

TOWN OF PARMA
ZONING BOARD OF APPEALS
July 17, 2014

Members Present: Veronica Robillard
Dean Snyder (entered meeting at 7:20 p.m.)
Stephen Shelley
Tim Thomas
Jim Zollweg

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

Public Present: Ted Knapp, Joanne Knapp, Ron Cotropia, Frank Heglund, Gregg Pacelli, Cheryl Pacelli, Andrew Lewis, Don Corcoran, MaryAnn Hubbell, Frank Hubbell, Mark Greenwell, Barry Bevins, Channing Goulette, Darlene Goulette

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.

NEW BUSINESS

1. RONALD J. COTROPIA, SR. – 214 HUFFER ROAD

The application of Ronald J. Cotropia, Sr., owner, for an area variance at 214 Huffer Road. The applicant is proposing to erect a single family dwelling on a parcel that has an existing home and is requesting relief from Town Zoning Article 10, subsection 165-82.A which states in part that a lot shall have erected upon it more than one principal building. This property is currently zoned Rural Residential (RR).

Ronald J. Cotropia, Jr., son of the owner, explained that what he wants to do is subdivide the property that his father owns and then build a house on the subdivided property not build a house on the same property as the legal currently reads. There was discussion between Board members that this will have to be re-advertised as a subdivision and dimensions given and because this application was not advertised that way the Board cannot act on this tonight.

Dan Melville was seated with the Board.

Stephen Shelley explained to the applicant that the problem with this is the way it was advertised. Chairperson Robillard stated that the way it currently reads there is a possibility that this would be denied and then this would complicate things more. Tim Thomas explained that the code does not allow two primary residences on a property and suggested that the applicant withdraw this, work with the Building Department and start over. Dan Melville stated that it would please the Board more if this were advertised correctly and this was to be subdivided. Jim Zollweg also felt that this would be the better way to go forward. Dennis Scibetta said that the application did say that he wanted to build on the current lot but that is not what the ultimate goal is.

Ronald J. Cotropia, Jr. stated that that his goal would be to subdivide this and he would like to withdraw this request.

Dean Snyder joined the meeting and was seated with the Board.

2. FRANK HEGLUND – 264 NORTH AVENUE

The application of Frank Heglund, owner, for a Special Permit at 264 North Avenue. The applicant currently has 4 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).

Frank Heglund, owner, explained he currently has 4 dogs and at one time he had ten dogs and a kennel. He felt that if he had to get rid of a dog it would have to be destroyed. He currently has two dogs that live outside and two dogs that are mainly inside dogs. He explained that they are all healthy and have been checked by a vet and also by the Humane Society. He has a concrete kennel and a drainage system so they are not walking on gravel, in the winter the outside dogs go into the heated garage.

Board Discussion: Art Fritz 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.

Tim Thomas asked what breed and ages the dogs are. The applicant has:

1. Rottweiler; Maxine; age 6 (outside dog)
2. Mastiff/Rottweiler Mix; King; age 7 (inside dog)
3. Sharpe; Little Bit; age 6 (inside dog)
4. Mastiff; Brutus; age 2 (outside dog)

Art Fritz explained that there are current property maintenance issues unrelated to the dogs that are pending in court. There is a compliance date of August 5, 2014. He was not sure that a Special Permit can be acted on while this is pending. He explained that Mr. Heglund is working to clean the property.

Tim Thomas felt that it would be premature to act on this until there is some completion from the Building Department for the property violations. Chairperson Robillard felt that while there is pending litigation the Board could not act on this. Dean Snyder felt that the Board could act on this contingent on the litigation and it would not go into effect until the outside issues are resolved. Tim Thomas asked what the lifespan would be for these dogs. Dr. Snyder said that the average life of a mastiff is short. Art Fritz explained that the Monroe County Sheriff's Office follows up on the Noise Ordinance for barking issues and a formal complaint can be made through Art and the formal complaint would be necessary to rescind this if it were granted.

Public Comment:

Ken Knapp – 267 North Avenue. He has concerns over barking dogs and the smell because he does not clean up after the dogs daily. He also stated that there are rats and feels that these are coming from that property. He has called the Town and the Sheriff's Office because of this. He was also concerned that if this is granted who will be in charge of following up on the complaints.

Frank Hubble – 278 North Avenue. He is concerned about the dogs getting loose. He said that they have been loose several times and back in 2010 they killed one of his cats.

Frank Heglund stated that someone notified Rodent Control and they told him that the rats were not from his yard because there are no rat holes. Chairperson Robillard asked Mr. Heglund if he cleans the dog waste up. Mr. Heglund stated that he puts it in a 50 pound bag and weekly it goes to the curb for the garbage to take. He also stated that he has doubled up on the cages so that the dogs could not get out. Art Fritz said that last year a cat was killed at his neighbor's house and Mr. Heglund plead guilty in Hamlin Town Court. There are two separate issues with cats being killed.

Dean Snyder asked Art Fritz what Chapter 9 of the Parma Town Code is. Art Fritz stated that that was put into the Code as a safeguard because if there were two complaints in a twelve month period the special permit could be rescinded.

Darleen Goulette - 263 North Avenue. She also has had issues with dogs barking and has witnessed the rat issue from her house and has had rats in her garage in the past.

Channing Goulette - 263 North Avenue. He explained that Frank has been a help to him in the past but that the dogs do create a mess and feels that they are not capable of maintaining the dogs and is most concerned about the health of the applicants.

Public Hearing Closed.

Dean Snyder stated that he had talked to the Humane Society to see if there were any outstanding issues. They said that they have had issues in the past but that changes have been made at the property and that Mr. Heglund was in good standing with them which is a significant change. Chapter 9 states that there is a mechanism in place for complaints with the Town for the barking issues that could take care of this, so while he is concerned he is not overly concerned to the point of not approving. Dr. Snyder is most concerned about 165-82.AA.3(d) that says that “the permit can be revoked in the event that the property owner is convicted of two violations of Chapter 9 of the Parma Town Code within a twelve-month period”, which also provides some protection for the neighbors. But the next part “or if any dog owned by the property owner or resident is determined to be a dangerous dog pursuant to Chapter 9 of the Parma Town Code or the New York State Agriculture and Markets Law.” Dr. Snyder’s understanding is that right now he has a dog that was deemed to be a dangerous dog in which case he does not think that this can be approved. If not for that there are enough safeguards to protect for neighbors. Dr. Snyder felt he could not approve it tonight because of this last sentence. Dean Snyder would like the attorney to advise on this and Art Fritz felt that the attorney should be a part of this.

Tim Thomas felt comfortable tabling this matter with the neighbors’ concerns. Frank Heglund said that the history is bad and if he had to get rid of a dog he would have to destroy it. Chairperson Robillard explained to the applicant that there needs to be further information provided and it was stressed that the Board is not telling him that he will have to put one of the dogs down, what he does if this is not approved is up to him, the Board would not be telling him that.

A **Motion** was made by Dean Snyder to **table** the application of Frank Heglund, owner, for a Special Permit at 264 North Avenue until the August 2014 meeting without prejudice to allow further legal clarification. The applicant is requesting this Special Permit to continue keeping four dogs on the property in accordance with Town Zoning Article 10, subchapter 165-82-AA.3. This property is currently zoned Agricultural/Conservation (AC).
Seconded by Tim Thomas. **Motion carried to table (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

3. GREENWELL FARMS, INC. – 600 CURTIS ROAD

The application of Greenwell Farms, Inc., owner, for 4 area variances at 600 Curtis Road. The applicant is proposing to subdivide a parcel with an average width of 234 feet, a depth of 200 feet and is 1.25 acres in area that has a pre-existing accessory structure with an average wall height of 25 feet and a front setback of 55 feet, from a 125.22 acre parcel and is requesting relief from 1) Town Zoning Article V, subsection 165-31.C.2 which does not allow this structure without a single family dwelling, 2) Town Zoning Article V, subsection 165-31.E.1 Schedule 1 which states in part that there shall be a minimum front setback of not less than 75 feet from all state or county highways, 3) Town Zoning Article V, subsection 165-31.E.1 Schedule 1 which states that the lot size is to be a minimum of 300 feet wide, 350 feet deep and be 3 acres in size, 4) Town Zoning Article X, subsection 165-82.C.2 which states that no detached accessory structure shall exceed 12 feet in height. This property is currently zoned Agricultural/Conservation (AC).

Mark Greenwell, owner, explained that he is looking to subdivide and sell this piece of property to his neighbor Andy Lewis, who currently mows this and stores things in the barn. Andy Lewis explained that he lives at 594 Curtis Road and he is looking to buy this and would like to improve the current building for his personal use, this building was originally built 90 years ago. He would like to use it as a woodshop, car repair and work on snowmobiles. He currently has no garage on his property.

Board Discussion: Art Fritz 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.

Tim Thomas asked why not merge this with his property and Mr. Lewis explained that he is not sure what he is doing with the current property. Potentially he could sell the principal property he is in or down the road he might merge it. Jim Zollweg asked if he owned 590 Curtis also. Applicant stated no that is an accessory building that is owned by someone else and that is all there is on that lot. Chairperson Robillard asked about the dimensions and the discrepancies in measurements between the application and the legal. There was some confusion by the applicant about whether to measure the wall height or the peak. After discussion it was confirmed that the dimensions in the legal were the correct dimensions and the ones in the application were measured incorrectly and the background information was incorrect. Tim Thomas asked if there is any Historical significance. Dean Snyder stated it is not designated Historical. There was discussion about this parcel not having a principal structure just this barn for the last 90 years.

Dean Snyder stated right now it is an existing non-conforming use with a building on a property without a principal residence. The Board would like to make sure that this barn is maintained, which is one of the reasons to not allow a barn on a property without a primary residence. It is better to allow this sale to happen so that this is maintained and taken care of, money put into it and used. What is proposed is better than what is existing because if not maintained it will fall into disrepair, the Greenwell's have no use for this. Tim Thomas felt that this is consistent with other lots over there.

Public Comment: None

Public Hearing Closed.

Dennis Scibetta stated that there were a several calls on this but after talking to the Building Department and explaining what is happening no one showed up to the meeting tonight and they seemed in favor of this and felt this would be an improvement.

A **Motion** was made by Jim Zollweg to **approve** the application of Greenwell Farms, Inc., owner, for 4 area variances at 600 Curtis Road. The applicant is proposing to subdivide a parcel with an average width of 234 feet, a depth of 200 feet and is 1.25 acres in area that has a pre-existing accessory structure with an average wall height of 25 feet and a front setback of 55 feet, from a 125.22 acre parcel. This motion grants relief from 1) Town Zoning Article V, subsection 165.31.C.2 which does not allow this structure without a single family dwelling, 2) Town Zoning Article V, subsection 165.31.E.1 Schedule 1 which states in part that there shall be a minimum front setback of not less than 75 feet from all state or county highways, 3) Town Zoning Article V, subsection 165.31.E.1 Schedule 1 which states that the lot size is to be a minimum of 300 feet wide, 350 feet deep and be 3 acres in size, 4) Town Zoning Article X, subsection 165-82.C.2 which states that no detached accessory structure shall exceed 12 feet in height. This property is currently zoned Agricultural/Conservation (AC).

In making this motion:

- The benefit cannot be achieved by other means feasible to the applicant. Given the regulations and principals by which the Town of Parma protects farmland and open space, other alternatives to this would infringe upon the acreage and ability to farm of this currently active agricultural enterprise.
- There will be no undesirable change in neighborhood character or to nearby properties. Discussion suggests that there is a considerable likelihood it will either maintain or even improve the character of this neighborhood because providing ownership to Andy Lewis will keep it in good condition.
- The request is substantial. The number of the area variances is in excess of the parameters stated in the Code.
- There will be no adverse physical or environmental effects because there will be no actual change to the neighborhood.
- The alleged difficulty is self-created; however, using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community.

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

4. BARRY BEVINS – 115 CURTIS ROAD

The application of Barry Bevins, owner, for an area variance at 115 Curtis Road. The applicant is proposing to erect a 32'x40'12' 1-1/2 story accessory structure in the front yard with a front setback of 100 feet from Curtis Road and are requesting relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Barry Bevins, owner, explained that he is looking to put this building in the front yard because the west side has the utilities going to the house and he would have to move those to put the driveway in. On the east side he has water issues and a walkout basement. The septic system is in the front part of the house. Tim Thomas asked why not in the backyard and what this would be used for. The applicant explained that this accessory structure would be used to work on stuff and for wood working, the current garage is full. Mr. Thomas stated that he is struggling with putting this in the front yard. The applicant explained that there is a 9 foot drop off at the back corner of the house and when looking out his window that is all he would see. Dean Snyder felt that it would not be safe to put a driveway in on that kind of drop off. Chairperson Robillard asked if any trees would be removed. Applicant stated no. Chairperson Robillard asked why he needed to have the 1 ½ stories. Applicant stated that he wanted storage upstairs. The Board members looked at a topographical map of the property showing the drop off. Tim Thomas asked why not closer to the house. The applicant said that the septic system precludes this from being closer.

Board Discussion: Art Fritz 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.

Tim Thomas stated he is not a fan of accessory structures in the front yard and this is a big one, maybe if it were smaller, not a two story and a little closer to the house. Chairperson Robillard asked if this could be smaller or shorter. The applicant said no. Dean Snyder felt that this is not considered too large, at 32x40, and this would be a suitable building for the use. Chairperson Robillard asked if this will have stairs. Applicant said no it would be a pull down ladder.

Public Comment:

Don Corcoran – 106 Curtis Road. He feels that the houses in this area are kept nice and there are expensive homes there and this would be a distraction. This is a narrow but deep property and he is concerned with the size of this building. Other accessory structures on the street are in the backyard and he does not want to look at this structure, he feels this will create an undesirable feel and this could be achieved other ways.

Greg Pacelli - 125 Curtis Road. This would be right next to his home. He is concerned with setting a precedent by putting this building in the front. He does sympathize with the applicants need and understands the issues with the topography and poor drainage, but it is not impossible to build this in another spot. He does not understand why he needs to have a 1 ½ story building when his house is only a 1 story.

Cheryl Pacelli - 125 Curtis Road. She also understands the need for this but is also concerned with setting a precedent and would like to see this in the backyard or scaled down.

Public Hearing Closed.

Tim Thomas stated he is not comfortable with this application and he would deny it at this point. He would like there to be other locations looked at. Chairperson Robillard is concerned with the enormity of this and also the applicant did not demonstrate any other means feasible. Jim Zollweg also feels uncomfortable with this application and would prefer something that is not such an infringement on the neighbors. Dean Snyder would like more details on where the leach field is, relative to the size he asked the applicant how big the

house is. The applicant stated 2200 square feet and the barn is about 1200 square feet, which Dr. Snyder felt was not excessive for a storage structure and pretty common. There are trees between the two properties and Dr. Snyder would like to see what kind of trees there are and he stated there is a difference in topography between this and the neighbor's property.

Chairperson Robillard asked the applicant if he would be willing to explore other locations or the size. The applicant said no he wants to keep the building here and needs the size and would like it to be acted on tonight and is not interested in tabling. Dean Snyder asked if this could be moved closer to the leach field. The applicant said that he can't and is not willing to move this or scale it down. Dean Snyder asked the Board where else the Board would like it to be. Tim Thomas felt that if the applicant is not willing to work with us so it doesn't matter. Chairperson Robillard stated that the applicant has stated he is not interested in pursuing other options. Stephen Shelley is not convinced that it is impossible to put this elsewhere. Chairperson Robillard asked the applicant again if he would like the Board to act on this tonight and is not interested in moving or scaling down the size. Mr. Bevins stated he would like this acted on tonight and is not interested in moving or scaling this down.

A **Motion** was made by Tim Thomas to **deny** the application of Barry Bevins, owner, for an area variance at 115 Curtis Road. The applicant is proposing to erect a 32'x40' 12' 1-1/2 story accessory structure in the front yard with a front setback of 100 feet from Curtis Road and are requesting relief from Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR). In making this motion to deny:

- The benefit cannot be achieved by other means feasible to the applicant. Much discussion took place over some potential other locations, the applicant when directly asked if he would consider other locations that would allow him to come back to this Board next month, denied that option to look at alternative locations. It is my opinion and to some extent the applicant alluded to this in either written or oral comments that he did look at putting this on the west side but because of some utilities it was felt it would cost him some additional money, so that could be a possibility but is denying that that is now an opportunity.
- There would be an undesirable change in neighborhood character or to nearby properties. Although Mr. Thomas recognizes there are other accessory structures close to the road, it is my understanding that at least one of those structures is at least 80 years old and predates our code significantly and was at one time or another part of agricultural or farming operations.
- The request is absolutely substantial. Our code is very specific about allowing accessory structures in the front yard.
- There will be an adverse physical not so much an environmental effect. This would change the overall look of the neighborhood and the physical size alone would draw attention to itself.
- The alleged difficulty is largely self-created and the applicant was not willing to scale down the size of the building at all or vary the location. Using the balancing test, the detriment to the health, safety and welfare of the community outweighs any benefit to the applicant.

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

Chairperson Robillard polled the Board:

Tim Thomas – My motion stands for my reason for denial.

Jim Zollweg - Due to the balancing test I am not convinced that the benefit could not have been achieved by other means. There were alternatives that the applicant was not willing to explore. I think this would create an undesirable change in the neighborhood both from my observations and from testimony. The request is substantial and is largely self-created. Although it won't have any physical or environmental effects, in my opinion the benefit to the applicant does not outweigh the detriment to the health, safety and welfare of the community.

Dean Snyder - I question whether the benefit can be achieved by other means feasible by the applicant. I think if we had had more information we could have clearly seen whether this was the only place or whether there was a better location. I do think it is the responsibility of the Board to make sure this is the best location and I do not feel we had enough information to make that decision. There is potential for there to be

an undesirable change to the neighborhood character or nearby properties and the Board is charged with trying to minimize that and without the information discussed I am not sure we can do our due diligence in making sure that is the case. The request is substantial. The request has potential to have physical effects, and I don't believe any environmental effects. The alleged difficulty is somewhat self-created and that the property owner has a very narrow lot which does not allow a significant amount of room on each side of the house and although the structure is about half the square footage of the house, there is a very steep incline on the side and behind him which precludes him from building on the sides or in his backyard, which limits him to the front.

Stephen Shelley – I am basing my denial on a few items. I believe there may be other options and I have not seen enough information to see if there are no other options which are feasible to the applicant. It would create an undesirable change on the neighborhood.

Chairperson Robillard – My denial is based on the fact that the applicant was offered an opportunity for alternate placement for the garage and or to scale the size down for the front yard. He refused this opportunity. Several neighbors share their concerns regarding the impact of the proposed structure on the neighborhood. The request for placement of this structure is substantial. The request would have an effect when contrasting the size of the proposed building and the home on the property and other options for placement were requested and the applicant refused to provide such alternatives.

5. JAMES E. SILLOWAY REALTY, INC. – 36 DRAFFIN ROAD

The application of James E. Silloway Realty, Inc., owner, for 4 area variances at 36 Draffin Road. The applicant is proposing to subdivide a parcel (lot 1) with a width of 716.72 feet and an average depth of 249.75 feet that has a pre-existing house with a front setback of 45.8 and a rear setback of 58 feet, from a 41.38 acre parcel and is requesting relief from Town Zoning Article V, subsection 165.31.E.1, schedule 1 which states in part that 1) the depth of the lot is to be minimum of 350 feet deep, 2) the front setback of a single family dwelling is to be 60 feet from a town road and 3) the rear setback of a single family dwelling is to be 75 feet. On lot 2, the remaining lands, the primary structures will have a side setback of 25.5 feet and are requesting relief from Town Zoning Article V, subsection 165.31.E.1 which requires a 50 feet side setback. This property is currently zoned Agricultural/Conservation (AC).

Kris Schultz, agent for the owner, explained that these buildings have been on this property in excess of 60 years.

Board Discussion: Art Fritz 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.

Mr. Shultz explained that the owner is looking to subdivide the house from the building to separate the two uses for insurance purposes. This lot is unusual because the house and leach field will be on one parcel and the workshop and leach field will be on the other parcel. The front setback variance pertains to the existing house. All of these variances only affect the applicant. This is the original farm house on the property and to anyone driving by they will not notice a difference.

Public Comment: None
Public Hearing Closed.

A **Motion** was made by Tim Thomas to **approve** the application of James E. Silloway Realty, Inc., owner, for 4 area variances at 36 Draffin Road. The applicant is proposing to subdivide a parcel (lot 1) with a width of 716.72 feet and an average depth of 249.75 feet that has a pre-existing house with a front setback of 45.8 feet and a rear setback of 58 feet, from a 41.38 acre parcel and is requesting relief from Town Zoning Article V, subsection 165.31.E.1, schedule 1 which states in part that 1) the depth of the lot is to be minimum of 350 feet deep, 2) the front setback of a single family dwelling is to be 60 feet from a town road and 3) the rear setback of a single family dwelling is to be 75 feet. On lot 2, the remaining lands, the primary structures will have a side setback of 25.5 feet and are requesting relief from Town Zoning Article V, subsection 165.31.E.1

which requires a 50 feet side setback. This property is currently zoned Agricultural/Conservation (AC). In making this motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. As the applicants agent presented to us the primary driver for separating these two uses is so that the applicant can maintain the proper insurance requirement for the residential structure because it is adjacent to a commercial operation. I believe the applicant has done an admiral job of trying to part out the residential property to the best of their ability to comply with the requirements for the variances that are being granted.
- There will be no undesirable change in neighborhood character or to nearby properties. The residential structure dates back to the turn of the century and has been in the neighborhood probably before most of the other properties were developed. There is very significant vegetation to separate the properties. To the average person that drives by there will seem to be no change to the neighborhood character nearby properties.
- The request is somewhat substantial when you look at each of the four variances and what is being granted however it is my feeling that when you take into account the nature of this property and the need to separate the residential portion from the commercial portion. When you look at the variances requested and the ones approved it was well thought out in this application.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is somewhat self-created and evolved over the years and the commercial aspect significantly over the last 20 to 25 years; 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 carried to approve (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

6. WILLIAM O'NEILL & NANCY ARMSTRONG – 1607 MANITOU ROAD

The application of William O'Neill & Nancy Armstrong, owners, for an area variance at 1607 Manitou Road. The applicants are proposing to construct a pergola in the rear yard with a side setback of 11 feet from the south property line and are requesting relief from Town g Article V, subsection 165-32.E.1, schedule 1 which states that an accessory structure in the Rural Residential (RR) district shall have a side setback of 20 feet.

William O'Neill, owner, explained that the property is a nonconforming lot and is only 85 feet wide. He is looking to build a 5 posted pergola with no roof, there will be crushed stone under it and you can sit under it but there are no walls. The current pool, which has a variance, will be right behind this. This will all be inside the fence. Jim Zollweg asked what the dimensions will be. Applicant said the footprint will be approximately 20' wide x 10' deep and will need a building permit. Dean Snyder would like to have a not to exceed number in the motion for how large it can be. It is a cross between a gazebo and a trellis with vines for partial shade.

Board Discussion: Art Fritz 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.

Public Comment: None

Public Hearing Closed.

A **Motion** was made by Jim Zollweg to **approve** the application of William O'Neill & Nancy Armstrong, owners, for an area variance at 1607 Manitou Road. The applicants are proposing to construct a pergola, an open post oriented structure with lattice to grow vines on, in the rear yard with a side setback of 11 feet from the south property line. This motion provides relief from Town Zoning Article Article V, subsection 165-32.E.1, schedule 1 which states that an accessory structure in the Rural Residential (RR) district shall have a side setback of 20 feet. In making this motion

- The benefit cannot be achieved by other means feasible to the applicant. There is very little space appropriate for this structure with the house and the pool positioned where they are.

- There will be no undesirable change in neighborhood character or to nearby properties. It will improve the conditions replacing an unused neglected area with an attractive structure.
- The request is substantial because it is closer to a property line than is allowed. In it were not for the non-conforming width of the property this would be much less substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created because it is the choice of the owner to build this; however, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.
- The maximum footprint of this structure will be 250 square feet.

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

7. ANNA RICOTTA – 5064 RIDGE ROAD WEST

The application of Anna Ricotta, owner, for renewal of a Special Permit to display and sell automobiles at 5064 Ridge Road West. This property previously had a Special Permit that was issued in 2013. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

Art Fritz, Zoning Enforcement Officer relayed to the Board that an Inspection was done on July 17, 2014 and no violations were found and the property was in compliance.

A **Motion** was made by Jim Zollweg to approve the application of Anna Ricotta, owner, for a Special Permit to display and sell automobiles at 5064 Ridge Road West with the following conditions:

1. This special permit allows 71 display spaces as stated in the previous permit issued February 17, 2011.
2. As stated in a previous permit, hours of operation to be 10 am to 6 pm, Monday through Friday; 10 am and 3 pm, Saturday; and a minor change in hours to 12 pm to 3 pm, Sunday.
3. That the owner assures that vehicles that are displayed or stored do not encroach on the right-of-way of Ridge Road.
4. There will be an inspection performed prior to the issuance of this Special Permit by the Zoning Enforcement Officer.
5. The period of the special permit shall be for two years, to be renewed July 2016 based upon a successful first year.

This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit. Seconded by Tim Thomas. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

MINUTES OF JUNE 19, 2014

The ZBOA minutes of June 19, 2014 were reviewed a **Motion** was made by Stephen Shelley to **approve** the June 19, 2014 as presented. Seconded by Jim Zollweg. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

OTHER BUSINESS

Webster Road – A property owner on the East Side of the road wants to do an addition. After discussion it was determined that they would need to come before the Board.

Training Opportunities – There was discussion about upcoming training opportunities.

Ridge Road Request to Rezone – Kyle Mullen relayed that there is going to be a Public Hearing on September 2, 2014 for this and also wanted to get a feel for if GIS for reference purposes would be helpful for the Board.

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Jim Zollweg to adjourn the meeting at 10:07 p.m. **Motion carried (5-0)** (Ayes: Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg).

Respectfully submitted,

Carrie Webster, Recording Secretary