

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
September 18, 2014**

**Members Present:** Veronica Robillard  
Dean Snyder  
Stephen Shelley  
Tim Thomas  
Jim Zollweg

**Others Present:** Dennis Scibetta, Art Fritz, Kyle Mullen, Dan Melville

**Public Present:** Pete McCann, Kris Schultz, Lesia Pavlovych, Walt Pavlovych

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. Chairperson Robillard explained the function of the ZBOA and the decision-making process. She also explained that this is a five member board and a quorum of three is required to pass a motion. Chairperson Robillard read the agenda for the meeting of September 18, 2014.

**NEW BUSINESS**

**1. RONALD J. COTROPIA – 214 HUFFER ROAD**

The application of Ronald J. Cotropia, owner, for an area variance at 214 Huffer Road. The applicant is seeking relief from Town Zoning Article V, Subsection 165-32.E.1, Schedule 1 which states in part that the minimum lot width is to be 260 feet. The proposed lot will be 250.03 feet in width. This property is currently zoned Rural Residential (RR).

Dennis Scibetta explained that the applicant has asked to table this application for approximately 2 months because he may not need a variance if he can purchase some additional property to the west.

Dean asked why this fee had been waived. Chairperson Robillard stated that this originally was in front of the Board in July and there was some confusion about the request and how it had been published. Dennis stated that there was an improper request taken by the Building Department.

A **Motion** was made by Tim Thomas to table the application of Ronald J. Cotropia, owner, for an area variance at 214 Huffer Road to the November meeting at the applicant's request, which will afford him time needed to potentially acquire property to the west that would eliminate the need for the area variance. Seconded by Jim Zollweg. **Motion carried to approve (5-0) (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).**

**2. PETER McCANN – 3 ZELLWEGER BEACH**

The application of Peter McCann, owner, for an area variance 3 Zellweger Beach. The applicant is proposing an accessory structure to be 1,024 square feet. There is an existing accessory structure on the property with a total of 160 square feet. The applicant is seeking relief from Town Zoning Article V, subsection 165-35.C.2 which states that the total of all accessory structures shall not exceed 400 square feet. This property is currently zoned Waterfront Residential (WF).

Peter McCann, owner, passed out building information and a survey map. He explained that this would be a detached pole barn to the west of the existing house and garage, currently on the stone area. He needs to be able to store a Kubota with plow, riding lawn mower, three vehicles and a golf cart, all which are currently stored outside. He also explained that he sold his business in the Village which had a garage where he stored a car, which also needs storing. He has a 1.5 acre lot and feels that the building would fit there with no issue. He also feels that the neighbors would probably prefer these items to be stored inside as opposed to outside. He stated that there are currently at least three different neighbors that have buildings bigger than this. Mr. McCann showed a picture of what he would like it to look like but he does not have exact drawings yet and will do that if this is allowed and a building permit is pulled.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, there are no letters in the file, 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.

Chairperson Robillard asked if this would be used only for personal use and read the list of items again to be stored. Applicant stated yes. Tim Thomas asked if there would be a second story. Mr. McCann stated it would not be full it would might be half and only for storage. Dean Snyder asked if there would be permanent stairs. There was discussion about if there were stairs than that would have to be taken into account for the square footage and would have to be called a second floor and would then have to come back to the Zoning Board. Mr. McCann stated that there would not be permanent stairs.

Dean Snyder asked if this would have siding and overhangs and whether there was a basement in the house? Mr. McCann stated this would look like his house with hickory sides, stained to match house with overhangs and gutters. His basement only has a crawl space. Dean Snyder stated so there is no basement storage in the house. Tim Thomas asked if there is an issue with this being a corner lot. Dennis Scibetta stated that because this is a private road and waterfront property this is allowed to be in the side yard. Stephen Shelley asked if the overhang needs to be included in the area. Dennis Scibetta said no.

Dennis Scibetta stated that Mr. McCann did a really good job presenting this application.

**Public Comment:** None  
**Public Hearing Closed.**

A **Motion** was made by Tim Thomas to **approve** the application of Peter McCann, owner, for an area variance 3 Zellweger Beach. The applicant is proposing an accessory structure to be 1,024 square feet. There is an existing accessory structure on the property with a total of 160 square feet. The applicant is seeking relief from Town Zoning Article V, subsection 165-35.C.2 which states that the total of all accessory structures shall not exceed 400 square feet. This property is currently zoned Waterfront Residential (WF). In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. Currently the applicant has a handful of pieces of equipment that are being stored outside that consist of a golf cart, Kubota tractor and lawnmower. He also has a vehicle that needs storing after a recent sale of a business in the Village. The property like most of the homes along the lake does not have a basement only a crawl space but is not in a position to be able to store in the basement.
- There will be no undesirable change in neighborhood character or to nearby properties. Where the accessory structure is being placed does not obscure the view anybody else adjacent to the property and does sit on 1.5 acres. There are other properties in the neighborhood that have similar structures.
- The request is substantial but taking into account there is no basement storage and he just sold a business there is a need.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is somewhat self-created; however, using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community.

The applicant has stated that there will be no permanent stairs to the attic area and will be for personal storage only not business.

Seconded by Stephen Shelley. **Motion carried to approve (5-0) (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).**

### **3. PAVS, LLC – 4704 RIDGE ROAD WEST**

The application of PAVS, LLC, owner, for a Special Permit at 4704 Ridge Road West. The applicant is seeking a special permitted use in accordance with Article IV, subsection 165-63 which states that the Zoning Board of Appeals may approve a permit for a public or private golf course within a Rural Residential (RR) district.

Dean Snyder asked for clarification of what was advertised and what the application states. There was discussion among the Board surrounding the other items that were not advertised and what exactly the Board is looking at. The Board's understanding is that the only thing being considered and discussed is a Special Permit for a golf course. Kris Schultz stated that he would like to encompass future plans into this special permit. Dean Snyder is concerned that if those items were not advertised then the Board could not take action on those. Kris Schultz explained that they went informally to the Planning Board to get some advice on how to proceed. Tim Thomas is concerned that usually a Special Permit is a Special Permit for something specific and this looks like the parking lot is being bundled into this and the Board has heard this before. Dean Snyder stated that the Board would only be able to listen to the Special Permit surrounding the golf course because that is what was advertised. Dean Snyder explained that this property has been a golf course for a number of years and since it is a preexisting non-conforming use it can continue, if something happens or if no one used it for a year they would lose it; with a Special Permit they would have it forever. Kris Schultz stated that he understands that but he would like to be able to explain to the Board what they would like to do in the future. Mr. Schultz stated that he has never been told that this was being proceeded with wrong and would just like to present this.

Jim Zollweg also felt that only certain things with relation to the golf course can be ruled on. Dean Snyder felt that the Board could listen to this but the Board may only be able to rule on certain things.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, there are no letters in the file, 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. Dennis Scibetta feels that there is ample room for this addition.

Kris Schultz explained that last winter a car dealer kept cars on the property. After being told that this was not an acceptable use, the applicant applied to the Zoning Board for this. After looking into this more he realized that they were going down the wrong path asking for a use variance and that by doing that it was opening this up to other things that the clients never intended to use. Currently there is not a Special Permit on the property and they would like to obtain one for the golf course. Mr. Schultz spoke to Dan Bryson, Esq., who explained that through a Special Permit the Town is able to monitor and it gives the Town some control over what is going on at the property. Mr. Schultz explained that this is why they would like the future plans also included in the Special Permit. The future plans include a storage building for carts, turning the current cart storage building into a party room, expand the restaurant and add a driving range.

Kris Schultz explained that this is 1100 feet from Ridge Road West and 600 feet from any houses on Dean Road. He felt that this would be hard for people to see the cars from a visual standpoint and would not impact anyone. There would be no sales or customers. This would help sustain them financially when the golf season winds down for the winter. The property to the south is Highway Commercial. Dennis Scibetta asked where the golf carts are currently being stored. Mr. Pavlovych stated they are currently being stored outside because they are gas and would be taken offsite for the winter. Dennis Scibetta asked about the renovations being done without a permit on the current storage building for the carts. Mr. Pavlovych stated that he had talked to Bob Prince and Jack Barton and that there was an application for this. Mr. Scibetta stated that there is not an application for renovations and he is being told that that is being used as a party room. Chairperson Robillard stated that there are multiple levels of concerns and would like to get this back on focus for this application. Dean Snyder asked that the applicant be able to finish with his application and the Board can move forward as normal. Kris Schultz summarized that these changes would need site plan approval but wanted to get the Special Permit first instead of going to Planning Board and then they would send him to the Zoning Board for Special Permit first.

Dean Snyder felt that the way of the Use Variance was an inappropriate and thinks the Special Permit way is perfect for this. The Board wants to see business thrive. His concern is how this was advertised so the only things that can be ruled on have to be golf course related. The public has to have a chance to see these changes and have input. Chairperson Robillard stated there are concerns from the Building Department over historical and recent events. There was discussion over advertising this again and including all future

improvements. Kris Schultz did want to say that throughout all of this the Building Department has been really helpful and he was not aware that there were any issues over the renovations.

Tim Thomas asked where the cars go during the golf season or is the non-golf season a busier time of year for cars. Kris Schultz stated that he does not know but his clients would only be interested in doing this during the winter season because there is a big parking lot sitting empty. Chairperson Robillard stated that there seems to be a lot of inconsistencies with the application, the legal, construction without a permit and the agenda and some things are very vague. She would like to get an update from the Building Department on what their perception is over what is being asked. Dean Snyder stated that the Board is here to discuss the Special Permit only because the rest has not been advertised, it is not appropriate to discuss tonight. Dennis Scibetta explained that at the June 2014 meeting the Board denied a use variance for the parking of cars. In 1998 when Zoning Laws changed it was required that to have a golf course in Rural Residential there needed to be a Special Permit, Mr. Scibetta explained that that is what was being applied for. There was a letter sent to the applicant by Mr. Barton stating that the use of the golf course is considered pre-existing non-conforming use and can continue such use until that use has been discontinued for one year. Town law allows for the repair of any building that pertains to the golf course, including the restaurant, if damaged by fire or other unintentional causes. The current application was for the golf course to remain as is and to have a Special Permit to keep the golf course operational as is. Mr. Scibetta explained that the Special Permit is needed because they were going to be bringing in the future changes because it would no longer fall under the pre-existing non-conforming use. They do not need a Special Permit if nothing changes but then they cannot make changes. Chairperson Robillard explained that the request tonight is only for a Special Permit for the golf course in Rural Residential.

Stephen Shelley clarified then that with a golf course with a special use permit and the owner wants to make an improvement would they need to come in and modify the permit. Dennis Scibetta said they would. Stephen Shelley says that he is interpreting that the Board can only approve what already exists because the advertisement did not reflect the modifications.

Dean Snyder said that the advertising is not consistent with the application. Chairperson Robillard said if they are not asking for anything beyond the golf course, why are they asking for this. Dean Snyder stated because they cannot improve the property with a pre-existing non-conforming use, there is a risk to them. Tim Thomas states that this validates the current use. Dennis Scibetta stated that he has a problem with the storage of vehicles anywhere in Parma; he also states that New York State calls to check and see if these properties where vehicles are being stored are zoned to legally store vehicles and then the State issues licenses to those properties to sell vehicles.

There was discussion about being able to rule if there are violations on the property. Dean Snyder asked if the applicant had been notified by letter about those violations. Dennis Scibetta stated no. Dean Snyder felt that if there were issues with this property then that should have been addressed with the applicant before the meeting. There was discussion about tabling this application pending the concerns of the Building Department and the Building Department stated that they would make the applicant aware of what needs to happen. Mr. Pavlovyh stated that he will work with the Building Department and follow up with the building permit. He stated that after talking to Bob Prince and Jack Barton they did remodel and repair in the same footprint of the other building in anticipation of changing this room and he understands that he needs to meet and sit down with Dennis, and that they both need to work together. Tim Thomas clarified that this remodel and repair work done so far would not be allowed under the pre-existing non-conforming use, so they need the Special Permit to continue with this and the Board wants to see business thrive in the Town. Dean Snyder recommends that they ask the applicant if they want the Board to rule tonight with the hopes that the applicant would want to regroup and present all the information and have it advertised as a whole. He feels that there should be no additional charge to the applicant. Tim Thomas and Stephen Shelley agreed with this. Dean Snyder also felt that Kris' questions are appropriate but that they should be directed to the Building Department not the Zoning Board members. Kyle Mullen stated that the Town Board would have to approve the fee to be waived. Dean Snyder felt that Kyle Mullen could explain to the Town Board that the advertisement did not reflect the application. There was discussion about tabling this until October and then

going to the Town Board to ask for the fee to be waived and then the applicant can withdraw the application at the next meeting and then move forward with the new application. The advertisement should state a Special Permit with future improvements and list them. Chairperson Robillard asked that the application be specific with numbers and information. Dennis Scibetta hoped to hear from the Department of Motor Vehicles by the next meeting and if he does not he is going to consider it a non-issue. It was felt that the applicant can get this information from the dealer. It was also stated that with a Special Permit any part of it can be revoked at any time.

A **Motion** was made by Dean Snyder to **table** the application of PAVS, LLC, owner, for a Special Permit at 4704 Ridge Road West without prejudice to the October 2014 meeting. Seconded by Tim Thomas. **Motion carried to approve (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

#### MINUTES OF AUGUST 21, 2014

The ZBOA minutes of August 21, 2014 were reviewed a **Motion** was made by Dean Snyder to **approve** the August 21, 2014 with the following revisions: Page 4, paragraph 5, line 1, change “there would be an undesirable” to “there would be no undesirable”; Page 4, paragraph 8, line 2, change “Using the balancing test, the detriment to the health, safety and welfare of the community outweighs any benefit to the applicant” to “Using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community”; and Page 4, paragraph 11, line 6, change “here” to “her”. Seconded by Jim Zollweg. **Motion carried (4-0)** (Ayes: Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Abstain:** Veronica Robillard).

#### OTHER BUSINESS

#### ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder, seconded by Stephen Shelley to adjourn the meeting at 9:00 p.m. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

Respectfully submitted,

Carrie Webster, Recording Secretary