

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
MAY 20, 2010**

**Members Present:** Tina Brown  
Veronica Robillard  
Stephen Shelley  
Dean Snyder  
Jim Zollweg (alternate)

**Members Excused:** Tim Thomas

**Others Present:** Jack Barton, Jim Roose (Board Liaison)

**Public Present:** See attached list

The meeting was called to Order by Chairperson 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. She offered hearing aid devices for anyone who required them.

**TABLED PUBLIC HEARINGS**

**1. TOWN OF PARMA – 1300 HILTON PARMA CORNERS ROAD**

Application of the Town of Parma for area variances at 1300 Hilton Parma Corners Road. Applicant has erected 2 entrance signs that identify park entrances. The signs are 6 feet high and have a setback of 2 feet from the road right-of-way. This applicant is requesting relief from Town Zoning Article 14, subsection 165-111.D which requires that freestanding signs be setback a minimum of 15 feet from all lot lines and 165-113.A.1.a.1 which limits the height of the sign to 4 feet. This property is currently zoned Agricultural Conservation (AC).

Chairperson Robillard recalled that this application was tabled at the April ZBOA meeting to afford the applicant the opportunity to explore alternative locations as discussed at that meeting and provide a justification for the height of the sign. She noted the packet of information received prior to this meeting that included photographs and description of possible alternative options. She noted the photo of the existing sign with the added “museum” sign.

Joseph Petricone, park foreman, noted the current location for the sign, referring to the photographs. He explained that if the north sign were moved, it would be located too close to the “hot box,” preventing servicing of the box. Moving the south sign would put it in the pathway or put it across the roadway. This would block the gateway to the entrance. Also the south entrance location is best for visibility given the close proximity of the neighbor’s driveway. If the north sign were moved, the visibility would be hindered, considering the multiple vehicles going in and out. Joe provided a photo that gave a visual rendition of what he just described. Dean Snyder asked about the hot box. Joe stated it is a heated enclosure for the water meter and water line and includes electricity running to it. Placement of the sign next to the hot box would hinder access to this box. Joe was not sure where the underground lines were that ran to the box. Joe explained that placing the sign across the road would result in the sign being at a higher elevation. Dean Snyder noted that because there is a street and a sidewalk, placing the sign between the sidewalk and the road provides the best view of the area. Placing the sign across the road would not keep the two signs symmetrical. Dean Snyder noted that many people are coming to the park who are not familiar with the area, so a location of the signs that provides the best view of the signs, but minimizes the impact on how it looks, provides the utmost safety for cars and pedestrians. Chairperson Robillard stated that the sign needs to be visible to the motorists.

**Public Comment:**

**John Chart – 969 Parma Corners Road:** Stated he took measurements from the back of the south sign and it would be exactly 16' across the sidewalk, therefore the sign could be moved to the other side of the sidewalk. The north sign can be moved back also He pointed out where the signs could be moved on the other side of the sidewalk. Dean Snyder stated that this would require larger signs and we are trying to keep the sign smaller. John referred to the lot line law and stated that many signs on Ridge Road have been moved or removed. He noted several other examples of signs in the Town that had to be moved. He stated he didn't see any reason why the Town shouldn't abide by the code. Dean Snyder explained code 165-18C.1, which states the Zoning Board is empowered to grant relief. If the current law requires a sign to be placed where it is unfavorable, then it is the Zoning Board's responsibility to provide safe ingress and egress in this location. Dean Snyder cited an example of a child on a bike on the sidewalk and the reduced visibility of the sign and the child would result. Chairperson Robillard explained the Zoning Board's responsibility in granting relief after reviewing the information presented and providing a safe alternative to what the law requires. That is why there is a zoning board. .

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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 Dean Snyder to approve the application of the Town of Parma for area variances at 1300 Hilton Parma Corners Road to grant relief from Town Zoning Article 14, subsection 165.111.D which requires free standing signs to be set back a minimum of 15 feet from all lot lines and 165.113.a.1 which limits the heights of signs to 4 feet. Each sign has a setback of 2 feet from the road right-of-way and a height of 6 feet. In making this determination:

- 1) The benefit cannot be achieved by other means feasible to the applicant. Although the signs could certainly be located a minimum of 15 feet from the lot line, it would decrease the signs' efficacy while increasing the potential for safety issues. These signs are required to identify the park entrance to a large number of people, many of whom are not familiar with the park. Their current location allows effective identification without requiring the use of an oversized obtrusive bill board type sign which may be needed if they were located significantly further from the lot line. The six feet height is required to make the entrance clearly and safely visible to those wanting to enjoy it.
- 2) The proposed variance will not cause an undesirable change in neighborhood character or to nearby properties. The current signs are neither distracting nor obtrusive to neighbors and motorists passing by. It fits the park-like setting of the grounds. Although they are much smaller than many park signs, they effectively serve their purpose while minimizing any impact on the surrounding properties or neighbors. The proposed signs in no way contribute to the deterioration of the property's natural beauty.
- 3) The request is substantial. The proposed variances are very significant reductions in the required minimum lot setback and height.
- 4) The request will have no adverse physical or environmental effects. After reviewing the potential placement consistent with the 15 feet required setback, it was found to create a visual impairment to pedestrians on the sidewalk to cars entering the park, and a visual impairment to drivers of pedestrians on the sidewalk.
- 5) The alleged difficulty is not self-created in that the park has a certain level of responsibility to the community for clearly and safely identifying the entrances. The proposed location of the signs minimizes the obtrusive nature of these signs while locating them in a manner that allows safe ingress and egress of both drivers and pedestrians using our community property.

In using the balancing test, the benefit to the applicant (and the community who use the park), far outweighs any detriment to the health, safety and welfare of the community.  
Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

## PUBLIC HEARINGS

### 2. 1220 HPCR#1 LLC and 1220 HPCR #2 LLC – 1220 HILTON PARMA CORNERS ROAD

Application of 1220 HPCR #1 and 1220 HPCR #2 LLC, owners, for three area variances at 1220 Hilton Parma Corners Road. Applicants are proposing to construct an addition on the south side of the existing building with a front setback of 57 feet from the Parma Center Road right-of-way, locate eight parking spaces along Parma Center Road with a 12.9 feet setback from the right-of-way and provide a total of 18 parking spaces for the property. Applicants are requesting relief from: (1) Town zoning schedule 1, which requires buildings to have a front setback of 75 feet, (2) Article 16, subsection 165-125.A.9 which requires parking spaces be set back no less than 25 feet from the Parma Center Road right-of-way, and (3) schedule 2, which, based on building size, requires 45 parking spaces. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard read a letter dated May 19, 2010, from Mindy Zoghlin, attorney representing the applicant, which requests that this application be tabled due to the intention to modify the site plan which will require re-notice.

A **Motion** was made by Stephen Shelley to table the application of 1220 HPCR#1 and 1220 HPCR #2 LLC, owners, for three area variances at 1220 Hilton Parma Corners Road, without prejudice, per the applicant's request due to site plan modification. Seconded by Jim Zollweg. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

### 3. DOUGLAS WOLK AND DAVID SMITH – 5600 RIDGE ROAD WEST

Application of Douglas Wolk and David Smith, owners, for area variances at 5600 Ridge Road West. Applicants are proposing to construct an accessory storage building on this vacant parcel and are requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which requires a principal permitted use (residence) before an accessory structure can be constructed. This property is currently zoned Agricultural/Conservation (AC).

Doug and David explained they would like to build a pole barn to store large equipment to maintain and clear this property. The proposed barn would be 30' x 50', a Morton style building, with a green roof so it blends in with a small road that leads back to the building. The barn will be at least 300' from Ridge Road and not visible from the road. They measured the barn and worked out a layout and determined the required size. They listed the following items to be stored, noting they are all personal equipment: 4 wheel drive tractor with bucket, 2 trailers, one 16' long and one 14' long, ATV, 2 canoes, 2 riding lawn mowers with attachments, air compressor, table saw, work bench (small), finish mower with brush hog and mower attachments, work bench (large), work bench (medium), and a tractor. Two large doors would be needed, one at each end, and a people door. They explained that they need this equipment to clear brush for skiing, etc. on this vacant land. No residence is planned on this 77 acre dairy farm that they acquired. David explained that without the equipment there, they can't use the land. The property is zoned agricultural. Without the equipment on site, they can't do anything with the property. They both live on Webster Road. They can't transport this equipment back and forth and can't leave it outside. This is for their personal use only, not storage of anything else. They have no intent to

rent this space. No income will be realized from this land. They have no plans to build a house on this property.

**Public Comment:**

**John Burch – 527 North Avenue:** Questioned would this be allowed if there was a primary residence. It was explained that it would be.

**Jim Muszak – 184 Pine Hill Road:** Stated that this is a very busy road. For 40 years this property hasn't been used. The applicants were going to improve the property and he was in favor of this application.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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 Dean Snyder to deny the application of Douglas Wolk and David Smith, owners, for area variances at 5600 Ridge Road West. Applicants are proposing to construct an accessory storage building on this vacant parcel and are requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which requires a principal permitted use (residence) before an accessory structure can be constructed. This property is currently zoned Agricultural/Conservation (AC). Dean referred to zoning code 165-19: Powers and duties of the Zoning Board of Appeals, C: Variances (1) The Zoning Board of appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties. In reviewing this application, I find it difficult to determine the peculiarity of this property relative to several other properties along Ridge Road and other locations in the Town. I don't believe the Zoning Board has the authority to grant this without that peculiarity. If granted, I believe that this would set a precedence and have a significant change to the zoning law in Parma. I believe the benefit can be achieved by other means feasible. The applicant has the requirement for a storage facility that isn't consistent with the principal use and not consistent with zoning of this property. They could rent a facility but in this case would be costly. The request would create an undesirable change in the neighborhood character and to nearby properties. In this particular instance, I don't believe there would be a significant change but in allowing this, there are other properties similar to this that could request a similar variance and which could then result in a undesirable change. The request is substantial. In my history with the Zoning Board, I am not aware of any case where an accessory building was allowed on a vacant parcel without some association of existing use or with some intent of building a house. There will be no adverse physical or environmental effect. The applicants stated that this would improve the property. Is the difficulty self-created? In this case, I would say it is completely self-created. They purchased the property with limited zoning potential. The applicants would like to use it in a manner inconsistent with zoning and inconsistent with a use not acceptable to approve. Using the balancing test, the benefit to the applicant is outweighed by the detriment to the health, safety and welfare of the community. Seconded by Tina Brown.  
**Motion carried to deny (4-1)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder; Nays: Jim Zollweg; Absent: Tim Thomas)

Chairperson Robillard polled the Board for their reasons to deny:

Dean Snyder: Stated his motion stands for his reasons to deny.

Tina Brown: Referred to code 165-19.C.1. The Zoning Board is not empowered to grant this.

Stephen Shelley: It is very much substantial and in direct opposition of our code. Building on property with no principal structure is not allowed.

Chairperson Robillard: I feel that my vote reflects compliance to our ordinance that details the power and duties of the ZBOA in Article 165-C.1. The motion outlines the rationale and substantiates the motion and subsequent voting outcome.

Jim Zollweg: Stated he interpreted the benefits differently. He felt the hardship is it prevents the property owners from full enjoyment of the property without this approval. He stated he looked at a broad interpretation of an agricultural use.

#### **4. JAMES MUSZAK – 160 PINE HILL ROAD**

Application of James Muszak, owner, for area variances at 160 Pine Hill Road. Applicant has constructed an accessory building on this vacant parcel with a wall height of 14.1 feet and the size of this building brings the total area of accessory buildings to 609 square feet. Applicant is requesting relief from Town Zoning Article 5, subsection 165-33-C.2 which limits the total building area of accessory buildings to 600 square feet and requires a principal permitted use (residence) before an accessory structure can be constructed and Article 10, subsection 165-82.C.2 which limits the building height to 12 feet. This property is currently zoned Medium Density Residential (MD).

Jim explained he did not obtain a building permit for this building. This is land that his mother owned and connects with his parcel but is still two separate tax accounts. Dean Snyder asked why he hasn't merged these two properties. Jim responded that this property is being subdivided and eventually this will be merged with his property. This 3-sided, 224 square foot shelter eventually will have a 14' garage door. The purpose of the building is to provide storage and protection from the rain for his golf teaching activities.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

Chairperson Robillard informed the applicant that the ZBOA will be looking at this application as if the structure has not been built. The applicant stated he understood this. Jack Barton read a Town report from the ZEO and fire marshal stating that if this application was approved, he would have to apply for a special permit for a home business.

Following discussion, a **Motion** was made by Dean Snyder to approve the application of James Muszak, owner, for area variances at 160 Pine Hill Road. Dean referred to zoning code 165-19: Powers and duties of the Zoning Board of Appeals, C: Variances (1) The Zoning Board of appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties. The applicant has constructed an accessory building on this vacant parcel with a wall height of 14.1 feet and the size of this building brings the total area of accessory buildings to 609 square feet. This also grants relief from Town Zoning Article 5, subsection 165-33-C.2 which limits the total building area of accessory buildings to 600 square feet and requires a principal permitted use (residence) before an accessory structure can be constructed and to grant relief from Article 10, subsection 165-82.C.2 which limits the building height to 12 feet. This property is currently zoned Medium Density Residential (MD). In this case the applicant has two properties, one that he owns that has his primary residence and other property he jointly owns with family members that he is in the

process of making his sole residence and then plans to combine the two properties. In making the determination to approve, I believe the benefit cannot be achieved by other means feasible to the applicant. The driving range has existed and grown over 40 years and although it is not part of the principal use, this property is adjoining and it is very difficult to note any visual separation of these two properties. In my experience in hitting golf balls, limiting the height of the building to 12 feet would significantly restrict driving golf balls. There will be no undesirable change in the neighborhood character or to nearby properties. Although this is a significant structure and wall height, the applicant has removed an existing building which allows the total area covered by buildings to be relatively close to what is allowed by code. The driving range has been there for some time and has not created any problems. The request is substantial, however, an accessory use on vacant property that is not legally attached to the principal property but is in close proximity for many years should be allowed in this case. The properties will most likely be merged. There will be no adverse physical or environmental effect. Although 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 unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

#### **5. LINDA MARY JUDD – 423 MOUL ROAD**

Application of Linda Mary Judd, contract vendee, for two area variances and a Special Permit at 423 Moul Road. Applicant is proposing to construct a 1,296 square foot stable with six outside horse run areas that will be partially covered (the covered area of 864 square feet), a 7,200 square foot riding arena and two 432 square foot lean-to's for horses in the pastures. The aggregate area of structures for horses is 10,244 square feet and the applicant is requesting relief from Town Zoning Article 10, subsection 165-82.CC.2 which states in part that no structure or combination of structures used in the housing, storage or exercising of horses shall exceed 6,000 square feet in area. Applicant is proposing to locate paddock areas on each side of the stable and is requesting relief from Town Zoning Article 10, subsection 165-82.CC.3 which states in part that any exercise/building pens shall be located to the rear of the stable. Applicant is also requesting a Special Permit to allow horse boarding facilities in accordance with Town Zoning Article 9, subsection 165-57 which is allowed with a Special Permit. This property is currently zoned Agricultural/Conservation (AC).

Linda provided a packet of information that included a description of the barns on this 53 acre property. She explained her purchase of this property is contingent on Board approval of her application. She stated she needs to put up a barn. The existing barn was destroyed by lighting. Although the size requested seems large for a riding arena, each horse has a paddock of their own and the building has an overhang. She also needs shelter for her two cows. She wants to make sure the barn is far from the road. The barns will not be visible to homes on Moul Road. This is a commercial business She has her own horses and the boarding facility will be to the west side of the house farther back. She has people who have already requested to board their horses with her. There is a rental property to the east that will probably be 10 acres subdivided from her 53 acres. She explained that all the barns will be attached to the riding arena. All barns meet setback requirements.

#### **Public Comment:**

**Louis Reed – 487 Moul Road:** Lives directly east of the property. Questioned how many horses total. Linda explained there will be 5 boarded horses and she owns 4 horses. She will not build in the agricultural field. She will plan the final placement of the barns based on the farmer's need. Louis explained concern about odor issues. She stated she doesn't plan on having a large herd of cows. The manure is spread and she doesn't have piles of manure sitting around. She stated there will be no traffic volume issues and there is a parking area planned. There will be no road access

to the horses for security reasons. Parking will be planned in the front. She stated one or two boarders may show up at the same time. Riding lessons are given to 1 or 2 at a time. She stated she has a full time job so this operation will be limited. Louis expressed concern for water usage affecting his water pressure. She stated she is looking at using well water for the horses. Even if she used the water line, a 5 gallon bucket a day for the horses and 6 gallons a day for the cows will be used.

**Shane Pfeiffer – 420 Moul Road:** Asked to look at a drawing. He stated he was okay with the plan.

**Frank Zucco – 400 Moul Road:** Stated he lives across the street. He stated his preference for her to build to the east and back. He noted the drain going across the road to his property. In the springtime, there is a drainage concrete pipe that directs drainage to him. He wanted her to be aware of this natural drain when she is spreading manure so it doesn't pollute the pond. She states she would investigate the water table and the drainage.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

Discussion was held on the excessive (70%) over what is allowed for the size of the building. Linda explained that the building has to be tall to jump horses. She stated her opinion that the Parma standard for riding arenas is too small. Jack Barton stated that changes will be made according to the NYS agricultural laws to this ordinance in the near future. This size arena will be acceptable and this type of operation will not require a special permit. Linda explained that she gives riding lessons to handicapped and autistic children. She stated it will be a year before she starts to build these barns but she needs an approval of this application before she will purchase the property. The property has been on the market for almost a year. If she doesn't get approval, the property will probably be subdivided. Linda stated she is willing to ask for less of a riding arena now pending adoption of the new State codes.

Further discussion was held on the size of the building and the applicant was asked if she was willing to make a modified proposal with the buildings not to exceed 6000 square feet. This would allow additional time for the proposed zoning changes to take effect and would allow her to increase the size of her buildings. Dean Snyder referred to ordinance 165-57.J, special permit for boarding. Discussion was held on tabling this application asking the applicant to modify her plan to meet codes.

Following discussion, a **Motion** was made by Stephen Shelley to table the application of Linda Mary Judd, contract vendee, for two area variances and a Special Permit at 423 Moul Road, without prejudice, until the June ZBOA meeting to allow the applicant to consider other options or alternatives to bring this into compliance and attempt to get the square footage closer to ordinance. Seconded by Jim Zollweg. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

A recess was called at 9:54. The meeting reconvened at 10:00 p.m.

## 6. AARON WEINSTEIN – ONE EDWARD LANE

Application of Aaron Weinstein, owner, for an area variance at One Edward Lane. Applicant has constructed a detached garage with a side setback of seven feet from the southerly property line and is requesting relief from Town Zoning schedule 1, which requires a minimum setback of 10 feet. This property is currently zoned Medium Density Residential (MD).

Aaron stated he purchased the house in 2008. When they bought the property, the existing shed was too small. The garage had been converted to living space, so there was no garage. He built a detached garage on this corner lot, which technically has no rear yard. He built it in the same spot as the existing shed and went forward to make it 20' x 20'. He used part of the existing shed foundation for this garage. He uses the detached garage to store a 4 wheeler and lawn mower storage. He does not use it to park a car. He states this is for personal use only. His landscaping equipment is stored in a trailer in Spencerport.

**Public Comment:** None. The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

Jack Barton read a letter from the fire marshal and the ZEO departments. A building permit was issued on 8/6/09 for this detached garage. The survey map indicated a 10' setback from the south property line. The frame inspection noted the setback at 6'.

In review of the survey map provided by the applicant, dated 1986, it was unclear what the actual setback is. The Board explained that the applicant needs to provide the following information: (1) get an instrument survey map when the house was purchased in 2008; and (2) clarify what the exact setback variance requested.

Following discussion, a **Motion** was made by Dean Snyder to table the application of Aaron Weinstein, owner, for an area variance at One Edward Lane until the June ZBOA meeting, without prejudice. During that time, we request that the applicant provide: (1) an updated instrument survey map dated at the time of purchase of the home; and (2) an updated amount of relief requested for this structure. Seconded by Tina Brown.

Chairperson Robillard asked Jack Barton that, depending on the amount of relief needed, would this need to be re-advertised. Jack replied that if it was a substantial difference, it would need to be readvertised. He agreed to e-mail the Board a copy of the updated instrument map to assist in determining, at that time, if it needed to be readvertised. Chairperson Robillard polled the Board if they felt it would need to be readvertised. It was the consensus of the Board not to readvertise if it request is different. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

## 7. 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 of eight feet from their westerly property line and are requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum setback of 10 feet. This property is currently zoned Rural Residential (RR).

Bruce stated the primary reason they are back to the ZBOA is because the building permit had to be obtained within 6 months of their approved application. They have exceeded that 6 months. Bruce stated they are now asking for 6" more, explaining that they made the cabana narrower after talking with the architect. He provided a drawing that showed the pool and proposed setback. He stated they felt that this 6" would really make a difference.

**Public Comment:**

Bruce provided letters from 3 neighbors who are in favor of this application:

Chester and Kathleen Edsall – 570 Burrirt Road  
James and Rosemary Grego – 574 Burrirt Road  
Kevin Sanger – 566 Burrirt Road

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Jack Barton reported that 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.

Jack Barton stated a letter from the zoning enforcement officer stated no problem with this application.

Following discussion, a **Motion** was made by Dean Snyder to approve the application of Bruce and Lynier Clark, owners, for an area variance at 562 Burrirt Road to construct a pool cabana in the rear yard with a side setback from their westerly property line of 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 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 carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

**SPECIAL PERMIT RENEWALS**

**8. FRANK AND LUIGI SANTONASTASO – 5070 RIDGE ROAD**

Application was received from Frank and Luigi Santonastaso, owners, for renewal of a special permit at 5070 Ridge Road West to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton recalled that this application was tabled at the April ZBOA meeting so the applicant can make a proper application for a new special permit and to confirm there are no outstanding violations or complaints. Jack reported that the applicant is not yet prepared to present his new application.

**MINUTES OF APRIL 12, 2010**

The April 12, 2010 ZBOA minutes were reviewed. The following changes were recommended: page 2, Para 2, line 4, change “in” to “within”; line 6, change to “sign farther back ..”; line 7, change to “..to move the north sign back because it would be near the hot box.” page 6, Para 2, line 4, remove “and no rear yard”; Para 5, line 11, change to “...and if it were a typical lot, this would be allowed.” A **Motion** was made by Jim Zollweg to approve the April 12, 2010 ZBOA minutes with the recommended changes. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Jim Zollweg; Abstain: Dean Snyder; Absent: Tim Thomas)

**MINUTES OF APRIL 27, 2010**

The April 27, 2010 ZBOA minutes were reviewed. The following changes were recommended: page 1 and page 2, change “DEC” to “Monroe County Department of Planning.” A **Motion** was made by Stephen Shelley to approve the April 27, 2010 ZBOA minutes with the recommended changes. Seconded by Tina Brown. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Jim Zollweg; Abstain: Dean Snyder; Absent: Tim Thomas)

**OTHER**

**Redemption Center:** Jack Barton opened discussion once again on this issue, which is still being addressed by the Town. Discussion was held on the interpretation and whether this should be an accessory use versus principal use. Following discussion, it was the consensus of the Board that the zoning law speaks for itself.

**ADJOURNMENT**

There being no further business, a **Motion** was made by Dean Snyder, seconded by Jim Zollweg, to adjourn the meeting at 11:07 pm. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; Absent: Tim Thomas)

Respectfully submitted,  
Diane Cook, Recording Secretary