

**TOWN OF PARMA**  
**ZONING BOARD OF APPEALS**  
**MAY 16, 2019**

**Members Present:** Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Corinne Zajac

**Others Present:** Dennis Scibetta, Blake Keller

**Public Present:** Nancy Krewer, Larry Fenity, Joe Mauro, Dorothy Shultz, Rich Shultz, Patricia Henry

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. She explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five member board with a full board present tonight. A quorum of three is required to pass a motion.

**CONTINUING BUSINESS FROM APRIL 18, 2019**

**1. CRAIG and PATRICIA HENRY– 56 HILL ROAD**

The application of Craig and Patricia Henry, owners, for three area variances at 56 Hill Road. The applicants are proposing to construct a 1,421 sq. ft. pole barn, which includes a 200 sq. ft. loft area, with a wall height of 14 feet, 7.5 feet from the side property line. This property currently has a 145 sq. ft. accessory building which would bring the total sq. ft. of accessory structures on the property to 1,566 sq. ft. They are requesting relief from 1) Town Zoning Article V, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet, 2) Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet and 3) Town Zoning Schedule 1 which states that the side setback for an accessory structure shall be 10% of the lot width which, in this case, is 15 feet. This property currently zoned Rural Residential (RR).

Patricia Henry, owner, stated that at the last meeting they were asked to make some changes to their plans and with that in mind she cut down the size of the original request. The size of the structure will be 20x56x14 bringing the total square footage to 1485 sq. ft. eliminating the need for the variance related to the total area of accessory structures because it will fall under the 1,500 sq. foot maximum; however, they will be keeping the small shed on the premises.

The applicant provided a topographical map to the Board as requested at the last meeting and it shows they are only a couple feet above flood stage; but they are not in a flood zone. They are unable to move the structure further to the south because of the leach field.

**Public Comment:**

Dorothy Shultz, 66 Hill Road, supports the application. She doesn't understand the concerns of their joint neighbor that sent in a letter and was read at the last meeting.

**Public Hearing: Closed**

Tim Thomas reiterated the benefit to the applicant to have 14' sidewalls serves two purposes 1) the need for a 12' overhead door with a 2' clearance; sliding doors will not be functional in this situation and to access the loft area, plus the size of the RV.

A **Motion** was made by Tim Thomas to **approve** the application of Craig and Patricia Henry, owners, for two area variances at 56 Hill Road to construct a 1,421 sq. ft. pole barn, which includes a 200 sq. ft. loft area, with a wall height of 14 feet, 7.5 feet from the side property line. This property currently has a 145 sq. ft. accessory building which would bring the total sq. ft. of accessory structures on the property to 1,566 sq. ft. They are requesting relief from 1) Town Zoning Article V, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet, 2) Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet and 3) Town Zoning Schedule 1 which states that the side setback for an accessory structure shall be 10% of the lot width which, in this case, is 15 feet. This property currently zoned Rural Residential (RR).

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. The location for the pole barn is the best possible location on this lot due to the septic area and absorption area; any building is required to be 10 ft. away from that area. The applicant provided a topographical map demonstrating they are 2 ft. above the Flood Zone but not actually in it. Due to the construction nature sliding doors would not be appropriate or functional; the overhead door does require the additional height for the loft area and for the RV.
- There will be no undesirable change in neighborhood character or to nearby properties. This accessory structure is located behind the residential home and is somewhat obscured from the neighbors by vegetation and trees.
- The request is somewhat substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is somewhat self-created. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

The applicant provided the Board with a very detailed lay out of the items that will be stored in this accessory structure. They were able to remove one of the variances that they originally asked for relative to the total sq. footage of accessory structures.

Dr. Snyder feels there is a need, the layout looked great and it is the most appropriate place but he is concerned with how close this will be to the neighbor's property line and if they will encroach on his property to maintain and do repairs on the building and felt that with the height of the sidewalls it will be impossible to do. He does not want to set a precedent with this. Tim Thomas felt that after reviewing the information there is no opportunity to move this further to the south. If the applicant were to make the structure narrower the functionality would be diminished.

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

The Board took a recess at 7:30 to allow Dr. Snyder to take his seat on the Board.

### **NEW BUSINESS**

#### **2. JOSEPH MAURO – 25 WINDING COUNTRY LANE**

The application of Joseph Mauro, owner, for an area variance at 25 Winding Country Lane. The applicant is proposing to construct a 16'x20' addition to the north side of the garage with a front setback of 57 ft. and is requesting relief from Town Zoning, schedule 1 which states that the front setback from a town road is to be 60 feet. This property is currently zoned Medium Density Residential (MD).

Joseph Mauro, owner explained that he would like to put the addition on to allow for storage of his antique and classic cars. Dennis Scibetta stated this would be relief from the front setback only. The relief is for 3 feet.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required. There were no letters in the file. Dennis Scibetta stated the applicant is requesting this addition versus an oversized accessory structure.

Chairperson Robillard asked if that includes storage of the RV. The applicant stated no. Tim Thomas stated that due to the orientation of the house visually to the passerby it looks like the existing garage is sticking out further than the addition.

**Public Comment:** None

**Public Hearing:** Closed

Dr. Snyder noted that this request is not for the size, which is completely within code. Visually this will not look like it is any closer to the road. The 3 ft. is insignificant and this application is completely appropriate.

A **Motion** was made by Tim Thomas to **approve** the application of Joseph Mauro, owner, for an area variance at 25 Winding Country Lane to construct a 16'x20' addition to the north side of the garage with a front setback of 57 ft. and is requesting relief from Town Zoning, Schedule 1 which states that the front setback from a town road is to be 60 feet. This property is currently zoned Medium Density Residential (MD).

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. This will look like a natural extension to the garage and will allow the applicant to store his antique

and classic cars which from a neighborhood perspective it would be better that they be stored inside versus outside.

- There will be no undesirable change in neighborhood character or to nearby properties. The way the house sits on the lot the existing garage will look closer to the main road, using dimensions the addition will actually be closer. People passing by will not notice a difference in this case.
- The request is not substantial.
- 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 Dean Snyder. Motion carried to approve (5-0) (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

### **3. NANCY KREWER – 212 BURRITT ROAD**

The application of Nancy Krewer, owner, for an area variance and a Special Permit for an accessory apartment at 212 Burritt Road. The applicant is proposing to construct an 860 sq. ft. accessory apartment at the rear of the existing home and is requesting relief from Town Zoning, Article 9, subsection 165-76.D which limits the apartment to no more than 35% of the existing home's floor area which, in this case, would be 641 square feet. An accessory apartment is allowed with a Special Permit. This property is currently zoned Rural Residential (RR).

Larry Fenity, Fenity Associates, explained that he represents the owner and that they are looking to build an addition onto the current house for an in-law apartment. Ms. Krewer and her late husband built the house and she would like to be able to stay in Parma and in the house. Her son will be moving into the main house to help maintain the 6 acre lot and she would like to move into the addition. They are looking to add 860 sq. feet instead of the allowed 641 sq. feet to accommodate an exterior entrance and entrance into the house. The total square footage of the house would be 2700. The addition would be behind the house and only the 2 adjacent neighbors would be able to see it. When Ms. Krewer talked to them they had no issue with this. The addition will look like it was built with the house.

Dennis Scibetta asked if he counted the sunroom into the square footage of the house. Mr. Fenity said he did not. The sun room is enclosed but not heated therefore it is not considered habitable space. Because of the glass windows it would not meet the energy code to heat it. Dan Melville asked how they would turn this back into a single family dwelling when this use ceases. Mr. Fenity explained that it would be very easy to turn this back into a single family home by adding a hallway from the addition to the main house with unhindered access either through the garage or through the sun room. It could then be used as a first floor master suite. This could not be listed as a multiple family residence.

Dr. Snyder asked if the applicant had done anything to try and lessen the variance by 219 ft, maybe shortening the length of the addition. He doesn't believe the Board has ever approved a variation to this portion of the code (Town Zoning Article 9, subsection 165-76.D). If this was

allowed how would the Board deny someone else in the future. The argument of needing it bigger because you are used to having a bigger house is not a good reason. He is concerned with setting a precedent with this.

Mr. Fenity said they could remove 7 ft. but it would lose the functionality of it. He felt that the house is small and is not sure why the addition size is an issue. He would like the Board to keep in mind this addition would have handicap accessible doors and entrance ways. He didn't feel 7 ft. is a detriment to the Town or the neighbors.

Dr. Snyder said there might be an opportunity to modify the existing structure and then build a 641 sq. foot addition to meet the code. There was discussion about other options available including making the sun room habitable space, using part of the garage or mechanical/laundry room and then making a smaller addition. Chairperson Robillard felt there are some alternatives that can be explored to achieve the benefit. Tim Thomas felt that this is an example of the code that has not kept pace with the times; the Board has to live with the code as it is now. He feels this part of the code should be looked at.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required. There were no letters in the file.

Dr. Snyder would like the applicant to take some of the information that was discussed and look at ways to achieve this without creating a variance to this part of the code. He would not be comfortable with that. The options discussed would get them closer to where they need to be. Stephen Shelley said just quickly running numbers they could almost cut the request in half. Mr. Scibetta stated it seems that the applicant is not in a rush. The applicant stated she would like it done this summer.

**Public Comment:**

Nancy Krewer, owner, stated that she would like to stay in the house; her son would like to buy it. If she is unable to put in an in-law apartment she will have to sell it. She is not sure how much smaller she can go for space but she is willing to look at other options.

**Public Hearing:** Closed

Mr. Fenity feels there might have to be a small variance of some sort in terms of square footage. He also felt that the Town should consider revising the code. Dr. Snyder stated that the options the applicant could look at would be to increase the size of the primary structure by approximately 660 sq. ft. so there would be no need for a variance. This would give the applicant an opportunity to show the Board how they would accommodate the part of the code regulating non-hindered access after the need for the in-law apartment is no longer necessary.

Or through redesign they could minimize the amount over the minimal size. He is reluctant to give a number on that but the variance should be as small as possible.

A **Motion** was made by Tim Thomas to **table** the application of Nancy Krewer, owner, for an area variance and a Special Permit for an accessory apartment at 212 Burritt Road to construct an 860 sq. ft. accessory apartment at the rear of the existing home to the June 2019 Zoning Board meeting without prejudice to afford the applicant time to redesign the accessory apartment to either reduce/eliminate the need for the variance or to look at increasing the square footage of the primary residence by 660 sq. ft. that would also incorporate un-hindered access to the apartment.

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

### **MINUTES OF APRIL 18, 2019**

The ZBOA minutes of April 18, 2019 were reviewed. **Motion** was made by Dan Melville to approve the April 18, 2019 minutes as amended. Seconded by Stephen Shelley.

**Motion carried to approve** (5-0) (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

### **OTHER INFORMATION**

Dennis Scibetta provided a letter that was given to him by the Supervisor from a resident on Peck Road and also a copy of a letter that the Supervisor sent back in response to the resident. Supervisor Barton wanted Mr. Scibetta to bring this to the Zoning Board for an opinion from them and Mr. Scibetta was hoping the Board could shed some light on this to him because he has never had a complaint from the resident or a meeting with the resident before this letter was sent to Supervisor Barton. He was able to locate a similar letter sent to the Supervisor in 2014 before he worked here. The Zoning Board did not understand why they were being asked to respond. The complaint seems to surround the business not the buildings on the property which would be what the Zoning Board approved. After further discussion the Board reviewed the information briefly and found no inconsistency with the Zoning Board's rulings.

### **ADJOURNMENT**

There being no further business, a **Motion** was made by Tim Thomas, seconded by Stephen Shelley to adjourn the meeting at 9:05 p.m. **Motion carried to approve** (5-0) (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Respectfully submitted,

Carrie Fracassi  
Recording Secretary

