

**TOWN OF PARMA
ZONING BOARD OF APPEALS**

Parma Town Zoning Board of Appeals Meeting held on Wednesday, January 17, 2024, at the
Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York

Members Present: Dan Melville, Stephen Shelley, Ann Williams, Spencer Wren, Jack Barton, Alternate

Members Excused: Veronica Robillard

Others Present: Arthur Fritz, ZEO
Maureen Werner, Town Attorney
Dave Ciufu, Town Board Liaison

Public Present: David Matt, John Patterson, Amelia Patterson, Charles Meagher, Evelyn Meagher, Frank Acito, Lynn Dates, Kyle McDonald, Amanda Acito

The meeting was called to Order by Acting Chairperson Melville at 7:00 p.m. Acting Chairperson Melville explained the function and decision-making process of the Zoning Board of Appeals. This is a five-member board with five members present. A quorum of three is required to pass a motion.

MINUTES OF DECEMBER 20, 2023

1. Review Minutes from the December 20, 2023, Zoning Board Meeting

The ZBOA minutes of December 20, 2023, were reviewed. A **Motion** was made by Jack Barton to **approve** the December 20, 2023, minutes as presented.

Seconded by Ann Williams

Motion carried to approved (5-0)

Ayes: Dan Melville, Stephen Shelley, Ann Williams, Spencer Wren, Jack Barton

Excused: Veronica Robillard

TABLED ITEMS

2. JOHN PATTERSON, OWNER, 5325 RIDGE ROAD WEST

The applicant is requesting an expansion of a Non-Conforming Use to erect a storage building on a commercial property that is currently being used as residential Article XII Subsection 165-91.

The applicant is also requesting an Area Variance to grant relief from Town Zoning Article VI, Subsection 165-39 (F)(1), Article X, Subsection Section 165-80 B, 165-82 (2), (3) and (k) to allow the storage structure to have 16-foot side walls making the structure taller than the house. To allow the structure to be larger than the house. To allow the structure to be in the front yard fronting Trimmer Road. Town Code requires the Zoning Board of Appeals approval to expand a non-conforming use. Town Code requires all accessory buildings to be located in the rear yard

with a wall height not to exceed 12 feet and the building to be subservient to the house. This property is zoned General Commercial (GC).

This agenda item was tabled to allow the applicant time to provide further information to the Board as requested at the December 2023 Zoning Board meeting of appeals.

David Matt, Schultz Associates, spoke on behalf of the applicant. He stated that the current owner has been trying to sell his property for over two years with difficulty. The prospective buyer has a purchase offer that is contingent upon the application being approved. The applicant, Mr. Patterson, stated that he provided a letter to the Board explaining he will continue to use the property as residential and the requested building will only be used for storage of his classic cars. He further explained that he is looking for approval of a 60x65 sq. ft. building with a 12x60 lean to on the east side; this is smaller than the original request; and the wall height request has been reduced to 14 ft. Further, he explained he will be adding a berm and a row of trees to the south to buffer the neighbors. The only traffic will be the applicant and he clarified for the Board that there will be no second-floor storage/use. He feels this will fit into the neighborhood because there are structures across the street that are similar.

Dan Melville asked if the house will be owner occupied. Mr. Patterson said the house needs to be completely remodeled and they intend to move in after that is completed, he stated this will not be used as a rental property. Ann Williams asked the Town Attorney if the board could add to the motion that the house will have to be removed to use the property for commercial use. Attorney Werner said they can add whatever conditions they want to the motion. Dan Melville feels this structure has to be smaller and closer to the 600 sq. ft. allowed in a residential zone. He asked about the vehicles as some are missing registrations; the applicant provided a written explanation as to why he does not have all of the registrations (2 of the vehicles are still in the name of the applicant's dad, who is deceased). David Matt said 600 sq. ft. is very small and many accessory structures in the Town are larger than that. Jack Barton asked about the lean to because keeping the trailers outside would be a code violation. The applicant said the lean to will be enclosed where the trailers are stored.

Public Comment:

Charlie Meagher, Ridge Road, said when he looks at the kind of equipment that will be on the property, he is concerned that there will be a business being operated out of the structure. The applicant said working on cars is his hobby not a business. He will not be running a car business or repair shop, and he will not be painting cars. Mr. Meagher asked if he has ever sold a vehicle; the applicant said he has but it is not a car selling business. Mr. Meagher has questions about SEQRA for the property. David Matt said the SEQRA Short Form was submitted; the long form is not needed. They are waiting for a letter from SHIPPO to address the SEQRA concern as far as Historic Preservation of the area because this property is contiguous to a Historical Site property. There was talk about an aquifer and wetlands. Mr. Matt said federal wetlands do not require a buffer to build and most of upstate New York sits on an aquifer. The Planning Board will review and make sure the applicant complies with SEQRA. Mr. Meagher is concerned with the accuracy of the site plan map. There was discussion about how the applicant will handle

liquids. The applicant said the process will be no different than what he would do while working on his car.

Frank Acito, Trimmer Road, asked why the applicant needed two lifts. The applicant stated he owns two of them; they are 4-post lifts so they can be used when working on a vehicle or to store a vehicle. He has concerns with the traffic already in that area and fears this will add to it.

Evelyn Meagher, Ridge Road, was curious the need for two lifts, and the second floor. It was noted the applicant already addressed both the second floor and the lifts. She asked if the applicant would be storing anything outside the structure. The applicant said he will not be storing anything outside. He would not get any more cars than he already has, if he did, he would have to sell one; there will be nothing more stored outside than there is on any other residential property in the Town. Mrs. Meagher asked how noisy it would be. The applicant said there will be no noise outside the structure. Mrs. Meagher is concerned that when the moratorium is lifted the applicant will turn this property into commercial use; she fears he will never rehab the house and move in and will wait this out until the moratorium is lifted. Attorney Werner said the applicant would have to discontinue residential use on the property and come back to the Board; this request is like any other residential request for a structure and the Board can put restrictions in place.

Mr. Meagher said he is not sure how many of these structures are in place, and that the Board will be setting precedent with an approval. Dan Melville said the Board does not set precedent; every application is looked at and ruled on individually.

Public Hearing: Closed

Ann Williams said she is comfortable that the Board has received good information and is not concerned with the condition of the property, does not think this will create a lot of traffic on the road. The applicant has stated he will be moving into the property and the Board can put restrictions on any motion. She stated that if not Mr. Patterson, someone else will be able to come in when the moratorium lifts and then the Board may not have much oversight; the applicant intends to use this as residential and is trying to buffer the neighbors and make the neighborhood look good.

Jack Barton asked if Mr. Patterson has people, partners or a crew that work with him. Mr. Patterson said he has friends but there are no employees, and no one will be working out of the building with him. Stephen Shelley felt the applicant could still save some building height by changing the pitch. The applicant said the trusses are engineered and that is what is provided by the builder, not sure that can be changed.

Dan Melville read the following letters:

1. Letter from the Planning Board from the January 8, 2024 meeting stating they have concerns about the height and location of the structure. They asked the applicant to look

at a shorter building and moving it further from Trimmer Road. It was noted the applicant did everything the Planning Board requested.

2. Letter from Mr. Bausch, owner, explaining the hardship he has been trying to sell the property, most offers had issues with the commercial zoning of the property; whereas this offer is a buyer that will continue to use the property as a residential purpose, as it has been used for 20 years. At his age, he is unable to take care of the property any longer and is trying to move closer to his children. He is hoping the Board can work with the applicant and come to some sort of agreement.

Jack Barton noted the Planning Board will be reviewing SEQR documents and addressing any issues. Mr. Barton stated he likes this new plan much better and noted the applicant worked with the Planning Board to make the wall height lower than originally requested and they agreed to move it further from Trimmer Road; the applicant reduced the size by 20%. There was discussion about adding a clause to the resolution that if the applicant decides to use the property as a commercial use, then the house would not be able to be used as a residence and any applicant would need to abide by all commercial requirements of the code, which is very specific. This decision/investment may preserve the use as residential into the future. Dan Melville still feels this is too big. Jack Barton and Steven Shelley felt there are plenty of structures similar in size to this request in this area.

A motion was made by Jack Barton to **approve** the application of John Patterson, owner of 5325 Ridge Road West, for an expansion of a Non-Conforming Use to erect a storage building on a commercial property that is currently being used as residential Article XII Subsection 165-91. The applicant is also requesting an Area Variance to grant relief from Town Zoning Article VI, Subsection 165-39 (F)(1), Article X, Subsection Section 165-80 B, 165-82 (2), (3) and (k) to allow the storage structure to have 16-foot side walls making the structure taller than the house, to allow the structure to be larger than the house and to allow the structure to be in the front yard fronting Trimmer Road. Town Code requires the Zoning Board of Appeals approval to expand a non-conforming use. Town Code requires all accessory buildings to be located in the rear yard with a wall height not to exceed 12 feet and the building to be subservient to the house. This property is zoned General Commercial (GC).

The approved structure to have a maximum wall height 14 ft. and maximum height to the peak to be 24 ft. with a total square footage of 4,620 including a fully enclosed lean to. The applicant will be locating the structure further from Timmer Road per the plans and request from the Planning Board. The Zoning Board classifies this as an uncoordinated review and notes that the Planning Board will review and address SEQRA; this application is a Type II with no further review. Any changes or modifications would have to come back to the Zoning Board of Appeals and if those changes include returning this to commercial use, then house/property will have to cease any residential use. The changes the applicant proposed by reducing the size and height

and moving it further back from Trimmer Road have shown the Board that the applicant is working to bring this application in line with the Town's wishes.

Seconded by Stephen Shelley

Ayes: Stephen Shelley, Ann Williams, Jack Barton

Nay: Dan Melville, Spencer Wren

Excused: Veronica Robillard

NEW BUSINESS ITEMS

3. KYLE AND JENNA MCDONALD, OWNER, 778 HAMLIN PARMA TOWNLINE RD

The applicant is requesting relief from Town Zoning Article V, subsection 165-32 B, 165-82(C) (2), (E)(1)(schedule 1) and Article X, subsection 165-80, 165-82 (C)(2), for the proposed construction of a 2,000 sq. ft. accessory structure for storage with 14 ft. side walls making the structure taller than the house, with a 15 ft. side setback on the south property line and to allow the structure to be larger than the house. The Town Code limits accessory structures to 1,500 sq. ft. with a wall height not to exceed 12 ft. and a 25-foot side setback and the structure to be subservient to the house. The property is zoned Rural Residential (RR).

Kyle McDonald, the owner, said he would like to remove the current 24ft. x 32ft. barn with a 12ft. x 30ft. lean to, which needs major repairs and replace it with a 40ft. x 50 ft. structure making this 4 ft. wider and 18 ft. deeper. Dan Melville asked what the need is. The applicant stated he owns larger trucks which are hard to get into the current building even when removing the mirrors and exhaust on the truck; a 12 ft. garage door with a 14ft. sidewall will allow him to get these things in easier. He provided a layout to the Board showing other belongings to be stored inside which include a tractor, smaller car and another truck which is currently in storage off site. It was asked if these are all personal belongings. The applicant stated they are all personal, not business and he currently owns all of them.

Spencer Wren asked if anything will be stored outside. Mr. McDonald answered no. Jack Barton visited the property and said he hopes the applicant can fit everything into the requested building; the current structure is packed.

Board Discussion: Arthur Fritz reported notifications were in order. This is a Type II action; no further review required. There were no comments from the Building Department and no letters in the file.

Public Comment: There was none.

Public Hearing: Closed

A motion was made by Jack Barton to **approve**, the applicants request for relief from Town Zoning Article V, subsection 165-32 B, 165-82(C) (2), (E)(1)(schedule 1) and Article X, subsection 165-80 (B), 165-82 (C)(2), for the proposed construction of a 2,000 sq. ft. accessory structure for storage with 14 ft. side walls making the structure taller than the house, with a 15 ft. side setback on the south property line and to allow the structure to be larger than the house. The

Town Code limits accessory structures to 1,500 sq. ft. with a wall height not to exceed 12 ft. and a 25-foot side setback and the structure to be subservient to the house. The property is zoned Rural Residential (RR). Using the balancing test, the Board finds the following:

- The benefit *cannot* be achieved by other means feasible to the applicant.
- There will be *no* undesirable change in the neighborhood character or to nearby properties. The applicant will be removing one structure and replacing it with the requested structure.
- The request *is* substantial, but the applicant provided a layout of what will be stored showing the need for the size and height.
- There will be *no* adverse physical or environmental effects.
- The alleged difficulty is 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 Stephen Shelley

Ayes: Dan Melville, Stephen Shelley, Ann Williams, Spencer Wren, Jack Barton

Excused: Veronica Robillard

ADJOURNMENT

There being no further business, a **Motion** was made by Ann Williams to adjourn the meeting at 8:31 p.m.

Seconded by Spencer Wren

Motion carried to approved (5-0)

Ayes: Dan Melville, Stephen Shelley, Ann Williams, Spencer Wren, Jack Barton

Excused: Veronica Robillard

Respectfully submitted,

Carrie Fracassi
Recording Secretary