

**TOWN OF PARMA**  
**ZONING BOARD OF APPEALS**  
**DECEMBER 16, 2020**

Due to COVID-19 this meeting will also be held via ZOOM.

**Members Present:** Dan Melville, Veronica Robillard (via Zoom), Stephen Shelley, Tim Thomas, Corinne Zajac (via Zoom), Greg Colavecchia (alternate)

**Others Present:** Art Fritz, Linda Judd, Maureen Warner, Esq.

**Public Present:** Joe Indovina, Rick Lupinetti, Brad Norbut, Karen Prouty, John Prouty, Robert Christ, Mark Harland, John Sciarabba, Scott Spicer

The meeting was called to Order by Acting Chairperson Thomas at 7:00 p.m.

Acting Chairperson Thomas explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five-member board; all members are present, 3 via Zoom. A quorum of three is required to pass a motion.

**TABLED FROM NOVEMBER 18, 2020 MEETING**

**1. ROBERT CHRIST – 1060 HILTON PARMA CORNERS ROAD**

The amended application of Robert Christ, owner, for 2 area variances at 1060 Hilton Parma Corners Road. The applicant is proposing to construct a 3,600 square foot accessory structure with a wall height of 14 feet and is requesting relief from Town Zoning Article V, section 165-31.C.2 which limits the size to 2,000 square feet and Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted that there was a workshop meeting held at the property in October.

Robert Christ said that he would like to erect a 72x50 (3,600) sq. foot building with a wall height of 14' to store his equipment inside. This will not increase the business; all the vehicles being stored are already owned by him. Acting Chairperson Thomas noted that the original application was for three variances and after the workshop one of those was eliminated. The applicant stated that the layout originally provided has not changed.

Acting Chairperson Thomas reviewed a letter from Town Attorney Warner, which stated that the applicant agreed to move the original proposed location of the building removing one of the setback variances from the application. The current use variance is still in effect therefore, the property can continue to use the property for his paving business. The letter continued to say that there does not appear to be any other alternative to granting the variance; the equipment he plans to store is large and expensive paving equipment. The

building will be in the back of the property partially screened by the current building and cannot be seen by the surrounding neighbors or from the road. For a commercial paving business this is not substantial. There will be no impact on the environment as there will be no additional equipment brought on site, no increase in traffic, no increase in dust, odor, noise, or impact on emergency services. This would be the minimum variance necessary to afford relief to the applicant.

Veronica Robillard asked if there were any new letters in the file. Art Fritz stated there were not.

### **Public Hearing**

Rick Lupinetti, 1076 Hilton Parma Corners Road, stated he is the neighbor to the south. He is opposed to this building and if approved he would like a natural barrier to be required. Acting Chairperson Thomas stated that knowing the building will be positioned behind another building, he is not sure that there is a benefit of requiring a barrier. The applicant stated that he would be willing to replace any ash trees that might need to come down in the future.

### **Public Hearing Closed.**

**Board Discussion:** Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination and is an unlisted action. There are no letters in the file.

A motion was made by Dan Melville to **approve** the application of Robert Christ, owner, for 2 area variances at 1060 Hilton Parma Corners Road to construct a 3,600 square foot accessory structure with a wall height of 14 feet granting relief from Town Zoning Article V, section 165-31.C.2 which limits the size to 2,000 square feet and Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet. This property is currently zoned Agricultural/Conservation (AC).

Considering the balancing test, the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant moved the proposed structure from the original location to the rear part of the lot where it will be less obtrusive.
- There will be no undesirable change in neighborhood character or to nearby properties because the location was moved to the back of the property which is screened by an existing building and trees. The applicant stated he would be willing to replace any ash trees that might need to be removed in the future.
- The request is substantial but for commercial paving business and the screening of the structure by trees and another building that is mitigated. There is a need to store large paving equipment out of the elements.
- There will be no adverse physical or environmental effects. There will not be any additional equipment at the property or an increase of traffic, dust, odor, or noise.
- The alleged difficulty is self-created. The applicant has demonstrated the need for the building for storage of equipment, and this is the minimum variance necessary to afford relief to the applicant. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the community.

**Seconded** by Corinne Zajac. **Motion carried to approve (5-0) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

## **2. DOUG MILLER – 4618 RIDGE ROAD WEST**

The application of Doug Miller, owner, for 3 area variances at 4618 Ridge Road West. The owner is proposing to erect a 50.16 square feet changeable electronic freestanding advertising sign with a height of 20' and is requesting relief from 1) subsection 165.111.F which states in part that no sign shall be animated or flashing, 2) subsection 165-113.4.b which limits the area of freestanding signs to 32 square feet and 3) subsection 165-113.5 which limits the height of a freestanding sign to 16 feet. The property is currently zoned Highway Commercial (HC).

Acting Chairperson Thomas noted that the applicant has asked to withdraw the application at this time. The Board accepts the withdrawal of the application by Doug Miller, applicant.

## **3. ERIC BASSET – 466 PECK ROAD**

The application of Eric Basset, owner, for four area variances at 446 Peck Road. The owner is proposing to construct a 100' x 120' pole barn with a wall height of 14 feet located in the front yard and is requesting relief from 1) Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. ft. 2) Town Zoning Article X subsection 165-82.C.2 which limits the wall height to 12 ft., 3) Town Zoning Article X, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard and 4) Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building which, in this case, is 3,527 sq. ft. This property is currently zoned Agricultural/Conservation (AC).

Acting Chairperson Thomas noted that a request was received by the applicant to table this to the January 2021 meeting to give him additional time to procure the information requested by the Board at the November 2020 meeting.

A motion was made by Dan Melville to **table** the application of Eric Basset, owner, for four area variances at 446 Peck Road without prejudice to the January 2021 Zoning Board of Appeals meeting to give the applicant additional time to procure the information requested by the Board at the November 2020 meeting. This tabling is at the request of the applicant. The additional information should be provided to the Building Department no later than January 7, 2021.

**Seconded** by Corinne Zajac. **Motion carried to table (5-0) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

## **4. SCOTT SPICER– 80 WINDING COUNTRY LANE**

The application of Scott Spicer, owner, for property located at 80 Winding Country Lane. The applicant is proposing to build a single family home on this property at the end of the road, which would bring the total of dwelling units on the cul-de-sac to 48. The applicant is requesting relief from Parma Town Code Chapter 30, Article IV, subsection 130-15.A.7.b, which states that no cul-de-sac shall be allowed to serve more than 20 dwelling units. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas noted this was advertised as one home, the application is asking for three. The options available would be hearing the application for the one home which will probably be conditioned on Planning Board approval and finding an acceptable easement at which time the applicant could come back for the other two homes, or the applicant can withdraw and readvertise for the three with the same understanding about Planning Board approval and the easement. Advertised like it is the Board cannot approve more than the one home.

John Sciarabba, engineer on behalf of the owner, stated they understood, and they would like to continue with the process for one home because they cannot build at all now.

Dan Melville asked what the variance is. There was discussion that this application is not a variance from the Zoning Code, this is a variance from the Town Code which is a Town Board function. Town Attorney Warner and Linda Judd thought the Town Board had given authority to the Zoning Board to rule on this. The Recording Secretary/Town Clerk went back through the Town Board minutes and found Dennis Scibetta explained at the October 20, 2020 Town Board meeting what the applicant was looking to do, and that the applicant would need to come to the Town Board regarding the matter. No authority was given at that time or at any other meeting and there is no documentation from the Town Board that they gave authority to the Zoning Board. Veronica Robillard stated that the Board has not even been given information they need to make a decision. She feels that the jurisdiction for this matter is not with the Zoning Board.

John Sciarabba stated he is not sure why this was not taken care of by the Town Board. He said he met with Jack Barton who told him he needed to go to the Zoning Board and the next day he made application but now he is hearing the Town Board should have done something. Nothing was mentioned at the meeting last month that this Board was not the Board he needed to be in front of. He is frustrated because in 1995 the 21<sup>st</sup> house was built in this subdivision and became a violation, so he does not understand what the issue is now. As far as the easement, he is not sure how he would accomplish that. Acting Chairperson Thomas stated that this Board would also like to see an end to this project and understands his frustration, but this Board cannot act or grant relief to the Town Code.

Dan Melville feels the Town Board should hear the matter and rule since this application is looking for relief from the Town Code not the Zoning Code. Veronica Robillard is very uncomfortable with this and the Zoning Board has no authority to rule on this application. They should not be asked to do this. If the Town Board wants to push this back to the Zoning Board then they would need to give a clear directive as to what they want them to do and why. Both the Zoning Board Chair and the Applicant will be sending a letter to the Town Board to look at this application and grant relief if they so desire. The applicant reiterated that if they end up back at the Zoning Board, they are not interested in entertaining an easement; they want to end the project. Linda Judd, Town Board Liaison, stated he should lay that all out in his letter to the Board.

A motion was made by Dan Melville to **table** the application of Scott Spicer, owner, for property located at 80 Winding Country Lane to the January 2021 Zoning Board of Appeals meeting. This tabling will be to afford the Zoning Board Chairperson time to draft a letter to

the Town Board asking them to make a decision and grant relief on Town Code Chapter 30, Article IV, subsection 130-15.A.7.b. The Zoning Board does not have the authority to grant relief to the Town Code.

**Seconded** by Stephen Shelley. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

### **5. JOHN PROUTY – 961 PARMA CENTER ROAD**

The application of John Prouty, owner, for an area variance at 961 Parma Center Road. The applicant is proposing to construct a 160 square foot storage building on property that has an existing 2,009 square foot accessory structure, which would bring the total square footage of accessory structures to 2,169 sq. feet and is requesting relief from Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. feet. This property is currently zoned Agricultural/Conservation (AC).

Brad Norbut, contractor for the applicant, stated this will be a 16x20 pool house on the back of the pool area, hidden by trees. Half of this will be covered, and the remainder will be enclosed. There will be no sleeping quarters, no bathrooms, and no water, only storage for pool equipment, it will not even be finished on the inside. The enclosed sq. footage is the 160 sq. feet. The whole structure is 320'. Art Fritz said the uncovered portion is not included in the square footage per past practice.

#### **Public Comment:**

Mark Harland, neighbor, stated he shares a 1000' drainage easement with the applicant who has excavated into the easement area creating drainage issues to his property. He feels that this could make those drainage easements worse. He would like the Board to deny this until the easement is restored. Acting Chairperson Thomas stated that the Board is here to look at the merit of this application only. Dan Melville stated that if the Town is looking at this compliant then the Board should not vote on this until that matter is cleared up. Art Fritz said he is not sure if there is a violation or not. Mr. Harland was advised to contact the Building Department, the Highway Supt. and the Supervisor for enforcement.

#### **Public Hearing Closed**

**Board Discussion:** Art Fritz reported notifications were in order, the request was returned by Monroe County as a matter of local determination and is an unlisted action. There are no letters in the file.

A motion was made by Stephen Shelley to **approve** the application of John Prouty, owner, for an area variance at 961 Parma Center Road to construct a 160 square foot storage building on property that has an existing 2,009 square foot accessory structure bringing the total square footage of accessory structures to 2,169 sq. feet granting relief from Town Zoning Article V, subsection 165-31.C.2 which limits the size of accessory structures to 2,000 sq. feet. This property is currently zoned Agricultural/Conservation (AC).

Using the balancing test, the Board finds the following:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant cannot increase his storage space without creating another structure.

- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is not substantial. This would only be 169 sq. feet larger than the allowable size.
- 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 outweighs any detriment to the health, safety, and welfare of the community.

**Seconded** by Corinne Zajac. **Motion carried to approve (4-1)** (Ayes: Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac; Nays: Dan Melville).

### **OTHER BUSINESS**

Acting Chairperson Thomas asked if there are any Special Permits, the Board has not had any since August. Art Fritz noted there will be between 8-10 in January. Art Fritz said they are still trying to get a program that will be helpful in keeping these up to date. He is still trying to do it the old-fashioned way.

Acting Chairperson Thomas introduced Greg Colavecchia, the alternate to the Zoning Board. He was appointed to the Zoning Board of Appeals by the Town Board last night. The appointment will be effective January 1, 2021.

Veronica Robillard is very concerned with the application on Winding Country. She feels the Zoning Board is being put in a bad position if they are made to make the decision; the Zoning Board is not the catch all for applicants the Town does not know what to do with. Based on everything her feeling is they have no choice but to deny; she does not see how the Board can look at approving home 49 when homes 21 through 48 had no approval. Town Attorney Warner stated that the advice she gave was based on her understanding that the Town Board had given the Zoning Board the authority to act. Dan Melville is not sure the Town Board can even give the Zoning Board the authority to act on this.

### **MINUTES OF NOVEMBER 18, 2020**

The ZBOA minutes of November 18, 2020 were reviewed. **Motion** was made by Veronica Robillard to approve the November 18, 2020 minutes as presented. **Seconded** by Stephen Shelley. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

### **ADJOURNMENT**

There being no further business, a **Motion** was made by Dan Melville **seconded** by Corinne Zajac to adjourn the meeting at 8:40 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac).

Respectfully submitted,

Carrie Fracassi  
Recording Secretary

