

TOWN OF PARMA
ZONING BOARD OF APPEALS
April 26, 2007

Members Present: Mark Kalen
Stephen Shelley
Dean Snyder
Tim Thomas

Members Excused: Patrick Buskey
Veronica Robillard

Others Present: Jack Barton

Public Present: See attached list

The meeting was called to Order by Acting Chairperson, Tim Thomas, at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He stated that this is a five-member board, with two Board members absent. The alternate Board member, Mark Kalen, was present. He explained that a quorum of three is required to pass a motion.

TABLED PUBLIC HEARINGS

1. ESTATE OF DEBBIE J. TRANELLO – 5575 RIDGE ROAD WEST

Application was received from the estate of Debbie J Tranello, Jeff Houston, administrator, for a use variance at 5575 Ridge Road West. The 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).

Jack Barton reported receiving a phone call today from the attorney handling the estate of Debbie Tranello, requesting a withdrawal of this application. Jack Barton requested this withdrawal in writing, which is forthcoming.

A **Motion** was made by Dean Snyder to table, without prejudice, the application received from the estate of Debbie J. Tranello for a use variance at 5575 Ridge Road West until the May ZBOA meeting. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

2. WILLIAM AND JANNA MCGLYNN – 1110 WEST AVENUE

Application was received from William and Janna McGlynn, owners, for an area variance at 1110 West Avenue. Applicants are removing an existing garage which has a current side setback of 1.5 feet and are proposing to construct a new detached garage with a side setback of 3.5 feet from their westerly property line. Applicants are requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback. This property is currently zoned Medium Density Residential (MD).

Janna stated that the new detached garage will benefit the neighborhood. She explained that the existing garage, which was built in the 1940's, is rotting, the roof needs replacing, and the concrete floor is so bad the door can not be closed. She felt this variance is not substantial, since there is an existing garage. The new garage will be 2 feet wider and 4 feet longer than the existing garage, which will make it a full two car garage. She stated they need this extra room to accommodate 3 motorcycles, 7 bicycles, 3 motor vehicles, and an assortment of lawn and yard maintenance equipment, along with tools and woodworking benches. The new garage will have a 3.5 side setback versus the existing 1.5 feet setback. She noted if the new garage were placed

closer to the house, it would require removal of a 30 year old tree. She provided a picture of the tree. She stated that the existing concrete pad will be removed. She noted that the old garage has slipped off this foundation. She stated that the new garage will look similar to the house, with the same color trim.

Public Comment:

Robert Snyder – 1112 West Avenue: Stated he has no objection to the new garage or the placement of it. He did not desire the 10 feet setback, and much preferred the proposed 3.5 feet setback.

The public hearing was closed.

Board Discussion: Chairperson Thomas 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.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from William and Janna McGlynn, owners, for an area variance at 1110 West Avenue to remove an existing garage which has a current side setback of 1.5 feet and to construct a new detached garage with a side setback of 3.5 feet from their westerly property line. This grants relief from Town Zoning schedule 1 which requires a 10 feet side setback. This property is currently zoned Medium Density Residential (MD) In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has minimized the impact on the neighborhood by increasing the existing setback while minimizing the impact on a mature tree located next to it. There will be no undesirable change in neighborhood character or to nearby properties, since the current garage was built in the 1940's and does not conform to current codes. The request is substantial. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created, but the applicant has had no opportunity to save the existing structure. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Mark Kalen. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

3. WILLIAM DEGRAEVE, JR. – 175 Collamer Road

Application was received from William DeGraeve, Jr., owner, for use and area variances at 175 Collamer Road. Applicant is requesting to allow the use of an apartment in the detached garage/workshop structure and is requesting relief from Town Zoning Article 5, subsection 165-32.E.2 which allows only single family dwellings and agricultural operations as permitted principal uses. Applicant is also requesting relief from Article 5, subsection 165.32-E.2 which requires two story dwellings to have 1,800 square feet. This apartment has an area of 728 square feet. This property is currently zoned Rural Residential (RR).

William stated he hoped to get this apartment "grandfathered in," since it has been there for many years. He explained that he obtained signatures from his neighbors who attest to this. He reported that he has lived at 175 Collamer Road for 15 years and his father has lived there also. The garage/workshop was used as a rental apartment when he bought the property. He explained that he counts on the income from this apartment to pay his mortgage and property taxes. He provided a tape map of the property which indicates location of the buildings. He pointed out his house and his father's house next door. William noted the apartment is in a separate framed building to the extreme north of lot 1. He stated it doesn't change the character of the neighborhood because it has been present for many years. He explained that he also uses this apartment building for storage, including his ATV. The apartment has its own furnace. Waste water is handled by its

own septic system. William pointed out the leach field location. He stated that two people are currently renting the apartment. He stated he bought this property from his father one year ago and his father previously had purchased it from the Collamer's. When Mrs. Collamer owned the property, she did rent it out but it wasn't occupied when purchased by William DeGraeve, Sr. because she was trying to sell the property.

Public Comment:

Robert Crowley – 364 Peck Road: Reported he recalled people living in the apartment in the 1950's, and remembers the apartment was rented most of the time. If there was any vacancy, it wasn't for long.

Robert Baker – 161 Collamer Road: Stated he lives to the north and has no objection to this application.

The public hearing was closed.

Board Discussion: Chairperson Thomas 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.

Jack Barton reported that this apartment has never been allowed, so referring to Zoning Code 165.89 for a continuance is inappropriate.

Chairperson Thomas explained to the applicant that he has two options to obtain approval of this application: (1) he must satisfy all four criteria for a use variance; or (2) provide documentation that the apartment was consistently rented out prior to development of zoning ordinances in the Town of Parma, before 1940. This is required to establish this as a pre-existing use at the time of the established zoning code. This documentation should include dates, photos, and perhaps additional affidavits. The applicant agreed that he would like to have his application tabled to provide him additional time to provide this necessary documentation. The applicant requested that this be tabled until the June ZBOA meeting.

A **Motion** was made by Dean Snyder to table the application of William DeGraeve, Jr., owner, for use and area variances at 175 Collamer Road to allow the use of an apartment, to the June ZBOA meeting to allow the applicant to assemble additional information to support an area variance or pre-existing, non-conforming use of this property. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

4. CROWN CASTLE INTERNATIONAL – 1086 OGDEN PARMA TOWN LINE ROAD

Application was received from Crown Castle International, lessee, for modification of an existing Special Permit at 1086 Ogden Parma Town Line Road. The applicant is proposing to place an additional antenna array along with associated equipment at the tower base in an additional 16 feet by 23 feet fences compound. The proposed array will be located at a height of 128 feet on the existing 150 feet tower. This property is currently zoned Medium Density Residential (MD).

Jack Barton reported that Crown Castle International has requested their application be withdrawn. They have decided to place their antenna array at a different location.

A **Motion** was made by Dean Snyder Shelley to accept the withdrawal of Crown Castle International, lessee, for modification of an existing special permit at 1086 Ogden Parma Town Line Road. Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

5. MICHAEL AND JEANETTE LEMCKE – 233 PECK ROAD

Application was received from Michael and Jeanette Lemcke, owners, for an area variance at 233 Peck Road. Applicants are proposing to subdivide this lot to a dimension of 100 feet by 623.37 feet and are requesting relief from Town Zoning Article 10, subsection 165-80.D, which states in part that no lot shall be reduced in size if its area or dimensions will be smaller than required by this chapter. This property is currently zoned Rural Residential (RR) which requires lots to be 260 feet wide, 300 feet deep, and 2 acres in area.

Daryl Mosier, from Schultz Associates, surveyors, provided a map of the area and a tax map for 233 and 237 Peck Road. He explained that they are proposing to swap the properties in the back so 237 Peck Road will have 2.7 acres and 233 Peck Road will have 1.4 acres. He noted both properties have homes. This property has a sale pending this approval, which will take the ½ acre at 237 Peck Road and make it 2-3 times larger. He noted the frontage will remain the same. He stated that there will be no additional lots. He also provided an aerial view of the property. He stated the parcels are currently owned by the same people.

Jack Barton noted the Building Department received one call from someone questioning why 237 didn't need a variance. Jack explained that both of these are pre-existing, non-conforming lots. 237 will be reducing its non-conforming status with this application.

Public Comment:

Tom Sime – 225 Peck Road: Stated he owns the property which is to the right. He reported he has been anguishing about this application. He stated that now that this has been explained to him, he is totally okay with this change.

Mike Noce – Hunt Columbus Realty: Confirmed that the sale of this property is contingent on approval of this application.

The public hearing was closed.

Board Discussion: Chairperson Thomas 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.

Following discussion, a **Motion** was made by Stephen Shelley to approve the application received from Michael and Jeanette Lemcke, owners, for an area variance at 233 Peck Road to subdivide this lot to a dimension of 100 feet by 623.37 feet and this grants relief from Town Zoning Article 10, subsection 165-80.D, which states in part that no lot shall be reduced in size if its area or dimensions will be smaller than required by this chapter. This property is currently zoned Rural Residential (RR) which requires lots to be 260 feet wide, 300 feet deep, and 2 acres in area. In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. There will be no undesirable change in the neighborhood character or to nearby properties. They are planning to create a larger lot out of a smaller lot. The request is substantial. There will be no adverse physical or environment effects. There will be no change in the appearance of the property. The alleged difficulty is self-created, but using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Mark Kalen. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

6. NICK AND SHARON DEGREGORIO – 823 PECK ROAD

Application was received from Nick and Sharon DeGregorio, owners, for an area variance at 823 Peck Road. Applicants are proposing to subdivide this lot into an irregular shaped lot that will not meet the minimum dimensions required by Town Zoning and is requesting relief from Article 10, subsection 165-80.D which states in part that no lot shall be reduced in size if its dimensions will be smaller than required by this chapter. This property is currently zoned Rural Residential (RR) which requires lots to be 260 feet wide, 300 feet deep, and 2 acres in area.

Nick explained that this is a mirror image of the adjacent lot. Jack Barton noted that on the survey map provided, lot 1 received a variance in 1998. Nick stated that they are selling the home on lot 1 and are looking to subdivide lot R-2B. He noted the pond present in the back of these two properties. He stated he has no future plans for the remaining property. Chairperson Thomas asked if there is access to the property in back. Nick replied that there is an access from Peck Road, separate from R-2B. He explained that they set the dimensions to get the two acre requirement. He noted the two irregular side depths. He stated that the westerly property line can not be moved over because of the presence of a culvert to provide for an access road for farm equipment, which is just outside the property line.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Thomas 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.

Following discussion, a **Motion** was made by Dean Snyder to approve the application received from Nick and Sharon DeGregorio, owners, for an area variance at 823 Peck Road to subdivide this lot into an irregular shaped lot that will not meet the minimum dimensions required by Town Zoning and this grants relief from Article 10, subsection 165-80.D which states in part that no lot shall be reduced in size if its dimensions will be smaller than required by this chapter. This property is currently zoned Rural Residential (RR) which requires lots to be 260 feet wide, 300 feet deep, and 2 acres in area. In making this determination to approve, I don't believe the benefit can be easily achieved by other means feasible to the applicant. There is an access culvert located to the west of the property which causes an inconvenience of moving that property line further. There will be no undesirable change in neighborhood character or to nearby properties. There is a relatively small variance in that our code calls for a minimum of 260 feet by 300 feet dimension and two acres. The proposed property meets the two acre minimum and is short by 35 feet on the east only. The applicant has proposed an area significantly larger than the minimum and he did, I think, minimize any change to conform to the Town code. The request is substantial. There will

be no adverse physical or environmental effect. The alleged difficulty is self-created, but 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 (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

SPECIAL PERMIT RENEWALS

7. RUSSELL ANGELO – 5200 RIDGE ROAD WEST

Application was received from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West. This property is zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton recalled that this special permit was previously given to Michael Langen. Jack read the inspection report from Bob Prince and Art Fritz which stated that this property complies with the conditions of the special permit and the zoning code.

A **Motion** was made by Stephen Shelley to approve the application from Russell Angelo for renewal of a special permit to sell automobiles at 5200 Ridge Road West, with the following conditions:

- No more than 30 cars to be displayed for sale.
- No on-street parking. There must be adequate space for customer parking.
- Exit and entrance driveways are to be provided.
- All repairs to be performed within the existing structure, not outside.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Sunday.
- Signs to conform to current zoning.
- Lighting to be directed away from the road.
- Special Permit for a period of one year, renewable in April, 2008.

Seconded by Dean Snyder. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

8. DAVID DECONINCK – 645 MANITOU ROAD

Application was received from David DeConinck, 645 Manitou Road, for renewal of a special permit allowing outside storage of no more than eight (8) pieces of construction equipment.

Jack Barton recalled that this special permit was previously granted to Craig Bryce. He read an inspection report from Bob Prince and Art Fritz that stated that this property complies with all conditions of the special permit and the zoning code.

A **Motion** was made by Dean Snyder to approve the renewal of a special permit requested by David DeConinck to allow outside storage of construction equipment at 645 Manitou Road with the following original conditions:

- No more than 8 pieces of construction equipment stored outside.
- No outside storage of junk, trash, or dismantled vehicles.
- Hours of operation: 7:00 am to 8:00 pm, Monday through Saturday; 12 Noon to 5:00 pm Sunday.
- No sales of any kind.
- For a period of one year, renewable in April, 2007.

Seconded by Stephen Shelley. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

MINUTES OF MARCH 15, 2007

The following changes were recommended: Page 2, Para 4, line 3 change to “an existing 1560 square feet...”, line 5 “...building size to 2136”, line 8 “...existing 1560 square feet..” Page 3, Para 3, change to “...as being 8 feet long, 6 feet high, and 4 feet wide.”; last Para, line 3, change to 154 North Avenue.” Page 4, Para 10, line 5, change to “...and this application asks for an increase of 20 feet.” Para 5, change “planning” to “zoning”; Page 5, under public comment, change first name to “Richard Vance – 253 Peck Road”.

A **Motion** was made by Dean Snyder to postpone approval of the March 15, 2007 minutes due to a lack of a quorum to vote. Seconded by Tim Thomas. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

OTHER

Use Variance Criteria Worksheet: Chairperson Thomas reviewed a copy of a worksheet used by the Town of Brighton when considering a Use Variance that is used by applicants to complete financial information. Discussion was held that the worksheet does not address all the issues required for a Use Variance. Dean Snyder suggested that we provide a copy of the criteria for a Use Variance to applicants when they apply.

ADJOURNMENT

There being no further business, a **Motion** was made by Dean Snyder, seconded by Stephen Shelley, to adjourn the meeting at 9:15 pm. **Motion carried (4-0)** (Ayes: Mark Kalen, Stephen Shelley, Dean Snyder, Tim Thomas; Absent: Patrick Buskey, Veronica Robillard)

Respectfully submitted,
Diane Grundon, Recording Secretary