

**TOWN OF PARMA
ZONING BOARD OF APPEALS
APRIL 17, 2014**

Members Present: Stephen Shelley
Tim Thomas
Jim Zollweg

Members Excused: Veronica Robillard
Dean Snyder

Others Present: Jack Barton, Art Fritz, Kyle Mullen

Public Present: Kara Lapple, Don Paul, David Smith, Douglas Wolk, Tim Hull, Errin Hull, Eveline Burdick, George Thompson, Brigitte Thompson.

The meeting was called to Order by Acting Chairperson Thomas at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He also explained that this is a five member board and a quorum of three is required to pass a motion.

Acting Chairperson Thomas acknowledged that Mr. Barton will be retiring from the Town of Parma at the end of next week after 24 years of service. He stated that it has been a pleasure working with Jack on this Board and he felt he has done a great job and brought a great wealth of knowledge to the Board and the Town during all of his years here.

TABLED BUSINESS

1. PETER MORREALE – 4712 RIDGE ROAD WEST

The application of Peter Morreale, owner, for a use variance at 4712 Ridge Road West. The applicant is requesting to use the property for open storage of unlicensed vehicles and is requesting relief from Town Zoning Article 6, subsection 165-39 which does not list open storage of unlicensed vehicles as an allowed use. This property is currently zoned General Commercial (GC). This application is tabled until the May 15, 2014 meeting.

2. PAVS, LLC – 4704 RIDGE ROAD WEST

The application of PAVS, LLC, owner, for a use variance at 4704 Ridge Road West. The applicant is requesting to use the property for an open storage of unlicensed vehicles and is requesting relief from Town Zoning Article 5, subsection 165-32 which does not list open storage of unlicensed vehicles as an allowed use. This property is currently zoned Rural Residential (RR). This application is tabled until the May 15, 2014 meeting.

NEW BUSINESS

3. DONALD PAUL – 985 PARMA CENTER ROAD

The application of Donald Paul, owner, for a Special Permit at 985 Parma Center Road. The applicant currently has six dogs on this property and is requesting a Special Permit in accordance with Town Zoning Article 10, subsection 165-82.AA.3. A Special Permit is required to have more than three dogs on a property. This property is currently zoned Agricultural/Conservation (AC).

Kara Lapple, dog owner, explained that she used to live in Webster and moved to Parma and in with Mr. Paul. She has three Pugs and Mr. Paul has three dogs, a Shepherd, a Mastiff and a Miniature Daschund. She stated that they are coming to the Board to make this legal because they do not want to see any of the dogs go. She explained that Pugs are very sensitive to heat and cold so they mainly go out to relieve themselves but they do not often go out and stay out long, they do not need a large area to exercise. She also explained that she does breed the pugs but that she is at home all day and if they were bred she has them sold around 8 weeks. Jim Zollweg asked the applicant if they understood that as the dogs pass, they cannot be replaced. The applicants stated that they did understand that.

Public Comment:

Eveline Burdick – 976 Parma Center Road, stated that she has two dogs and she never hears the applicant's dogs or has had a problem with them and does not care if they have six but she does not want this to turn into a business.

Public Hearing Closed.

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

Acting Chairperson Thomas felt that the motion should be structured so that the dogs can be permitted to stay until they pass and no additional dogs can be added to this Special Permit. Jack Barton explained that the code calls for an annual review and when the amount of dogs is at three or less the Special Permit would go away and then if they were to want additional dogs the applicants would have to get another Special Permit.

A **Motion** was made by Jim Zollweg to **approve** the application of Donald Paul, owner, for a Special Permit at 985 Parma Center Road. The applicant is requesting this Special Permit to continue keeping six dogs on the property in accordance with Town Zoning Article 10, subchapter 165-82-AA.3. This property is currently zoned Agricultural/Conservation (AC). This special permit is only for these six dogs; a Daschund named Daisy born in 2008; a Pug named Max born 2011, a Pug named Abby born 2011, a German Shepherd named Zoey born 2011, a Mastiff named Moose born 2009 and a Pug named Milo born 2013 and this allows them to be kept for the rest of the dog's lives and cannot be replaced. If any dog is used for breeding then any puppies in those litters must be placed before the age of four months old.

Seconded by Stephen Shelley. **Motion carried (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Veronica Robillard, Dean Snyder).

4. TIMOTHY HULL – 1524 HILTON PARMA CORNERS ROAD

The application of Timothy Hull, owner, for an area variance at 1524 Hilton Parma Corners Road. The applicant is proposing to construct a 1,500 square foot accessory storage building with a wall height of 16 feet and is requesting relief from Town Zoning Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Rural Residential (RR).

Timothy Hull, owner, explained that they wanted to build a 30x50 metal construction pole barn. They want to do this because they have purchased 40 acres of land and they plan to farm it and they need store bales of hay that they would eventually sell and tractors needed to farm the land. They will also be purchasing an RV that has a height of 13.6 feet which is why they need the wall height of 16 feet with 14 foot garage doors. They also will be storing a baylor, lawnmower and four wheelers. The Board reviewed the current survey map of the property.

Public Comment: None.

Public Hearing Closed.

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

A **Motion** was made by Stephen Shelley to **approve** the application of Timothy Hull, owner, for an area variance at 1524 Hilton Parma Corners Road. The applicant is proposing to construct a 1,500 square foot accessory storage building with a wall height of 16 feet and is requesting relief from Town Zoning Article 10, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Rural Residential (RR).

In making this motion I feel that the applicant has shown a valid reason to need the wall height of 16 feet. Not only because he will be purchasing a motor home which will require the additional height for the garage door in order to get it in but because he also wants to store equipment that is currently being stored around on his property and he anticipates that he needs the additional height to store hay that he produces on his property.

1. The benefit cannot be achieved by other means feasible to the applicant.
2. There will be no undesirable change in neighborhood character or to nearby properties. As I drive that road quite frequently it is noticed that already 50% of the properties have either a large barn or garage currently.
3. The request is not terribly substantial given the size of his property.
4. There will be no adverse physical or environmental effects.
5. The alleged difficulty is self-created; however, using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Jim Zollweg. **Motion carried (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Veronica Robillard, Dean Snyder).

5. DOUGLAS WOLK & DAVID SMITH – 5600 RIDGE ROAD WEST

The application of Douglas Wolk & David Smith, owners, for an area variance at 5600 Ridge Road West. The applicants are proposing to construct a 2,000 square feet accessory structure on this vacant parcel and are requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which does not allow this structure without a single family dwelling. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas asked Jack Barton for the original application so it could be reviewed by the Board to determine if this is a different application from before. The only difference that the Board could see was that the building size being asked for was larger now. Stephen Shelley stated that the reason for denial originally was not based on the size. There was discussion about if a motion would be needed whether the Board was going to listen to the new application or not. Jack Barton stated that a motion would be needed if the Board was not going to listen to the application; if they will hear it then the Board can move forward. Mr. Barton also felt that the Board should not just look at the application because a lot of times the applicant gets the application and fills it out the same as before even though it is different and he felt the Board should let the applicant speak. Acting Chairperson Thomas asked the applicant to explain the substantive changes from the last application to this one.

Douglas Wolk, 28 Valley Park Drive, half owner, explained that originally they wanted the barn for recreational purposes, growing Christmas trees and storage but in the time since then they have actively cleared the property and are now growing crops. They currently are growing corn and some hops, but would like to grow more hops and eventually barley. They need a barn to store the equipment needed to farm the property and feel like they have a shot to grow crops and make this a profitable hobby. They are looking to farm 15-20 acres of the 77 acres owned. David Smith, half owner, feels like the switch from recreational to agricultural is a substantive change. They are one of very few that farm hops. The applicants explained that they want to store equipment needed to farm this so that they are not driving up and down Ridge Road or storing equipment out in the rain. Without the barn they cannot expand their hops crops.

There was discussion about the possibility of applying to the County to be considered an Agricultural District. Jack Barton explained that they could do that but that is not a simple process. If they were an Ag District they would need a zoning permit but would not have to be in front of the Zoning Board for variances.

Acting Chairperson Thomas stated that per the code this is not allowed and the concern is that the Town does not want buildings on empty lots that turn into eyesores when the property is sold later or if the farming does not work out and it is a precedent that the Board does not want to set. Acting Chairperson Thomas asked the applicant if he looked at the Ag District. The applicant stated that they did but they were looking for the applicant to say he was going to make over \$10,000 in the first year and he felt he could not lie to them and say that, plus 70-80% of your land has to be cleared and considered tillable and 50% of their land is wooded and they do not want to clear the trees. Jack Barton asked if the Board could consider that this property is in

an EPOD District which limits the cutting or clearing of trees, which would preclude them from getting into an Ag District. He does not feel the Town would want them clearing all of the trees to achieve that. The applicants would have to go to the Planning Board for review if they wanted to clear the trees.

Jim Zollweg was disappointed that the Ag District is not a viable option. Tim Thomas asked why there has been a change from the recreational need to farming hops. The applicant explained that NYS gives tax incentives for growing hops; they have the trellises and onsite water source to grow these. There was discussion as to whether this was something the Town Board could consider modifying or changing to allow structures like this. Jack Barton felt that this did not need to go in front of the Town Board because accessory structures are allowed in the district and this is the process they would go through to request relief from this code.

Jim Zollweg is willing to consider this application again. He felt that the applicant has made a fairly good case that this could be a money making operation, not just a get outside on the weekend hobby and he knows the Town and County are very supportive of productive farming operations. Because of this information there is enough of a substantive change for him to reconsider this. Stephen Shelley stated he is sympathetic and not sure what the Board can do. Acting Chairperson Thomas is on the fence and thought maybe there could be conditions placed on this variance. Jack Barton is concerned that if there are conditions put in place then there would not be a legal process in place to make them take down the building or how would the Building Department control that. Acting Chairperson Thomas felt that the agricultural aspect is the driver that makes this application different than previously. Stephen Shelley does not remember any other applications like this with the intentions to farm not just for recreational use or storage.

By consensus of the Board, the Board will reconsider this application based on new information provided and the members feel that the new information is enough of a substantive change to rehear the application.

Stephen Shelley asked if there was an opportunity to decrease the size of the building. The Board reviewed the layout of the equipment which is currently being stored on the property. The applicant stated that if they have to downsize they would like to drop in 3ft increments. The max size in the District is 2000 sq. feet. Jim Zollweg is favorable to making this building smaller, that only agricultural equipment be stored in it and also that it would be placed further off the road. The applicants stated they are willing to go smaller if it means that they can get the building and that they could place it approximately 400 feet off the road. They also stated that they have gotten rid of most of their recreational vehicles.

Public Comment: None.
Public Hearing Closed.

Board Discussion: Art Fritz reported there are no letters in the file, notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR and no further review is required.

Acting Chairperson Thomas felt that the motion should be as specific as possible with very supportive information along with the unique nature of the property. Stephen Shelley asked for clarification about the hops and that they are currently being harvested with the neighbor jointly.

A **Motion** was made by Jim Zollweg to **approve** the application of Douglas Wolk & David Smith, owners, for an area variance at 5600 Ridge Road West. The applicants are proposing to construct a 36' x 48' or 1728 square feet accessory structure a minimum of 200' from the road on this vacant parcel and are requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which does not allow this structure without a single family dwelling. This property is currently zoned Agricultural/Conservation (AC). The following is discussion that describes why this property and request is unique and unlike other applications before us. The owners of this property intend to develop it as a specialized agricultural operation working with specialty crops, namely hops and more valuable grains such as barley, therefore, this is an appropriate use for this district. 165-31A states the purpose of the Agricultural/Conservation district is intended to

regulate land use for working farmland, woodland and wetland areas all of which are contained on this property. Also the intention of the conservation district is to allow low density residential development but in such a manner that it supports agricultural operations and also conservation of the natural environment and protection of open spaces. The plan and intention that the owners have presented to us concurs with what the Town has set up as a purpose and goal of the agricultural district. They have informed the Board that there will be no recreational equipment of any kind in this structure which will be completely devoted to the storage and protection of agricultural equipment and perhaps produce. The activities that the owners have started and intend to increase are very legitimate and are within the goals of the Town, including both profitable agricultural operations and open space preservation, therefore what the applicants are doing is legitimate and creates the need for them to protect their equipment that is involved with this operation from vandalism and to help them avoid liability in case someone would be near the equipment. Another unique feature of this property is the area where they intend to build this building is a significant elevation drop from the roadway, in fact driving by that spot it will be in a position that it will be virtually invisible to normal traffic.

In making this motion:

1. The benefit cannot be achieved by other means feasible to the applicant. The Board was not able to come with any other means for the applicant to be able to protect their equipment.
2. There will be no undesirable change in neighborhood character or to nearby properties. The structure will be very much out of sight and even if it was seen it would not be out of character for that stretch of Route 104.
3. The request is substantial; this is not a use that is called out in the code.
4. There will be no adverse physical or environmental effects because they will be building away from the areas that are protected and wetland areas.
5. The alleged difficulty is slightly self-created because of the character and nature of the property. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion carried (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard, Dean Snyder).

MINUTES OF FEBRUARY 20, 2014

The ZBOA minutes of February 20, 2014 were reviewed a **Motion** was made by Stephen Shelley to approve the February 20, 2014 minutes as presented. Seconded by Jim Zollweg. **Motion carried (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard, Dean Snyder).

MINUTES OF MARCH 20, 2014

The ZBOA minutes of March 20, 2014 will be reviewed at the Zoning Board of Appeals meeting on May 15, 2014.

OTHER BUSINESS

Jack Barton introduced Dan Melville, as the new alternate member of the Zoning Board of Appeals.

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Jim Zollweg to adjourn the meeting at 8:45 p.m. **Motion carried (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard, Dean Snyder).

Respectfully submitted,

Carrie Webster
Recording Secretary