

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
JULY 15, 2010**

- Members Present:** Tina Brown  
Veronica Robillard  
Stephen Shelley  
Tim Thomas  
Jim Zollweg (alternate)
- Members Excused:** Dean Snyder
- Others Present:** Art Fritz (ZEO), 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. 1220 HPCR#1 LLC and 1220 HPCR #2 LLC – 1220 HILTON PARMA CORNERS ROAD**

The modified application of 1220 HPCR #1 LLC and 1220 HPCR #2 LLC, owners, for five 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, locate ten parking spaces along Hilton Parma Corners Road with a 5 feet setback from the right of way, and provide a total of 26 parking spaces for the property. Erect two 6 feet high vinyl fences in the front yard, the fence along the easterly property line will meet minimum setbacks and the fence along the southerly property line is proposed to have a setback of 15 feet. 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 road right of way; (3) Schedule 2 which states in part that fences between the front setback line and the highway right of way shall not be higher than three feet above the adjacent ground level and open style, and (5) Schedule 1 which requires accessory structures be set back 20 feet from side property lines. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled this application was tabled at the June meeting, per the request of the applicant.

Mindy Zoghlin, attorney, stated she represented the applicant in presenting this application for a modification of the area variance granted for 1220 Hilton Parma Corners Road on March 19, 2009. She stated that Mike Colakoglu is the sole owner and shareholder of Mico Transmissions, Inc. She noted that this highway commercial district allows this motor vehicle repair business as a permitted use. The majority of the business is minor transmission work. She referred to a letter dated July 1, 2010 addressed to Veronica Robillard, Chairperson, that she wrote that describes all the major points in defending this application. She listed the modifications requested in this application for parking and side and fence variances. She also provided a history of the owner's business which he operated from 1975 to 2009 in Greece, and moved to Parma after a variance was granted last year.

Mrs. Zoghlin explained that since the variance was granted, the applicant discovered that the building must be widened by five feet to make the restroom handicap-accessible without traffic through the service area. It also now appears that the applicant would benefit from more parking than the 18 spaces permitted by the ZBA in March 2009. Given the substandard area of this lot and the existing building location, the only way to gain additional parking is to place it closer to the lot lines. She noted that the 6' high fence was determined necessary by the planning board to best shield adjacent properties from any visual impacts associated with the parking areas.

In her letter, she referred to the criteria to consider when looking at a variance and gave her reasons why each request should be allowed. She also cited examples of similar variances approved for neighboring properties.

She referred to the citations sent to Mico Transmissions from the ZEO for too many cars, listing 36 and 26 cars on the lot. She stated her opinion that this indicates that the business is successful and increasing the parking to 26 will not be detrimental and, she argued, would actually bring it into further compliance with code.

She summarized that there is no way the applicant can meet the handicapped requirement without expanding the building and the additional parking is needed due to the nature of the business.

**Public Comment:**

Chairperson Robillard read a letter as follows:

**Gary Inzana – 144 Parma Corners Road:** Stated he is not in favor or opposed. He stated it is not an aesthetic asset to the neighborhood in its present state. He asked the ZBOA to look at the code in considering this application.

**Donna Curry – 1083 Hilton Parma Road:** Stated she is appalled by the conditions of this property. It looks worse now than when it was vacant. The ZBOA needs to consider the setback requirement by code and the variance requested. They need to look at the big picture for this substandard lot. She felt this lot should not have been purchased by this owner and perhaps they should look at other alternate properties. She stated that no way would 45 cars ever fit on this lot. She stated 18 parking spaces is plenty. They can't maintain between 20 and 25. She drives by this property 4-5 times a day and she has a record of cars which is never below 22 and many more on many occasions. The lot can't handle 45 cars. She states she was in favor of the 6' fence. She noted in back of the building is a tow truck and vehicles they have not moved since last fall. The parcel is not suitable for this business. She referred to the history of the variance approval in March. They have not shown good faith by keeping up this property. She is disappointed that this property has been allowed to look like it is. In the month of April, she stated cars were parked everywhere in a mish mash. They should ask people to not bring in their cars until they are ready to work on them. The tires are outside right now in the back. The canopy should be taken down regardless. The fire lane and emergency access should be clearly marked and enforced. They should not allow cars to be dropped off unless they give permission. She is asking the ZBOA not to approve this except for the 6' fence but meeting the current setback requirements. They should consider changing their business practice. The parcel does not fit the business. The track record does not show they are considerate of their surroundings. The previous variance should stand the way it was approved. The first mowing of the lawn was just done. The back of the parking lot looks terrible. The property is an eyesore. The applicant has already been given a generous variance and shouldn't be given more.

**Doug Flood – 2265 Cloverdale Road:** Stated he owns property around this business. He stated what has happened is similar to what happened to their business in Greece. He recalled the concern expressed at the first hearing. He stated he was extremely concerned about property values around this business. He stated the pictures he turned in should be on file. He noted that the canopy should have been taken down. He stated the number of cars always exceeds what was approved.

Tim Thomas asked how many cars can be stored inside the proposed building. Mr. Colakoglu responded 4-5 cars inside. Tim Thomas suggested that we should keep property maintenance issues separate from zoning issues.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 on the impact that increasing the size of the building would have on the business and making the business even busier. It was discussed that the property can't handle the volume as it is. The site map was reviewed. Chairperson Robillard referred to letters from the Town of Parma ZEO to Mico Transmissions dated May 11, June 17 and July 1<sup>st</sup>. All listed numerous violations, including up to 36 vehicles parked outside which blocked the emergency access lanes and fire lanes. The applicant has not complied with any of these violation letters. Chairperson Robillard stated that on her personal inspection, it is obvious there are too many vehicles. She asked why Mr. Colakoglu has blatantly disregarded these citations and the conditions of the variance that were granted in March of 2009. Mr. Colakoglu stated that he has not blatantly disregarded these letters. He explained his business is more successful than he anticipated. He has kept up with trimming the shrubs. He stated he requested 18 parking spaces originally because he felt this would be enough but it is not. Mr. Colakoglu stated he feels the proposed plan will make the business work better. Chairperson Robillard referred to the fire and emergency access lanes being blocked. She stated she felt this is a disregard for safety. Mrs. Zoghlin stated that this is why he is here for a variance. This plan will provide the needed parking spaces to keep the fire lane and emergency lanes open. Chairperson Robillard stated we are dealing with esthetics, appearance, raising quality and improving this property. She noted the canopy is still up, which was to be taken down per the variance granted in March 2009. Mrs. Zoghlin stated that the canopy will come down. She noted that the tires are no longer outside and several other issues have been corrected. Obviously until this plan is approved, this property cannot be improved. Mr. Colakoglu stated that construction of this building could be started this summer. Chairperson Robillard asked when the canopy will be taken down. Mr. Colakoglu stated the canopy would come down right away. Mrs. Colakoglu stated that a construction company is waiting for this approval and will then get started on this project.

Jim Zollweg questioned can the mechanics handle 9 cars at a time? He asked if the business model has changed. Does he still have 3 mechanics? Mr. Colakoglu responded it is the same. The new building will be able to house more cars inside. He felt that the customers are guilty of parking in the fire lane and emergency access. He has 5 cars on the lot that are not licensed right now. Mrs. Colakoglu stated that they tried to accept 6-10 cars a day. Three tow trucks pull in and drop off cars because they have an emergency line for people who need repair. She stated that 90% of their customers from Greece have followed them. They had no idea how good their business was going to be. Tim Thomas questioned what their plan is to assure too many cars are not on their lot. Mrs. Zoghlin referred to the site plan which indicates the fire lane and emergency access. She felt this is an enforcement issue not a zoning board issue. Chairperson Robillard stated that she felt it was the responsibility of the owner to assure that the fire lane and emergency

access is kept clear. Art Fritz, ZEO, stated that legal action was started but has been put on hold until after this zoning board meeting.

Following discussion, a **Motion** was made by Tim Thomas to approve three of the requested variances in the application of 1220 HPCR #1 and 1220 HPCR #2 LLC, owners, 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 and to erect two 6 feet high vinyl fences in the front yard. The fence along the easterly property line will meet minimum setbacks and the fence along the northerly property line is proposed to have a setback of 15 feet. This grants relief from: (1) Town zoning schedule 1, which requires buildings to have a front setback of 75 feet, (2) grants relief from Article 16, subsection 165-128.A.2 which states in part that fences between the front setback line and the highway right-of-way shall not be higher than three feet above the adjacent ground level and open style, and (3) Schedule 1 which requires accessory structure be set back 20 feet from the side property lines. This property is currently zoned Highway Commercial (HC). In making the determination to approve these three variances, I don't believe the benefit can be achieved by other means feasible to the applicant. The necessity to incorporate an acceptable restroom facility for the public required that the proposed building be located closer to the south right-of-way than originally planned. NYS requires that a handicapped accessible bathroom be provided on the premises. There is no way to meet the applicant's business objective of providing a handicapped accessible restroom in a location that does not require customers to walk through the service area without expanding the building. Due to the size of this substandard lot, the only way to place this building on this lot is to construct the building closer to the street. The Planning Board apparently determined that six foot privacy fences would best shield adjacent properties from any visual impacts associated with the parking areas. This is something that not only can be achieved but will benefit adjacent properties to provide screening. There will be no undesirable change in the neighborhood character or to nearby properties. Relative to the proposed structure, there are adjacent commercial properties in this area that are closer to the right-of-way than this structure. The request is substantial, however, looking at this substandard lot in conjunction with other characteristics of the property is what mitigates this. There will be no adverse physical or environmental effects. The difficulty is somewhat 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: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

A **Motion** was made by Tim Thomas to deny two variances in the application of 1220 HPCR #1 and 1220 HPCR #2 LLC, owners, at 1220 Hilton Parma Corners Road. Applicants are proposing to locate eight parking spaces along Parma Center Road with a 12.9 feet setback from the right-of-way, locate ten parking spaces along Hilton Parma Corners Road with a 5 feet setback from the right-of-way, and provide a total of 26 parking spaces for the property. This denies relief from: (1) Article 16, subsection 165-125.A.9 which requires parking spaces be set back no less than 25 feet from the road right-of-way and (2) schedule two which, based on building size, requires 45 parking spaces. This property is currently zoned Highway Commercial (HC). In making the determination to deny these two variances, it is my belief the benefit can be achieved by other means feasible to the applicant. There are measures that the applicant can take to control the number of vehicles on the property. The property has had an history of exceeding the variance of 18 spaces. This is a substandard lot and the code requires 45 spaces, but because of the nature of the property and what is reasonable and rational, this limits the number of parking spaces. The new building will accommodate more vehicles to be stored inside. The request will create an undesirable change in neighborhood character and to nearby properties. The requested setback of 8 parking spaces along Parma Center Road with a 12.9 feet setback from the right of way and 5 feet for 10 parking spaces along Hilton Parma Corners Road will create a change in the neighborhood character. This is a high profile corner and the main gateway to the Village of Hilton. It is the Zoning Board's job to assure that the character is maintained. The request is

substantial. This will create an adverse physical not environmental effect, as evidenced by violations noted by the Building Department and the public comments. The alleged difficulty is self-created.

Using the balancing test, the benefit to the applicant does not outweigh the detriment to the health, safety and welfare to the community, therefore, the Motion is to deny. Seconded by Tina Brown. **Motion unanimously carried to deny (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

Chairperson Robillard polled the Board members to state their reason to deny:

Tim Thomas: Stated his motion stands.

Tina Brown: The additional parking would create an undesirable change and there are other means feasible to achieve the benefit.

Stephen Shelley: The way the ordinance is written, being a small lot would limit the number of cars allowed.

Jim Zollweg: Denial based on the balancing test and it will create an undesirable change. Very close setback on the western side. The difficulty is self-created. Too large a business on too small a lot. The benefit can be achieved by other means.

Veronica Robillard: This is a substandard lot with limited parking. As requested by the applicant in the original application, 18 parking spaces were deemed reasonable and acceptable for the business plan in conjunction with this property. The recommendation of Schedule 2 from the Parma ordinance would be unreasonable in connection with the business plan and the parcel size regarding this request. The motion substantiates the rationale for this decision using the balancing test.

**A recess was called at 8:55 pm. The meeting reconvened at 9:02 pm.**

## **2. 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 feet stable with six outside horse run areas that will be partially covered (the covered area of 864 square feet), a 7,200 square feet riding arena and two 432 square feet 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).

Chairperson Robillard recalled this application was tabled at the June meeting, per the applicant's request, to allow the applicant time to consider other options or alternatives to bring this into compliance and attempt to get the square footage closer to the ordinance.

Chairperson Robillard read a letter from the applicant dated July 15, 2010. She requested that her application be tabled to her to discuss compliance with the agriculture and markets law at the July 20<sup>th</sup> public hearing before she presents this to the ZBOA again. A **Motion** was made by Tim Thomas to table the request of Linda Mary Judd for two area variances and a special permit at 423 Moul Road without prejudice, per the applicant's request. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### 3. DAVID REID – 126 BAILEY ROAD

Application of David Reid, owner, for seven area variances at 126 Bailey Road. Applicant is proposing to subdivide property into eleven lots thereby creating nine building lots. The variance requests are as follows: lot 1 is proposed to have a width of 216.93 feet, lot 8 is proposed to have a lot width of 183.11 feet, lot 9 is proposed to have a lot width of 168.47 feet and lot 10 is proposed to have a lot width of 160.49 feet. Relief is requested from Town Zoning Schedule 1 which requires a minimum lot width of 260 feet. Lot 2 is proposed to have a lot depth of 199.52 feet, and relief is requested from Town Zoning Schedule 1 which requires a minimum depth of 300 feet. Lot 1 as proposed will have a detached garage in the front yard at a setback of twenty feet from the new town road and relief is requested from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building and may be located in the side yard. Lot 1 is proposed to be a corner lot which by definition has 2 front yards, two side yards, and no rear yard. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled this application as tabled at the June meeting to afford the applicant time to readdress the proposed variances for lots 8, 9 and 10 and 2 and provide some alternatives to bring them into compliance.

Kris Schultz provided the updated site plan with changes. He noted all the rear lots are the same. He noted the changed road configuration. He noted that a full dedicated road with a cul de sac was the preferred plan versus 3 houses sharing a private drive. He noted lot 11 has a co-applicant with Mr. Reid and lot 1 now is closer to the zoning code. He noted slight changes were made to lots 1 and 2 but none that changed the application. The swing in the road also allows a 61.9 front setback. He noted 3 and 10 are identical. He stated that this plan has already been approved by the planning board. Kris addressed the character of the neighborhood. He provided a map of Bailey Road and highlighted in yellow 23% of the lots meet code. Of the 16 lots that do meet code, only 8 have homes on them.

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

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 David Reid, owner, for three area variances at 126 Bailey Road. Applicant is proposing to subdivide the property into eleven lots thereby creating nine building lots. The variance requests are as follows: lot 1 is proposed to have a width of 216.93 feet, lot 8 is proposed to have a lot width of 183.11 feet, lot 9 is proposed to have a lot width of 168.47 feet and lot 10 is proposed to have a lot width of 160.49 feet. This grants relief from Town Zoning Schedule 1 which requires a minimum lot width of 260 feet. Lot 2 is proposed to have a lot depth of 199.52 feet, and this grants relief from Town Zoning Schedule 1 which requires a minimum depth of 300 feet. Lot 1 as proposed will have a detached garage in the front yard at a setback of twenty feet from the new town road and this grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that detached garages shall be located to the rear of the front building line of the principal building and may be located in the side yard. Lot 1 is proposed to be a corner lot which by definition has 2 front yards, two side yards, and no rear yard. This property is currently zoned Rural Residential (RR). This determination to approve is based on the ZBOA action with a similar application on June 21, 2007. The Board determined because of the unique nature of cul-de-sac lots, the lot width measurement would be taken at the front line of the home. This in turn eliminates the variance for lots 8, 9 and 10 because of previous action taken by the ZBOA. Therefore, the

variances for Lot 1, 2 and the detached garage are approved. I don't believe the benefit can be achieved by other means feasible to the applicant. The possibility before us is to improve the road to its proposed configuration. This corrects the car headlights line of site for the property on the west side of Bailey Road. With the setback of the new road, the garage and pool on lot 1 will not have to be moved. The home on Lot 2 will have a proper lot depth and area. The request will not create an undesirable change in neighborhood character or to nearby properties. This actually will improve the overall flow of traffic from the road frontage and maintain the character of the neighborhood. The request is certainly substantial when you apply the definitive measures called out by the code, but the unique layout with the cul-de-sac mitigates this. There will be no adverse physical or environmental impact. The alleged request is somewhat self-created, but this plan solves the initial negative attributes. 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, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

#### **4. PHILIP WEGMAN – 77 CLEARVIEW AVENUE**

Application of Philip Wegman, owner, for 6 area variances at 77 Clearview Avenue. Applicant has constructed a 10.2 feet by 31.4 feet addition to the existing pool house with a front setback of 32 feet from the Lakeside Boulevard road right of way and is requesting relief from Town Zoning Schedule 1 which requires a minimum front setback of 40 feet and Article 10 subsection 165-82.C.3 which requires that detached accessory buildings be located in the rear yard. Applicant is also proposing to construct a 32 x 23 gazebo in the front yard at a front setback of 26.2 feet from the Lakeside Boulevard road right of way, construct a 12 feet by 3 feet stone barbeque structure in the front yard and install a 6 feet high decorative fence in the front yard as part of the pool enclosure and is requesting relief from Town Zoning Schedule 1 which requires a minimum front setback of 40 feet and Article 10, subsection 165-82.C.3 which requires that detached accessory buildings be located in the rear yard. This property is currently zoned Waterfront Residential (WF).

Chairperson Robillard recalled this application was tabled at the June meeting to allow the applicant the opportunity to provide the following information:

- Detailed drawings of the structures, including: gazebo, pool house, barbeque structure, 6' high decorative fence, and playground.

Phil Wegman provided a site plan and photographs of the proposed additions. He noted two different fences were involved. Chairperson Robillard noted that in a letter dated July 2<sup>nd</sup>, the ZEO listed violation on work that is progressing before this application was approved. This letter issued a stop work order. Phil explained that the grill that is in place now is only temporary and portable. The 12' x 3' barbeque structure will be built. It was noted that there is a roof on the barbeque structure that was not mentioned or indicated previously. Mr. Wegman stated he will not include the roof over this barbeque structure. He reported he is removing the request for a gazebo. He noted the only variance needed for the fence is for the height. The 6' high fence does not need a variance for setback.

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

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 Philip Wegman, owner, for 6 area variances at 77 Clearview Avenue. Applicant has constructed a 10.2 feet by 31.4 feet addition to the existing pool house with a front setback of 32 feet from the Lakeside Boulevard road right of way and this grants relief from Town Zoning Schedule 1 which requires a minimum front setback of 40 feet and Article 10 subsection 165-82.C.3 which requires that detached accessory buildings be located in the rear yard. Applicant is also proposing to construct a 32 x 23 gazebo in the front yard at a front setback of 26.2 feet from the Lakeside Boulevard road right of way, construct a 12 feet by 12 feet stone barbeque structure in the front yard and install a 6 feet high decorative fence in the front yard as part of the pool enclosure and this grants relief from Town Zoning Schedule 1 which requires a minimum front setback of 40 feet and Article 10, subsection 165-82.C.3 which requires that detached accessory buildings be located in the rear yard. This property is currently zoned Waterfront Residential (WF). Tim noted that the applicant has withdrawn the request for the gazebo and the barbeque dimension has changed from 12 x 12 to 12 x 3. In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. As noted on numerous occasions in the past, waterfront properties are unique. There is access to this property from two different roads. The pool house, playground and barbeque do not have the possibility of being located in the rear yard. The 6' fence is allowed around the pool and patio area but this pool is located in the front yard on this waterfront property. The layout is necessary because of the unique nature of this lakefront property. There will be no undesirable change in the character of the neighborhood or to nearby properties. The recreation facilities are there and have been there for quite some time. The enhancements will not be obtrusive. The request is not substantial due to the unique nature of this waterfront property. The difficulty is somewhat self-created in that the applicant chooses to add on to the recreation facility on this property. However, 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 carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

## **5. DAVID GREEN – 23 CAREFREE LANE**

Application of David Green, owner, for an area variance at 23 Carefree Lane. Applicant has erected a security gate across his driveway at the location where there are 2 existing brick pillars. The height of the gate is 5.75 feet and the applicant is requesting relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that fences along any front line or along side lot lines between the front setback line and the highway right of way shall not be higher than 3 feet above adjacent ground level. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled this application was tabled at the June meeting until the notifications are complete.

David explained that he needs an electronic security gate for his lot which is the last in his subdivision and is secluded. He described increased vandalism in the past in his neighborhood which prompted him to install this security fence.

**Public Comment:** Chairperson Robillard read a letter as follows:

**Thomas and Sheryl Umpleby – 19 Carefree Lane:** Stated that the applicant's privacy is justified. They are part of the neighborhood association and they do not object to this application.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 David Green, owner, for an area variance at 23 Carefree Lane. Applicant has erected a security gate across his driveway at the location where there are 2 existing brick pillars. The height of the gate is 5.75 feet and this grants relief from Town Zoning Article 16, subsection 165-128.A.2 which states in part that fences along any front line or along side lot lines between the front setback line and the highway right of way shall not be higher than 3 feet above adjacent ground level. This property is currently zoned Rural Residential (RR). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. Security issues justify the need in this secluded property. There will be no undesirable change in neighborhood character or to nearby properties. This type of gate is not out of character in this unique property that is secluded. The request is substantial. Our code dictates the height of a gate. There will be no adverse physical or environmental effect. 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 Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

## 6. GREGORY BENNETT – 34 LAKESIDE BOULEVARD

Application of Gregory Bennett, owner, for an area variance at 34 Lakeside Boulevard. Applicant is proposing to extend the covered porch along the rear (east) of his home and is proposing a 3.5 feet setback from his northerly side property line and is requesting relief from Town Zoning Schedule 1 which requires a minimum side setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

Chairperson Robillard recalled this application was tabled at the June meeting per the applicant's request.

Greg explained he is proposing to build a porch along the east side of his house which will have the same side setback as the house. He noted this is waterfront property and the porch faces the lake and will provide protection to the house from the weather.

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

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 Jim Zollweg to approve the application of Gregory Bennett, owner, for an area variance at 34 Lakeside Boulevard to extend the covered porch along the rear (east) of his home and is proposing a 3.5 feet setback from his northerly side property line and this grants relief from Town Zoning Schedule 1 which requires a minimum side setback of 10 feet. This property is currently zoned Waterfront Residential (WF). In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. This is a waterfront property. There will be no undesirable change in the neighborhood character or to nearby properties because the property's building line will be preserved and will not encroach any farther than the house. The request is substantial because it does not meet the 10 feet side setback. There will be no adverse physical or environmental effect. The difficulty is self-created because it is the choice of the owners to make this addition. 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 carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

## NEW PUBLIC HEARINGS

### 7. JOHN GEBBIE, OWNER – 91 BAILEY ROAD

Application of John Gebbie, owner, for 3 area variances at 91 Bailey Road. Applicant is proposing to construct a 2,400 square feet accessory storage building with a rear wall height of 14 feet and an additional 600 square feet lean-to attached to the storage building bringing the total area of the accessory storage building to 3,000 square feet on this vacant parcel. The applicant is 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 and limits the total of all accessory structures to no more than 2,000 square feet. Relief is also requested from Article 10, subsection 165-82.C.2 which limits this accessory building to a wall height of 12 feet. This property is currently zoned Agricultural/Conservation (AC).

Richard Maier stated Mr. Gebbie owns 107 Bailey Road and the larger lot at 91 Bailey Road. He explained his plan will be done in stages. There is one house on the smaller lot. John has two options: he could merge two lots and fix up the existing house for himself. He needs to do a substantial amount of work on the existing house which was built in the 60's. Or, he may build a new house on the empty lot and sell the existing house and lot. He would like to put this accessory storage building up as the first stage. His end goal is to put in a tree farm. If he decides to build, he is looking to build the house by next spring. He is undecided if he is going to renovate the existing home or build a new home. The existing house is 1450 square feet. An architect is drawing up plans to renovate this house. It is being rented now. He explained his need for the accessory structure. He needs the 14' wall height for this structure to provide clearance for radar equipment on his 32' boat. He also has a camper, farm tractor, bobcat and a small dump truck. The proposed tree farm will be a hobby. He will merge the properties only if he decides to keep the house otherwise he will build a new house and sell the existing house. He explained that his landscape business is handled on the phone. Chairperson Robillard explained that the applicant will have six months to get the building permit for the house and then set a date for completion of the house. Richard stated that the lean-to is a decorative feature and not sure if this will be put on.

#### **Public Comment:**

**Carol Munger – 94 Bailey Road:** Asked if he would locate his landscape business here. John replied his business is located somewhere else. He also has a gun business which is exclusively done on the internet.

The public hearing was closed.

**Board Discussion:** Chairperson Robillard reported that notifications were in order. Art Fritz reported that 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 John Gebbie, owner, for 3 area variances at 91 Bailey Road to construct a 2,400 square feet accessory storage building with a rear wall height of 14 feet on this vacant parcel. This grants 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 and limits the total of all accessory structures to no more than 2,000 square feet. This also grants relief from Article 10, subsection 165-82.C.2 which limits this accessory building to a wall height of 12 feet. This property is currently zoned Agricultural/Conservation (AC). Tim noted that the additional 600 square feet lean-to request has been withdrawn. The applicant has six months to obtain a building permit and

has 15 months from this meeting date to complete the house or the two properties will have to be merged or the accessory storage building must be removed. In making the determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The request for 2400 square feet and 14' wall height is needed to store equipment, with the height needed for the radar system on his boat. There will be no undesirable change in the neighborhood character or to nearby properties. The request is substantial. The wall height is 14' which is needed to accommodate his boat. 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 Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### SPECIAL PERMIT RENEWALS

#### **1. 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.

Chairperson Robillard provided a brief history of this application. At the June meeting, Jack Barton reported that the Town of Parma sent a letter to the Santonastaso's stating they may apply for a special permit modification and informing him of the required information. The special permit has expired.

Mr. Santonastaso stated he has hired Land Tech to create a new site map with the changed parking situation. The increased parking is necessary with their expanded business. This will take some time. Chairperson Robillard suggested that the Board consider renewing his current special permit.

Art Fritz reported no complaints on file.

Following discussion, a **Motion** was made by Tim Thomas to approve the application 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. This approval is given with the original conditions, as follows:

- Hours of operation: Monday through Friday, 9 am to 7 pm; Saturday, 9 am to 5 pm; Sunday, 11 am to 4 pm.
- The fire marshal to inspect and approve.
- Signs per zoning ordinance.
- No outside speakers.
- Lighting to be directed away from Ridge Road West.
- No junk cars on the premises.

For a period of one year, to be considered for renewal in January, 2011. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

### MINUTES OF JUNE 17, 2010

The June 17, 2010 minutes were provided. Review of these minutes was deferred until the August meeting.

**ADJOURNMENT**

There being no further business, a **Motion** was made by Tim Thomas seconded by Stephen Shelley, to adjourn the meeting at 11:40 pm. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder)

Respectfully submitted,  
Diane Cook, Recording Secretary