

**TOWN OF PARMA
ZONING BOARD OF APPEALS
AUGUST 20, 2009**

Members Present: Tina Brown
Veronica Robillard
Dean Snyder
Tim Thomas
Jim Zollweg (alternate)

Members Excused: Stephen Shelley

Others Present: Art Fritz

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 noted that this is a five-member board and a quorum of three is required to pass a motion.

Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. WAYNE NEWMAN – 134 COLLAMER ROAD

Application of Wayne Newman, owner, for expansion of a non-conforming use at 134 Collamer Road. The applicant has renovated the second floor of an existing garage and converted it to living space. Town Zoning Article 12, subsection 165-91 states, in part, that the expansion of a non-conforming use or structure shall be subject to approval by the Zoning Board of Appeals. Applicant is also applying for the following variances: (1) relief from Article 5, subsection 165-33-E.2a, which requires a minimum living area of 1,200 square feet. The existing second floor is 1,036 square feet. (2) relief from Town Zoning schedule 1 which requires a ten feet side setback from property lines. The structure is 2.8 feet from the southerly property line and 1.8 feet from an easterly property line. and (3) applicant is proposing to rebuild the rear portion of the barn on the property which will increase the storage area on this property by 1,281 square feet, bringing the total storage area to 2,900 square feet and is requesting relief from Town Zoning Article 5, subsection 165-33.C.2, which limits the area of accessory buildings to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Chairperson Robillard recalled that this application was tabled until the August 20, 2009 ZBOA meeting, without prejudice, in order to allow the applicant an opportunity to provide proof of continuous occupancy since 1940.

Wayne stated he doesn't have any new information to document continuous occupancy since 1940. Wayne stated that a former owner of the property recalled this has been a residence since 1900. There has been a 3 car garage on the bottom and an apartment on top since 1946. The original property was 126 Collamer Road and the 50 acre parcel at 134 Collamer Road was divided off in 1902. He stated he couldn't obtain any utility records. Chairperson Robillard read the definition of "abandonment," noting the Board has not received any evidence of continuous occupancy.

Public Comment:

A notarized letter dated August 20, 2009 from Dale Platt – 141 Collamer Road was read. He stated Mr. Newman has not abandoned the property since 1994 when he purchased the property. He has continuously improved the property and he is looking forward to the future improvements. He stated he has no objection to Wayne living there.

Chairperson Robillard asked Wayne how long he has lived at this property. Wayne responded he has sometimes lives there full time in this 3 bedroom apartment that has a kitchen, bathroom and bedroom. He noted that he bought this property with a cash deal, and did not use a realtor. Wayne provided a history of his living on the property. He recalled that he took down the barn but never rebuilt it. He stated he has always lived there since 1994 but cannot obtain any utilities receipts, such as RG&E and telephone. He provided a statement from RG&E when he had a new meter installed in 1997. Chairperson Robillard asked if he obtained the electric and utility bills during the time he has lived there. Wayne replied that he could not obtain these. Chairperson Robillard asked if he could prove he has been a resident since 1994. He stated “yes.” Dean Snyder explained that it is the duty of the zoning board to have some documented proof that during the period of time 1940 to the present he was a resident with no breaks up to 12 months. We have no authority to approve this unless evidence is provided. He stated they are looking for a listing of proof of occupancy from 1940 to the present time. Dean Snyder suggested that we table this application once again and suggested that the applicant obtain an attorney to help him in providing the evidence required. Tim Thomas asked the applicant what the impact would be if this were not approved. Art Fritz explained the he would have to vacate the premises almost immediately if this variance was not approved. Wayne stated he knows this was a residence but has no way of proving this. Chairperson Robillard noted that Mr. Newman has not proven even since 1994. The applicant requested to table this application again. Chairperson Robillard asked if he would be ready in October. Tim Thomas suggested that Mr. Newman hire an attorney to look at the building code issues also.

Public Comment:

Chairperson Robillard read a letter from:

Peter and Carol Urgola – 146 Collamer Road: Stated they were not opposed but had concerns. The garage and barn still are an eyesore. They questioned if he planned to expand the storage facilities and expressed concern that the storage will be used for commercial use. If the garage becomes living space, will it be used for personal use or be available as rental. Although not a major issue, we believe the quoted distances of the garage from the property line are incorrect.

The public hearing was closed.

A **Motion** was made by Dean Snyder to table the application of Wayne Newman, owner, for expansion of a non-conforming use at 134 Collamer Road, without prejudice, to the October, 2009 ZBOA meeting. Seconded by Jim Zollweg. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

2. JOSEPH AND BARBARA RYAN – 436 PECK ROAD

Application of Joseph and Barbara Ryan, owners, for an area variance at 436 Peck Road. A pool deck has been constructed with a side setback of five feet from the easterly property line and the applicants are requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Agricultural/Conservation (AC).

Chairperson Robillard recalled that this application was tabled to allow the applicants additional time to explore feasible modifications to the deck to try to bring it closer to compliance with zoning code or to justify why this is the only possible placement.

Dale Fletcher explained that he re-measured the deck and they have decided that they cannot afford to move it. They stated their opinion that there are no other alternatives. Dale stated the deck is screwed together. He noted that he did not work with the building department to try to work something out. Art Fritz recalled some structural issues, such as hand rails that need to be addressed. Jeanette Fletcher stated that they can't remove just part of the deck. The entire thing has to be removed and replaced. Tim Thomas stated that during his re-inspection, he felt there were other alternatives to the current placement, such as the north side and west side which are both possible alternatives. Jeanette stated they placed the pool where it is because this allows room for a swing set. Tim Thomas noted that the depth of the deck could also be reduced easily, which would involve setting new support posts. Dean Snyder noted that wrapping the deck around the back would provide full view of the pool and accommodate the table and changes they wanted to have on the deck.

Public Comment:

Barbara Ryan – 276 North Avenue: She stated the neighbors on each side do not object. The Fletcher's should be able to leave the deck where it is, as they cannot afford to move it.

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. Art Fritz reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to deny the application of Joseph and Barbara Ryan, owners, for an area variance at 436 Peck Road. A pool deck has been constructed with a side setback of five feet from the easterly property line and this denies relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Agricultural/Conservation (AC). In making the determination to deny, I believe the benefit can be achieved by other means feasible to the applicant. It was pointed out that the alternative plan that was suggested was not investigated by the applicant and other alternatives were not explored. There would be an undesirable change in neighborhood character and to nearby properties. A 5' side setback for the pool deck would result in visual obstruction. The request is absolutely substantial. This is a 50% variance from the required setback. There will be no adverse physical or environmental effects. The difficulty is certainly self-created. The Motion from the July ZBOA meeting clearly stated other alternatives were to be investigated and this was basically ignored. There is an opportunity for the applicants to move and rebuild this deck. Using the balancing test, the benefit to the applicant does not outweigh the detriment to the health, safety and welfare of the community. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

Chairperson Robillard polled the board for the reasons to deny:

Tim Thomas: Stated his motion speaks for his reasons.

Jim Zollweg: Upon inspection other potential ways to achieve the benefit and needs have been presented.

Tina Brown: Using the balancing test, there are other means feasible. This is a self-created difficulty.

Dean Snyder: The applicant did not fully examine other options. The benefits could be achieved by other feasible means.

Veronica Robillard: The applicant was given an invitation to look at other feasible alternatives to come into compliance to satisfy the utilization of the deck. Other options are available to the applicant.

3. MARK EVANS – 5461 RIDGE ROAD WEST

Application of Mark Evans, as applicant, for a modification of an existing use variance for property located at 5461 Ridge Road West. Applicant is requesting that the existing use variance, which allows the tenant to operate a “custom and specialty motor vehicle paint and repair shop” be modified to allow an auto body repair shop. Applicant is requesting relief from Town Zoning Article 165-39 which does not allow auto repair as a permitted use. Property is currently zoned General Commercial (GC).

Chairperson Robillard recalled the motion made to table the application of Mark Evans, as applicant, for a modification of an existing use variance for property located at 5461 Ridge Road West, without prejudice, until the September 17, ZBOA meeting.

NEW PUBLIC HEARINGS

4. SERGEY SVARISHCHUK – 522 BURRITT ROAD

Application of Sergey Svarishchuk, owner of 522 Burritt Road, for relief from Town Zoning Article 10, subsection 165-82.0 which states in part that no commercial vehicle with a load capacity of more than two tons shall be parked out of doors overnight or on Sunday in a residential district. Applicant parks a tractor trailer cab in the driveway. This property is currently zoned Rural Residential (RR).

Ron Wadkins stated he is a neighbor, living at 526 Burritt Road. He explained that Mr. Svarishchuk is an independent driver and owns his own tractor trailer cab. This is how he supports his family. He stated Mr. Svarishchuk is on the road 5-6 days a week. When the tractor trailer cab is parked in the driveway, it doesn't impact the neighbors visually. He stated he has lived at this address for 3 ½ years and they have no problem with the cab being parked there. In answer to a question, Sergey stated his tractor trailer cab's registered capacity is 16,000 pounds and he only parks the cab, not the trailer. He explained that he hauls pods. He stated he is contracted to haul loads when needed. He owns the truck but hauls loads as needed. He works for a company that just has an office, not a parking area for trucks. He stated he drives his loads to New Jersey. He stated he is on the road 3-4 days a week. Mrs. Svarishchuk provided a picture of the property when the truck is parked, noting it was barely visible.

Chairperson Robillard referred to a letter from Art Fritz, ZEO, to the ZBOA members, which lists violations of the zoning ordinance article X, subsection 165-82.), which entails the parking of vehicles with the load capacity of two tons or more which has been an ongoing problem in our residential districts and in some case we have had to take the violators to court for compliance. Art Fritz noted that the code changed in 1998.

Public hearing: Chairperson Robillard read letters from the following neighbors:

Lydia McPhall – 508 Burritt Road: Stated the greenery covers this cab and the cab is very quiet. She felt there should not be a question about the unit parked there. She felt the Town should adjust for the people's needs and most certainly allow this. She noted that Mr. Beehler's dump trucks do more damage to the roads and disturb the neighbors.

Ryan Chiarinza – 518 Burritt Road: Stated he lives next door and has no problem with the tractor trailer cab parked on the property. He noted the cab is gone most of the time and is parked only when he is not on the road.

Ron and Linda Wadkins – 526 Burritt Road: Stated they reside next door. For 3 1/2 years, the cab has been parked there when he is not on the road and there have been no issues. It has never blocked the view of traffic for him. He also noted that Sergey is a very cautious driver. He asked the Board to allow relief.

Valerie Maslowski – 534 Burritt Road: Stated she lives 4 houses west. She has had no problems in the 3 1/2 years he has been driving and parking this tractor trailer cab.

The following neighbors presented at the meeting:

Mark Coleman – 542 Burritt Road: Has no issue with this, especially an independent owner. He referred to other trucks in the area that do cause a problem.

Steven Rieke – 504 Burritt Road: Stated that Sergey is very considerate and the truck is very quiet. He has no issue. He also noted other trucks that are noisy. Sergey's truck does not cause any problems and it is not an eyesore.

Jim Allardice – 301 Burritt Road: He has talked with several neighbors and all agree that the truck is very quiet and you never know it is there. No one has any issue with this.

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.

Dean Snyder questioned if there is a way to approve this situation for Mr. Svarishchuk who has caused no problems. The violations that were pointed out involved individuals who are not as conscientious and asked if there is a way to allow Mr. Svarishchuk to continue parking his truck and not allow those who are not conscientious. Jim Zollweg noted that all the other cases involved a trailer as well, which extends the length of the truck. Mr. Svarishchuk only parks the cab. Chairperson Robillard stated that the code was written to protect the community but this is a unique situation but we need to consider this carefully.

Dean Snyder suggested we table this application for another month to confer with the Town attorney. He noted the applicant can continue to park his truck cab while this is under investigation for attorney clarification and consult from the Town. It was noted that the only other method for the applicant to obtain consideration for approval would be *via* a use variance, which is very complex.

Following discussion, a **Motion** was made by Tim Thomas to table the application of Sergey Svarishchuk, owner, of 522 Burritt Road, without prejudice, to the September ZBOA meeting to give the Town attorney the opportunity to provide guidelines for a way to grant relief where appropriate to protect other Parma residents that may not be affected. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

Chairperson Robillard asked Art Fritz to relay the request to the Town Attorney this issue with background information and that we are trying to do what is best for the applicant and the Parma residents. Art agreed to follow up on this request.

5. DORIS SZALADOS – 8 NORTH SHORE DRIVE

Application of Doris Szalados, owner, for an area variance at 8 North Shore Drive. A new home has been constructed with a side setback from the easterly property line of 9.9 feet and relief is requested from Town Zoning schedule 1 which requires a ten feet side setback. This property is currently zoned Waterfront Residential (WF).

Charlie Lissow stated he is the building contractor for this home which is in violation of zoning code. He explained that this house was started a year ago, which was the last house to be built in this subdivision. The house was staked out for construction but they wanted the house moved and it was re-staked. The instrument survey found an error. The house is complete and to move the foundation would be very expensive. Most of the homes in this subdivision are 10 feet off the lot line, so this is not out of character. The house is just under 5,000 square feet, 6,000 square feet with the finished basement, and it has a 4 car garage.

Dean Snyder pointed out this is a 1% error we are discussing and administrative relief would be appropriate, if it were in place.

Public hearing: 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. Art Fritz reported this is a Type II SEQR with no further action required.

Discussion was held that this is another example where a variance request this small could have been avoided with an administrative policy.

Art Fritz read a letter from Bob Prince who reported on a building inspection on 8/11 on this home. The report stated that the grading has a negative impact on the neighboring properties. This situation needs to be alleviated. The letter described the steps needed to be taken to alleviate these drainage issues. Charlie stated that Bob Prince did another inspection yesterday and the re-grading is being resolved.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Doris Szalados, owner, for an area variance at 8 North Shore Drive. A new home has been constructed with a side setback from the easterly property line of 9.9 feet and this grants relief from Town Zoning schedule 1 which requires a ten feet side setback. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. Moving the foundation wall would be extraordinarily expensive for this 1% error. There will be no undesirable change in the neighborhood character or to nearby properties. This error is only less than 1 1/4", one-tenth of a foot and is undetectable. The request is not substantial. This is less than a 1% variance. There will be no adverse physical or environmental effects. The alleged difficulty is self-created but 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 unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

6. BRUCE AND LYNIER CLARK - 562 BURRITT ROAD

Application of Bruce and Lynier Clark, owners, for an area variance at 562 Burritt Road. Applicants are proposing to construct a pool cabana in the rear yard with a side setback from their westerly property line of seven feet and are requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Rural Residential (RR).

Bruce provided a sketch of the property which indicated the pool and patio area and proposed placement of the cabana. He noted the 6' open seating on the decks. He also provided a photo of the pool area and noted the only flat area is where they proposed to place the cabana. He explained that the location of the cabana would allow a view of the yard and pool; with any other placement, they would be looking at their home. He noted on the photo the line which indicates where the cabana would be placed at the 10 feet allowed setback. He noted the overhang of the cabana was 3 1/2 feet away from the diving board. He noted the wet area in the northeast corner and the 2 foot drop off which prevents placement there. He stated he had the cabana drawn up by an architect. He noted also the swale and sump pump line on the opposite side of the pool. He pointed out the neighbor's view of the cabana is blocked by that neighbor's shed. He stated they did not want to decrease the size of the cabana.

Public Comment: Chairperson Robillard read the following letters from neighbors:

James and Rosemary Grego – 574 Burritt Road: They live 3 houses west and supported this application with a 7 feet set back.

Chester and Kathleen Edsall – 570 Burritt Road: Lives 2 houses to the west. Stated their support of the 7 feet setback.

Kevin Sanger – 566 Burritt Road: Stated he has no reason for not allowing this variance.

The following people were present to speak:

Mark Coleman – 542 Burritt Road: Stated he has no objection.

Kevin Haffen – 558 Burritt Road: Stated he lives next door to the east. He stated that personally he feels the proposed location is the best. He stated that the setback is an issue. He referred to the statement that they do not want the cabana too close to the pool. He agrees that the 7 feet setback is better to allow the cabana to be father away from the pool. He felt it would not look appropriate if the cabana were closer to the pool.

Bruce stated that the proposed location makes the cabana less visible to the neighbors, since the neighbor's shed obscures the view. Moving the shed north or south would create more of a visual impact to the neighbors. The size of the cabana was decided to accommodate 6-8 people. Lyn pointed out that the inside dimensions will be smaller, allowing for wall depth. Dean Snyder asked the applicant if a 9 feet wide cabana would be feasible. Bruce stated that this structure will cost \$20,000 to build and he wants to get the optimum use out of it. It was noted that the cabana could be moved to the south and be further away from the pool and diving board.

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. Art Fritz 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 of Bruce and Lynier Clark, owners, for an area variance at 562 Burritt Road to construct a pool cabana in the rear yard with a side setback from their westerly property line of now 8.5 feet and this grants relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of ten feet. This property is currently zoned Rural Residential (RR). In making the decision to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The Board has looked at other means feasible to the applicant in terms of size, placement and setback of this proposed cabana. I believe that an 8.5 feet setback is a reasonable to accommodate the structure and still allows the applicant to achieve the benefit desired. There will be no undesirable change in neighborhood character or to nearby properties. The structure will add an aesthetic value to the property. The request is substantial, although considering the dialogue of the Board and the applicant, an 8.5 feet setback is adequate. There will be no adverse physical or environmental effects. Although the alleged difficulty is certainly 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 Jim Zollweg. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

A recess was called at 9:24 p.m. The meeting reconvened at 9:30 p.m.

7. MICHAEL MATTIA – 1195 WEST AVENUE

Application of Michael Mattia, owner, for two area variances at 1195 West Avenue. Applicant is proposing to merge this parcel with 1201 West Avenue and the construct a 1,984 square feet accessory storage building in the front yard and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. Applicant is also requesting relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of all permitted accessory structures to 1,500 square feet. The total area of accessory structures for this property is proposed to be 2,085 square feet. This property is currently zoned Rural Residential (RR).

Michael referred to the tape map and the vacant lot next door to the east, stating he owned that property when he bought the house. The property sat vacant until last week when he merged the lots. He owns a total of approximately 4.8 acres. He noted the creek that runs through the property. He explained that he left just enough property behind this building to get a tractor to mow. He reiterated that he cannot go back any more, due to a 20 feet drop off to the creek. He noted the house sits level with the road and there are slopes to the creek. He explained that the house and the structure will be above the flood plain. He stated there are four houses near his home that have accessory buildings larger than the house. He referred to the proposed pole barn. He explained he has a lot of stuff and he doesn't want to store them outside. He listed a 6'8 trailer and 4 wheeler, 5 x 8 BBQ on a trailer, at 27 x 9 feet boat and boat trailer, an enclosed storage trailer, a 6 x 8 feet truck cap, a 8 x 15 feet camper that goes on a truck, and a 10 x 25 feet truck as items that will be stored in this proposed building. He stated he has a two car garage and owns two cars and a truck. He stated that none of these items are for commercial use, only personal use. He stated this building will be attractive and will look like a carriage house. He stated that none of his neighbors are opposed to this. He stated that his home is 1105 square feet and the garage is 440 square feet for a total of 1545 square feet. The entire building will be in front of the house. He stated that a deep swale prevents placement closer to the house. He stated he doesn't want to move to the northeast because he has fruit trees and doesn't want to disturb them. Chairperson

Robillard questioned if it was possible to rotate the building 90 degrees. Michael stated he has a vacant lot with many items stored outside and this creates an eyesore. He is proposing a building that will allow him to remove these eyesores. This building will not be an eyesore. It will be a nice looking building. Chairperson Robillard asked the applicant if he wanted to act on this this evening or table the application to allow him an opportunity to look at the size and location to bring it into compliance. Michael stated that he has been planning this for 20 years. He stated if he cant' have the building the size he wants, he might as well not build it. Jean Mattia noted that even if they reduce the size of the building, they still will have the issue of the building being in the front yard. She reiterated that they have placed it as far back as possible. Jim Zollweg suggested that it might be prudent to consult with an engineer for suggestions. Mike reiterated that because of the creek, the building cannot be moved further back on the property.

Public hearing: 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. Art Fritz reported this is a Type II SEQR with no further action required.

Following discussion, a **Motion** was made by Tim Thomas to table the application of Michael Mattia, owner, for two area variances at 1195 West Avenue to the September, 2009 ZBOA meeting, without prejudice, to enable the applicant time to revisit the size, location and structure and mitigate encroachments in the front yard and to pursue possible alternatives. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

Discussion was held on the omission that the accessory storage use request was not advertised as non-compliant because it is larger than the primary structure.

8. PAUL AND SHERRY DUCHYNS – 304 CURTIS ROAD

Application of Paul and Sherry Duchyns, owners, for an expansion of a non-conforming use at 304 Curtis Road. Applicants are proposing an addition to the home on the property identified as 290 Curtis Road. This property has two homes which is in violation of current zoning codes and is considered a non-conforming use. Town Zoning Article 12, subsection 165-91 states in part that the expansion of a non-conforming use or structure shall be subject to approval by the Zoning Board of Appeals. This property is currently zoned Agricultural/Conservation (AC).

Paul referred to the letter of August 5th stating that they do not want to divide the property. He reported that the planning board, at their August 6th meeting, did not support the application for expansion of a non-conforming use or structure because of the negative impact to existing properties and potential impact to future development. He stated that if this property were subdivided, it would result in an extra tax burden to them. He stated eventually his son will take over the farm. He noted that in 1986, this farm was established. Dean Snyder pointed out that an addition to these non-conforming homes would have no negative impact. Chairperson Robillard asked how long a family member has been living in the farm house. Paul stated that a second home is very common for farms in the past and was used for the farm hands. This is not the case for them. They don't have farm hands. His son is planning to move into this house and work on the farm. Paul stated at the present time, he runs the entire farm.

Public hearing: 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. Art Fritz 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 of Paul and Sherry Duchyns, owners, for an expansion of a non-conforming use at 304 Curtis Road. Applicants are proposing an addition to the home on the property identified as 290 Curtis Road. This property has two homes which is in violation of current zoning codes and is considered a non-conforming use. Town Zoning Article 12, subsection 165-91 states in part that the expansion of a non-conforming use or structure shall be subject to approval by the Zoning Board of Appeals. This property is currently zoned Agricultural/Conservation (AC). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. Requesting the applicant to subdivide this property serves no purpose and would cause undue hardship from a tax perspective. This property has been owned by the same family for 60+ years and this will preserve farm land. There will be no undesirable change in the neighborhood character or to nearby properties. The addition will be in the rear of the home and not visible from the street. The request is not substantial because this is quite a unique circumstance. This is the original homestead of the family on this active farm, and although it is a non-conforming use, this is an exception. There will be no adverse physical or environmental effects. The alleged difficulty is not self-created. The house was built in 1985 which mitigates this. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Tina Brown. **Motion unanimously approved (5-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Stephen Shelley)

MINUTES OF APRIL 16, 2009

Discussion was held on these very lengthy minutes and the numerous recommended changes. There was a consensus to postpone discussion and approval of these minutes until the September ZBOA meeting, to allow the Board members additional time to review the motions made at this meeting.

MINUTES OF JULY 16, 2009

The July 16, 2009 minutes were reviewed and only one "typo" was pointed out. A **Motion** was made by Dean Snyder to approve the July 16, 2009 ZBOA minutes with the recommended changes. Seconded by Tim Thomas. **Motion approved (4-0)** (Ayes: Tina Brown, Veronica Robillard, Dean Snyder, Tim Thomas, Absent: Stephen Shelley; Abstain: Jim Zollweg)

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder, seconded by Tim Thomas, to adjourn the meeting at 10:50 pm.

Respectfully submitted,
Diane Grundon, Recording Secretary