. 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 to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg).

MINUTES OF JULY 21, 2016

The ZBOA minutes of July 21, 2016 were reviewed. **Motion** was made by Stephen Shelley to **approve** the July 21, 2016 minutes as presented. Seconded by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas; **Abstained:** Jim Zollweg).

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Dan Melville to adjourn the meeting at 8:25 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Dean Snyder; **Excused:** Jim Zollweg).

Respectfully submitted,

Carrie Webster
Recording Secretary