

**TOWN OF PARMA
ZONING BOARD OF APPEALS
February 9, 2006**

Members Present: Frank Lucisano
Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas

Others Present: Jack Barton, Patrick Buskey (alternate), Peter Rodgers (Town Attorney)

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board and that a quorum of three is required to pass a motion. Chairperson Robillard noted that hearing aid devices are not available in the meeting room tonight.

PUBLIC HEARINGS

1. MARI PROPERTIES, LLC – 4675 RIDGE ROAD WEST

Application was received from Mari Properties, LLC, as owners, for area variances at 4675 Ridge Road West. Applicants are proposing to construct a 40 feet by 240 feet commercial storage building which will be located in front of the existing motel units at 4671 Ridge Road West. The proposed structure will have a front setback of 55 feet from the road right-of-way and a rear setback of 10 feet on a parcel with a lot depth of 105 feet. This property is currently zoned General Commercial (GC) which requires a 100 feet front setback, a 30 feet rear setback, and a minimum lot depth of 200 feet. This purpose of this public hearing is to consider reasonable conditions that may be attached to this area variance.

Chairperson Robillard recalled preliminary discussion at the January ZBOA meeting, when this application was deferred to allow for notification to the public for consideration of reasonable conditions, as per the Appellate Court's decision.

Public Comment:

Rick Lemcke – Town of Parma Supervisor: Stated the Town Board researched some issues regarding this application, in consideration of the health, safety and welfare to the community, as follows:

- **Fire safety:** He provided a report from the acting Assistant Fire Chief for the North Greece Fire District, Tom Grace, who could not attend this meeting on such short notice. He reviewed the list of concerns, as follows:
 - ✓ **Fire safety lanes.** After reviewing the proposed plans, it appears that there is not enough adequate area for the passage of fire equipment or EMS equipment to get through the fire safety lanes. He wanted assurance that any proposed fire safety lanes meet the minimum required specifications.
 - ✓ **Fire equipment staging area.** There needs to be an area with approximately 20 to 25 feet of width for staging the quint fire truck.
 - ✓ **Fire hydrant.** Referring to the map provided, he noted that the fire hydrants for this proposed property are more than 500 feet away. If the hydrant was used west of Pease Road, it would require the closing of Ridge Road. North Greece Fire District proposes that all new construction have a hydrant within 500 feet of its location.
 - ✓ **Fire districts.** The property falls between the fire district boundaries for the Spencerport Fire Department and the North Greece Fire Department. They have

reached an agreement, where North Greece responds to all fire and EMS calls with mutual aide assistance from Spencerport.

- ✓ **Incident report.** A report provided by the North Greece Fire District shows calls to this property from 2003 to 2005. The emergency medical service responses are the number one reason that they have reported to this address.
 - ✓ **Miscellaneous.** He stated it would be the responsibility of the Building Department and the Planning Board to assure that all building codes and latest fire code specifications are met during the approval process and construction. The North Greece Fire Department depends on the Town of Parma Fire Marshal to represent their best interests during this process.
- **Security:** Mr. Lemcke provided a report from the Office of the Monroe County Sheriff. He noted that Captain Bergmann is new to the Sheriff's Department and did not feel comfortable or able to testify tonight. Captain Bergmann's report lists all the occurrences for the property at 4671 West Ridge Road, which total 102, with 47 occurrences in 2005.

Jack Barton referred to the fire equipment access issue, which he felt needs to be addressed. He stated that the Town Code requires a 35 feet wide fire lane and the Fire Code of New York State requires a 20 feet wide fire lane. He stated that the Town of Parma fire marshal was unable to attend this meeting, as he is home recuperating from surgery. He noted that additional variances for this project may be required from the Town of Parma. In addition, New York State variances may be required. Jack referred to the site plan, noting that the parking spaces along Ridge Road West must have a 20 or 25 feet minimum setback. He noted that the site map does not indicate this requirement. Dean Snyder pointed out a fire hydrant on the site map that looked closer than the Pease Road hydrant. He felt this should be looked at.

John Lodge – 4670 Ridge Road West: Stated that he owns the Friendly Motel business across the street. He recalled his opposition during the hearing for the original application in June of 2004. He expressed concern with fire safety. He noted that when this storage building is completed, that visibility of the motel from Ridge Road will be completely blocked. He noted that there will be a reduced site line from the motel office. He expressed concern that motel patrons parking will block the fire lane between the storage units and the motel. He asked how this would be prevented. He did not see how the motel business and storage units are complementary businesses. He felt the presence of the storage units will destroy the motel business. He expressed concern that the police will not be able to see anything that is going on at the motel with the view completely obstructed by the storage units. He felt that the motel units on the west side should be removed, which would prevent the two businesses from interfering with each other.

Mindy Zoghlin, attorney representing Mari Properties, recalled the Supreme Court's decision that the Zoning Board consider reasonable conditions. She felt that a suggestion to tear down part of Kirby's motel was not a reasonable condition. She referred to the site map, noting that a fire lane of 20 to 25 feet is required. She noted that there are 54 feet from the north edge of the motel line to the south edge of the proposed storage units. She subtracted 5 feet for the concrete side walk, there is 19 feet for parking space in front of the motel and another 20 feet for parking to the north, and a 10 feet setback between the Kirby-Mari buildings. This provides 30 feet for a fire lane. She felt this was more than enough room for a fire lane. Mrs. Zoghlin pointed out that the storage units will be constructed of concrete and metal, with no electrical outlets. There is nothing to burn. She referred to the North Greece Fire Department report for 2003 to 2005, which documented no fires at Kirby's motel, only medical emergencies. She noted the aisles between the storage units located south of Kirby's motel are 20 feet, which is smaller than what is proposed. This has not posed any type of problem. She restated her opinion that there is plenty of room in between the buildings for

equipment; therefore, she felt that there was no reason to put any conditions on this area variance.

Richard Gollel – 630 East Avenue: Stated he owns both properties, noting it is very common for two businesses that are next to each other to share a common ingress and egress. He cited several examples.

Tim Thomas questioned if we can legally consider the property owned by the motel in the equation for determining the fire lane or would an easement be required.

Randy LaDue – Stated that North Greece Fire Department actually requires a 25 feet wide fire lane.

John Lodge: Expressed concern that patrons of the motel will not park where they are supposed to and would block the fire lane, creating a safety hazard. He stated his opinion that the motel business will suffer if there is no site line.

Peter Rodgers asked Mr. Lodge if he has observed large vehicles parked in front of Kirby's. John replied he has observed a lot of large construction vehicles and tractor trailers parked in front of the motel. Mindy Zoghlin stated that people parking illegally is not a variance issue. Mr. Gollel added that he would be willing to put up a sign indicating no truck parking.

Patrick Buskey – alternate Zoning Board member: Asked where the access is for the storage units. Mr. Gollel responded that access to the storage units is from both sides, with mirror image units facing south and north.

Chairperson Robillard questioned the Kirby's motel structure in terms of fire resistance. Mr. Gollel replied that it is a wood structure and he didn't know if there were fire walls. Mr. Rodgers referred to the Supreme Court record which described the motel as a 44 room, low end, budget motel built in 1950.

John Lodge: Stated he felt the way the motel was constructed, a fire could spread quickly. He questioned what type of materials will be stored in the unit and if they could possibly include gasoline or other flammable materials.

Tim Thomas questioned Mr. Gollel if he was concerned about break-ins in the storage units, with much of it hidden from the road. Mr. Gollel responded that the storage units to the south of the motel were completely hidden from the road and he has not had any problem with break-ins. Mr. Rodgers questioned if concern has been expressed by the Sheriff's department for this public safety issue. Mr. Gollel stated that many hotel/motel business have blocked views. Mrs. Zoghlin noted that the existing climate-controlled storage building already blocks some of the motel units and there are no documented problems with crime as a result of people not being able to see the eastern portion of the motel. Dean Snyder noted that the view of the units as you drive by on Ridge Road is seen as you approach the climate control building from each direction. He noted that when the new storage units are constructed, only a 20 feet section of the motel will be seen. Mr. Gollel reported that there will be an on-site manager 24 hours a day, 7 days a week. Mrs. Zoghlin noted that the police could drive into the parking lot to check on the motel. John Lodge stated that police do regularly check on the property.

Jack Barton referred to the parking spaces along Ridge Road. Mrs. Zoghlin stated that the front parking spaces are banked; that is, they are on the site plan but will not be provided unless needed in the future.

Chairperson Robillard asked if lighting has been considered. Mrs. Zoghlin replied that this is a planning board issue not a zoning board issue.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order. At the time of the original application, the request was returned by Monroe County as a local matter and the action was determined to be a Type II SEQR with no further action required.

Mr. Rodgers stated that Mr. Gollel's suggestion for a shared ingress and egress between the motel and the storage units could be obtained by an easement. He questioned that with the Town code requiring a 35 feet wide fire lane, would we be meeting the requirement of the Town law if a portion of the fire lane were in an easement. He questioned the turning radius issue for fire equipment. Mrs. Zoghlin responded that the North Greece Fire District report did not address this as an issue. Jack Barton estimated that a minimum of 100 feet curb to curb would be required to provide a turn around for fire equipment. Mr. Gollel noted that the fire equipment could pull in or out the east entrance and in or out of the west entrance, which would eliminate the need for a turn around. Dean Snyder questioned if the fire equipment could use the east side entrance with cars parked there. He stated he would like to see a written response from the fire department on whether the fire lane is large enough to pull in and out without turning.

Chairperson Robillard suggested that a motion be made to table with a list of conditions and questions that need to be considered. Dean Snyder stated that he had concerns with the complete visual blockage of the motel units by the storage units which will require police to drive into the parking lot to check on the motel. He suggested considering moving the storage units 10 feet to the north which would alleviate this situation by providing increased visibility. Mrs. Zoghlin stated that the location of the storage units is not something for the zoning board to consider. The court has already upheld the location. Mr. Rodgers stated they are questioning what reasonable conditions are necessary. He felt the safety and welfare issues are important. Mrs. Zoghlin noted that neither the fire department nor sheriff's department has suggested any conditions.

Jack Barton referred to the parking situation, noting the code requires one parking space for every 1000 square feet of storage. The existing parking for the climate controlled storage building needs to be included with other parking on the property.

Mr. Gollel suggested that all the issues expressed by the Board and the public tonight could be referred to the Planning Board. Mr. Rodgers stated that the Court dictated that the Zoning Board consider any reasonable and necessary condition. The Zoning Board is attempting, in good faith, to do the right thing, not just pass the issue off to the Planning Board. The concerns expressed by the Board are also for the safety and welfare of the motel that will be directly impacted by the Zoning Board conditions.

Following discussion, a **Motion** was made by Dean Snyder to table the application of Mari Properties, LLC, as owners, for area variances at 4675 Ridge Road West until the March 16, 2006 Zoning Board of Appeals meeting. The reason for tabling this proposal is to obtain further information concerning: fire safety and security for the proposed building and for the two affected buildings on the south side.

The questions for fire safety:

- Fire safety lane: do they have to be on the subject property or is an easement appropriate?
- Is there sufficient room to allow fire equipment between the new building and the existing two story front building and existing rental buildings.

The questions for security and visibility:

- How will the proposed building and resultant decreased visibility of the motel units from the road impact security by the sheriff's department personnel for both east and west rental units?
- Request the applicant to provide a drawing showing parking spaces appropriate for the new building.

This motion requests the Town of Parma Building Department research this with both the sheriff and fire departments. This additional information which we seek will allow this Board to consider any reasonable conditions deemed necessary. Seconded by Frank Lucisano. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

2. V. VENTIMIGLIA & SONS, Inc. – 680 WILDER ROAD

Application was received from V. Ventimiglia & Sons, Inc., owner, for an area variance at 680 Wilder Road. Applicant is proposing to construct Twin Home dwellings with a side setback of 33 feet from the external property line and is requesting relief from Town Zoning Article 5, subsection 165-36.E.23 which states, in part, that twin homes shall be set back not less than 50 feet from the external property line for the development. This property is currently zoned Townhouse Residential (TH).

Randy LaDue stated he was representing Mr. Ventimiglia. He recalled that this project was previously approved by the Planning Board. Since that time, the Town rezoned this parcel to Townhouse Residential. They are now proposing to build on eight individual lots instead of four lots. The number of dwelling units is not changing. He stated they are requesting a variance from the 50 feet required from the external property line. There will be 33 feet on each side. Jack Barton recalled one of the concerns was that they proposed four double-wide driveways. Randy explained they have submitted a plan to reduce this. The new proposal asks for two driveways, with two buildings sharing one driveway. He reported they met with the Monroe County DOT and developed this plan which was agreeable to them. He provided a copy of this DOT approval for the file.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order, with the exception of one which was re-sent and not yet verified. 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.

Following discussion, a **Motion** was made by Tim Thomas to approve the application from V. Ventimiglia & Sons, Inc., owner, for an area variance at 680 Wilder Road to construct Twin Home dwellings with a side setback of 33 feet from the external property line and to grant relief from Town Zoning Article 5, subsection 165-36.E.23 which states, in part, that twin homes shall be set back not less than 50 feet from the external property line for the development. This property is currently zoned Townhouse Residential (TH). This approval is made with the condition that the one required notification be verified. In making this determination, the benefit can not be achieved by other means feasible to the applicant. This will not create an undesirable change in the neighborhood character or to nearby properties. The request is substantial in that our code requires a 50 feet set back from the external property line; they are asking for a 33 feet setback. There will be no adverse physical or environmental effects. The difficulty is somewhat self-created in that the zoning did change since his original plans were approved by the Planning Board. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Frank Lucisano. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

3. FRANK SANTONASTASO – 5070 RIDGE ROAD WEST

Application was received from Frank Santonastaso, owner, for an area variance at 5070 Ridge Road West. Applicant is proposing to erect a 3 feet by 10 feet free-standing sign with a front setback of zero feet from the road right-of-way and is requesting relief from Town Zoning Article 14, subsection 165-111.D. which states that all freestanding signs shall be set back a minimum of 15 feet from all property lines. This property is currently zoned Highway Commercial (HC).

Frank stated his proposal to erect a 3 feet x 10 feet free-standing sign to advertise his business. He explained that he is requesting a “0” foot setback because they are only 24 feet back from the roadside. He noted there is an existing pole that had a hanging sign on it. He will use this pole, which sits back 16 feet and add another post to the south. The actual setback is 3 to 4 feet from the lot line. Lighting for the sign will be internal. He noted the reason for the sign is to allow motorists to see his sign on Ridge Road West, which curves in this area, making visibility of a sign, placed according to zoning requirements, very poor.

Public Comment: None. The public hearing was closed.

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

Following discussion, a **Motion** was made by Frank Lucisano to approve the application from Frank Santonastaso, owner, for an area variance at 5070 Ridge Road West to erect a 3 feet by 10 feet free-standing sign with a front setback of zero feet from the road right-of-way and to grant relief from Town Zoning Article 14, subsection 165-111.D. which states that all freestanding signs shall be set back a minimum of 15 feet from all property lines. This property is currently zoned Highway Commercial (HC). In making this determination, I believe that the benefit can not be achieved by other means feasible to the applicant. This property is located on a curve and a sign placed within zoning requirements could not be seen from the road. There will be no undesirable change in the neighborhood character or nearby properties. The request is substantial, however, the applicant needs a sign closer to the road to increase visibility. There will be no adverse physical or environmental effects. The alleged difficulty is self-created, however, 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: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

SPECIAL PERMIT RENEWAL

4. CRAIG BRYCE – 645 MANITOU ROAD

Application was received from Craig Bryce, 645 Manitou Road, for renewal of a special permit allowing outside storage of no more than eight (8) pieces of construction equipment.

Chairperson Robillard recalled that this special permit renewal was tabled at the January meeting with a request for an additional inspection by the ZEOs to clarify and provide a specific list of construction equipment stored outside. Jack Barton read an inspection report from Art Fritz, ZEO, performed on February 6, 2006. He stated there were 7 pieces of construction equipment on the property, including a large shovel that will be removed for scrap. Jack reported no complaints on file.

A **Motion** was made by Frank Lucisano to approve the renewal of a special permit requested by Craig Bryce to allow outside storage of construction equipment at 645 Manitou Road with the following original conditions:

- No more than 8 pieces of construction equipment stored outside.
- No outside storage of junk, trash, or dismantled vehicles.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Saturday; 12 Noon to 5:00 pm Sunday.
- No sales of any kind.
- For a period of one year, renewable in January, 2007.

This renewal contingent upon inspection by the fire marshal and compliance to all conditions. Seconded by Dean Snyder. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

5. **KEN SIKORSKI – 96 DUNBAR ROAD**

Application was received from Ken Sikorski, 96 Dunbar Road, for renewal of his Special Permit allowing the sales, service, and repair of legal firearms, golf clubs, snow skis, and related items.

Jack Barton reported no complaints were on file and a recent inspection by the ZEO reported this permit was in compliance.

Following discussion, a **Motion** was made by Tim Thomas to renew the Special Permit for Ken Sikorski to allow the sales, service and repair of firearms, golf clubs, snow skis, and related items at 96 Dunbar Road with the following conditions:

- The operation be located exclusively to the rear storage building.
- Hours of operation, Monday through Friday, 6:00 pm to 9:00 pm; Saturday, 8:00 am to 9:00 pm by appointment only.
- No on-street parking.
- Signage to comply with zoning regulations.
- Upon Fire Marshal and Zoning Enforcement Officer inspection and approval of property.
- Based on packet of information presented at the original application hearing on 2/16/95.
- To be renewed in three years, February 2009.

Seconded by Frank Lucisano. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

6. **THERESA TROYER – 899 PECK ROAD**

Application was received from Theresa Troyer for renewal of a special permit to board up to 8 horses at 899 Peck Road.

Jack Barton reported no complaints on file. He read a recent inspection report by the ZEO stating this permit was in compliance, with no safety violations.

Following discussion, a **Motion** was made by Dean Snyder that the application of Theresa Troyer for a special permit at 899 Peck Road to board up to 8 horses be approved with the following stipulations:

1. A minimum of four parking spaces to be provided in front of the barn as close to the barn as possible and away from the road. These spaces are to be accessible and plowed free from snow.
2. Hours of operation: winter 8 am to 8 pm; summer 8 am to 9:30 pm, 7 days a week.

3. No outdoor storage of animal waste. Accumulation of manure will not exceed the standard set forth in ordinance 165-57.
4. Any additional lighting shall not shine over the property line.
5. No outdoor storage of feed.
6. No deceased animals buried on the property.
7. No dumpster permitted.
8. Any signage in accordance with Town ordinance and permits.
9. Subject to Fire Marshal inspection and approval.
10. Permit to be renewed February 2008, for a period of two years.

Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

7. THERESA TROYER – 893 PECK ROAD

Application was received from Theresa Troyer, 893 Peck Road, for renewal of a special permit to allow public boarding of up to 6 horses on the premises. This property contains 11.6 acres and is located in a rural residential zone.

Jack Barton reported no complaints on file. He read a report from a recent inspection by the ZEO which stated this permit is in compliance, with no safety violations.

Following discussion, a **Motion** was made by Dean Snyder to approve the renewal of a special permit to allow Theresa Troyer to board up to 6 horses at 893 Peck Road with the following conditions:

1. Hours of operation to be 7 am to 9:30 pm in the summer, and 8 am to 6:30 pm in the wintertime.
2. No on-street parking.
3. Town of Parma Fire Marshal be notified for appropriate action.
4. To be renewed February 2008, for a period of two years.

Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

8. JOHN AND CAROL VELTRE – 120 DUNBAR ROAD

Application was received from John and Carol Veltre, owners, for a special permit to construct an in-law accessory apartment at 120 Dunbar Road. Applicants are proposing to construct a 654 square feet addition to the rear of their existing home. This property is currently zoned Medium Density Residential (MD) which allows this use with a Special Permit.

Jack Barton stated there were no complaints on file. He read a recent fire safety inspection report that stated this permit was in compliance.

A **Motion** was made by Dean Snyder to approve the renewal of a special permit for John and Carol Veltre, owners, for a special permit to allow an in-law accessory apartment at 120 Dunbar Road to be compliant with zoning ordinance 165.76. This Special Permit is for two years, to be renewed in February of 2008. Seconded by Tim Thomas. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

MINUTES OF JANUARY 19, 2006

The following changes were made to the minutes: page 4, Para 1, line 10, add “areas that have been...”; page 5, Para 2, change to “Risa Juergens.” A **Motion** was made by Frank Lucisano to approve the January 19, 2006 minutes with the recommended changes. Seconded by Stephen Shelley, **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

OTHER BUSINESS

Jack Barton opened discussion on the following items:

Interpretation of determining a front setback on a flag lot. Following discussion, it was the consensus of the Board to measure from the flag part of the lot, not the right-of-way.

Interpretation of Ordinance 165.50.3 and Schedule 1. Jack Barton noted that these two codes contradict each other in describing the setback requirements for a building that is not used to house animals, just vegetable plants or hay. Dean Snyder stated he felt it is up to the Building Department to choose the interpretation as it applies to each individual situation. If the Building Department is unsure, then they can refer the decision to the Zoning Board. The other Board members were in agreement with this.

ADJOURNMENT

There being no further business, a **Motion** was made by Frank Lucisano, seconded by Tim Thomas, to adjourn the meeting at 10:06 pm. **Motion Unanimously Carried (5-0)** (Ayes: Frank Lucisano, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary