

**TOWN OF PARMA
ZONING BOARD OF APPEALS
NOVEMBER 15, 2007**

Members Present: Patrick Buskey
Veronica Robillard
Dean Snyder
Stephen Shelley
Tim Thomas

Others Present: Jack Barton, Mark Kalen

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board, with a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. JAMES AND JOY BRUST – 11 JOHNSDALE TERRACE

Application was received from James and Joy Brust, owners, for an area variance at 11 Johnsdale Terrace. Applicants are requesting to allow an existing deck to remain at a side setback from the northerly property line of 13 feet. Applicants are requesting relief from town Zoning Article 11, subsection 165-87, which requires a 16 feet side setback. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled that this application was tabled at the September meeting to allow the applicant to verify measurements that came into discussion, to determine (1) if a variance is required; and (2) to more accurately determine the dimensions relative to the deck and to document accordingly with a drawing.

Jack Barton reported that the applicant had the property surveyed on 11/1/07 and the side setback from the northerly property line is 17.2 feet. Therefore, a variance is not required.

A **Motion** was made by Dean Snyder to recognize that, based on the survey presented dated 11/1/07 by the applicant, the original request for a variance is no longer necessary because the setback exceeds the minimum required. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

NEW PUBLIC HEARINGS

2. ROLAINÉ HOMES, INC. – 500 HAMLIN PARMA TOWN LINE ROAD

Application was received from Rolaine Homes, Inc., for an area variance on proposed lot #317 of the West Hill Subdivision, at this time, known as 500 Hamlin Parma Town Line Road. This lot is considered a corner lot with frontage on two streets. Applicant is proposing a front setback of 40 feet from the easterly property line and is requesting relief from Town Zoning Chapter 165, schedule 1, which requires a 60 feet front setback. This property is currently zoned Medium Density Residential (MD).

Kris Schultz, survey engineer, provided a history of this subdivision, which started 25 years ago. Section 1 was developed in the late 90's when corner lot requirements were less. He recalled a

similar variance requested in 2003 on Curtis Road, which was approved. He explained they are looking to line up the house on this lot #317 with the other homes on the street on West Hill Drive. He provided pictures of the existing lot on Curtis. He explained that this will look similar, mirroring the same configuration. He stated that this proposed application will not be unique.

Chairperson Robillard asked if any other lots may need a variance. Kris replied that there are potentially two lots that may need variances. He stated that the established number of lots were determined 10 years ago when zoning was different. He provided a picture of an alternative placement of the house that would meet code, noting it is not a desirable placement for the neighboring lot since the back of the house would face the neighbor's back yard. He noted that the proposed placement also gives lot #317 more of a back yard. Kris stated that this configuration is more feasible to the home owner and to the neighboring homes.

Public Comment:

Ron Gousman – 476 Manitou Beach Road: Stated that the proposed placement looks more desirable. It would look odd to have a house placed in the alternative location.

The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

A **Motion** was made by Dean Snyder to approve the application of Rolaine Homes, Inc., for an area variance on proposed lot #317 of the West Hill Subdivision, at this time, known as 500 Hamlin Parma Town Line Road. This lot is considered a corner lot with frontage on two streets. Applicant is proposing a front setback of 40 feet from the easterly property line and this grants relief from Town Zoning Chapter 165, schedule 1, which requires a 60 feet front setback. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, I do not believe the benefit can be achieved by other means feasible to the applicant. The granting of this variance will create a more desirable layout relative to the position of the house which would be required by strict adherence to the code. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, but using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

3. GEORGE WEIS – 158 LIGHTHOUSE ROAD

Application was received from George Weis, owner, for an area variance at 158 Lighthouse Road. Applicant is proposing an addition to the existing home with a front setback of 32.4 feet which will match the setback of the existing home and is requesting relief from Town Zoning Chapter 165, schedule 1, which requires a 75 feet front setback. This property is currently zoned Rural Residential (RR).

Larry Wenzel stated that his father-in-law, George Weis, owns this property. The house was built in 1850's. This addition is for his 8-year-old son, which is handicapped and has to use a wheelchair and walker. This addition will provide more living room space to accommodate his needs and a larger bedroom for him. He explained that the addition would be at the 32 feet setback. The addition will be even with the front of the house. He noted that if the addition was placed according to code, it would require his son to exit the addition to the outside to enter the main house. He provided a sketch map of the property which indicated the proposed addition. He

stated that the current setback is 32 feet. He noted that he has started the construction so he could get the block foundation started and was aware when he started this that he knew if the Zoning Board did not pass the application, he would have to remove it. He noted the septic system prevents placement right behind the house. George Weis confirmed that his grandson has a lot of medical problems which require special needs and a home care aide.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

A **Motion** was made by Tim Thomas to approve the application received from George Weis, owner, for an area variance at 158 Lighthouse Road for an addition to the existing home with a front setback of 32.4 feet which will match the setback of the existing home and this grants relief from Town Zoning Chapter 165, schedule 1, which requires a 75 feet front setback. This property is currently zoned Rural Residential (RR). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The existing home was built in the 1850's, well before current zoning, and the addition will be in line with the front of the existing home. There are very extenuating circumstances with a special needs child, and if the addition were built to code, it would make it difficult for the handicapped son to access the main home. There will be no change in neighborhood character or to nearby properties. The request is substantial, but mitigated because the home was built in the 1850's. There will be no adverse physical or environmental effect. The alleged difficulty is somewhat self-created, but mitigated due to the age of the existing home. 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: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

4. SHANNON REISMAN – 5575 RIDGE ROAD WEST

Application was received from Shannon Reisman, owner, for a use variance at 5575 Ridge Road West. This property has a multi-family dwelling and the applicant is requesting relief from Town Zoning Article 6, subsection 165-39.B, which allows only commercial and agricultural operations as permitted principal uses. This property is currently zoned General Commercial (GC).

Shannon explained that 5 months ago he closed on the purchase of this property. He explained that after the closing of his purchase, he found out that this is considered a one family dwelling. He stated he is looking for permission to use this as a 3-family home again. He stated there are no tenants in there now. He described the improvements he has made to the property, including new windows, carpeting and cupboards. He provided paperwork from Mr. William Helsing that confirmed this dwelling was used as a multi-family home in 1937. He provided tax assessment documentation from 1992 which indicates taxes were paid as a 3-family dwelling. He provided several testimonials for the record that documents this dwelling was used as a 3-family dwelling.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order and the request was returned by Monroe County as a matter of local determination. Jack Barton reported this is a Type II SEQR with no further action required.

Discussion was held on the fact that this documentation substantiates this multi-family dwelling pre-dated current zoning and should be considered a pre-existing, non-conforming dwelling.

Following discussion, a **Motion** was made by Stephen Shelley that, based on information and documentation provided by the applicant, it is concluded that this is a pre-existing, non-conforming 3-family dwelling. Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

SPECIAL PERMIT RENEWALS

5. JOSEPH AND BARBARA RYEN – 376 NORTH AVENUE

Application was received from Joseph and Barbara Ryen, 375 North Avenue, for renewal of a Special Permit to allow the boarding of no more than ten (10) horses.

Chairperson Robillard reported no complaints on file.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application of Joseph and Barbara Ryen, 376 North Avenue, to allow the boarding of horses with the following conditions:

1. Maximum of 10 horses boarding.
2. Parking is to be self-contained to the designated areas.
3. Activities to end at 9:30 pm
4. Lighting to be contained to the property.
5. Proper disposal of waste without hazard to the property.
6. Signs to conform to local ordinance.
7. Notification of the Special Permit to the Fire Marshal.
8. For a period of 2 years, to be renewed 8/2009

Seconded by Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

6. MARK JANSEN – 675 MANITOU ROAD

Application was received from Mark Jansen, owner, for a special permit at 675 Manitou Road to allow an accessory apartment for in-law use. This property is currently zoned High Density Residential (HD) which allows this use with a special permit.

Chairperson Robillard reported no complaints on file.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Mark Jansen, owner, for a special permit at 675 Manitou Road to allow an accessory apartment for in-law use. All conditions as per zoning ordinance 165.76 for a period of two years, renewable in July, 2009. This property is currently zoned High Density Residential (HD) which allows this use with a special permit. Seconded by Dean Snyder. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

OTHER BUSINESS

Draffin Road Subdivision – 907 Burritt Road: Discussion was held on a letter dated November 12, 2007, received from Douglas Flood, requesting a six month extension of his area variance, which he stated was needed to accomplish the required approvals and address everyone's concerns prior to submission of the finalized Concept Plan. Jack Barton confirmed the drainage problems in that area.

Following discussion, it was the consensus of the Zoning Board that if the applicant is unable to comply with the area variance issued to him, that he would need to make the appropriate application and explain his situation to the Board and the rationale for his request.

MINUTES OF OCTOBER 18, 2007

The following changes were recommended: page 4, first line, add” Chairperson Robillard read a letter as follows:”; page 9, in the Motion, line 7, add” ..substandard due to 2 dwellings on one lot.”; page 10, line 1, remove the word “exactly”; page 11, Para 6, line 2, change wording to “He is not opposed to a garage being built at this location.” A **Motion** was made by Dean Snyder to approve the October 18, 2007 minutes with the recommended changes. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Abstain: Patrick Buskey)

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas and seconded by Stephen Shelley to Adjourn the meeting at 8:35 pm.

Respectfully submitted,
Diane Grundon, Recording Secretary