

TOWN OF PARMA
ZONING BOARD OF APPEALS
July 19, 2012

Members Present: Blake Keller
Veronica Robillard
Stephen Shelley
Tim Thomas
Jim Zollweg

Members Excused: Dean Snyder

Others Present: Jack Barton

Public Present: Nicholina Trinca, Mark Noto and Gary Comardo

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She explained that a quorum of three is required to pass a motion.

TABLED PUBLIC HEARINGS

1. MARK NOTO – 4968 RIDGE ROAD WEST

The application of Mark Noto, owner, for an area variance at 4968 Ridge Road West. The applicant obtained a Building Permit for a free standing sign and located the sign five feet from the road right of way. The applicant is requesting relief from Town Zoning Article 14, subsection 165-111.D which states in part that all free standing signs shall be set back a minimum of 15 feet from all lot lines. This property is currently zoned General Commercial (GC).

Mark Noto, owner of 4968 Ridge Road West, explained that he placed the sign in the current location because if the sign were to be placed further back then it would be hard to see and that there are other signs on Ridge Road that are closer than his sign. Chairperson Robillard asked why he did not come to the board before placing the sign in this location. Mr. Noto replied that he did not realize, he thought he was ok in this location. Tim Thomas asked if there were any future plans to illuminate the sign. Mr. Noto responded that he does not need it to be illuminated. Jack Barton explained that when Mr. Noto came into get the building permit, they discussed how to determine the setback and typically the telephone poles are on the property line but the pole is in front of the sign, almost 12 feet in the right of way.

Board Discussion: Jack Barton reported that 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.

Public Comment: None. Public Hearing Closed.

A **Motion** was made by Tim Thomas to approve the application of Mark Noto, owner, for an area variance at 4968 Ridge Road West. The applicant obtained a Building Permit for a free standing sign and located the sign five feet from the road right of way. The applicant is requesting relief from Town Zoning Article 14, subsection 165-111.D which states in part that all free standing signs shall be set back a minimum of 15 feet from all lot lines. This property is currently zoned General Commercial (GC).

In making the motion to approve:

- I don't believe the benefit can be achieved by other means feasible to the applicant, to put the sign in compliance with the current setbacks it would make the sign even more difficult to see and potentially have a negative impact on the business the applicant is promoting.
- There will be no undesirable change in neighborhood character or to nearby properties. The current placement of the sign does not present any obstruction to traffic on Ridge Road or coming in or out of

the property. The sign is certainly not out of character relative to the setback and other signs up and down Ridge Road.

- The request is somewhat substantial only because our code requires 15 feet and this request is for 5 feet.
- There will be no adverse physical or environmental effects. Visibly driving by, it will be difficult for the average resident or anybody visiting our community to determine that it is not in compliance with the setback.
- The alleged difficulty is somewhat self-created, however I feel it is mitigated to a certain extent due to the contour of the road in that area. 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 (5-0)** (Ayes: Blake Keller, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder).

NEW BUSINESS

2. NICHOLINA TRINCA – 159 FERGUSON DRIVE

The application of Nicholina Trinca, owner, for an area variance 159 Ferguson Drive. The applicant is proposing to construct a detached garage which will be the principal structure on this vacant parcel and is requesting relief from Town Zoning Article 5, subsection 165-35.B which limits permitted principal uses to one single family dwelling, Townhouse units and customary agricultural operations. This property is currently zoned Waterfront Residential (WF).

Frank Trinca, stated that he owns this property and has a residence at 164 Ferguson Drive. She would like to place a garage on the property across the street on 159 Ferguson Drive. Chairperson Robillard asked why the current garage is not sufficient. Mr. Trinca explained that a tree has fallen on it and there is some damage to the current garage and because he lives on the lake and does not have a basement he would like additional storage space. Chairperson Robillard asked what he intends to do with the existing garage. Mr. Trinca said he was going to knock it down, so there will not be a garage on 164 Ferguson Drive. Chairperson Robillard asked if the existing trees on 159 Ferguson would remain. The applicant stated that they would and that the natural surroundings would remain making it hard to see the new garage unless in the driveway.

Tim Thomas asked Jack if it is impossible to merge the two properties. Jack Barton explained that he does not believe the county would accept that because of the road right of way, they are separate parcels. Tim Thomas asked Jack if the lot meets the minimum requirements for this. Jack replied yes. Veronica Robillard asked if this is approved and they take the old garage down will it also keep within the square footage allowed. Jack Barton stated that for a garage there is a minimum requirement instead of a maximum, unlike an accessory storage. Tim Thomas asked about the section of the code that requires a residence to have a garage. Jack Barton stated the code requires a minimum one car garage for new construction. Tim Thomas clarified that this is existing. Tim Thomas stated that it is very common along the lake for the garage to be on the opposite side of the street and not out of character with the neighborhood.

Board Discussion: Jack Barton reported that 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.

Public Comment: None. Public Hearing Closed.

A **Motion** was made by Tim Thomas to approve the application of Nicholina Trinca for an area variance at 159 Ferguson Drive. The applicant is proposing to construct a detached garage which will be the principal structure on this vacant parcel and is requesting relief from Town Zoning Article 5, subsection 165-35.B which limits permitted agricultural operations. This property is currently zoned Waterfront Residential (WF).

In making a motion to approve this application:

- I don't believe the benefit can be achieved by other means feasible to the applicant. The existing garage that is associated with 164 Ferguson Drive had a tree fall on it and it is damaged. The applicant desires

to build a new garage across the street on 159 Ferguson Drive which will afford him the opportunity to replace the garage at 164 Ferguson Drive. This will provide him with additional storage, as his home, as well as many others along the lake front do not have basements.

- There will be no undesirable change in neighborhood character or to nearby properties. The way the proposed structure would be situated on the lot and the natural vegetation and trees will minimize the visual impact. This structure will be the garage for the residence at 164 Ferguson Drive. Upon completion of the new garage, the current garage on 164 Ferguson Drive will be removed within 90 days after the approval of the final inspection of the garage at 159 Ferguson Drive.
- The request is somewhat substantial. Our code is very explicit about not allowing accessory structures on a lot without a primary residence however, because of the unique character of lake front property it is actually common to find the single family dwelling on one lot and the garage across the street on another lot.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created. 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 (5-0)** (Ayes: Blake Keller, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder).

MINUTES OF JUNE 21, 2012

The ZBOA minutes of June 21, 2012 were reviewed and the following recommended changes were made: Page 2, Para 3, line 7 change “conscious to conscience”; Page 5, Para 11, line 2, add “neighbors showed” evidence ; Page 5, Para 11, line 4 change “Thence to Hence”; A **Motion** was made by Stephen Shelley to approve the June 21, 2012 minutes as amended. Seconded by Jim Zollweg. **Motion carried (5-0)** (Ayes: Blake Keller, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder).

OTHER BUSINESS

Jack Barton said that he is working on revisions to the Town Zoning Code and that he hopes to have them to the board for the next meeting.

Chairperson Robillard said that she was very happy with the training session that was held at the Town, and felt that it was very informative. Jack Barton relayed that he also received very positive comments about the training.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Stephen Shelley to adjourn the meeting at 7:45 p.m. **Motion carried (5-0)** (Ayes: Blake Keller, Veronica Robillard, Stephen Shelley, Tim Thomas, Jim Zollweg; Absent: Dean Snyder).

Respectfully submitted,

Carrie Webster, Recording Secretary