

**TOWN OF PARMA
ZONING BOARD OF APPEALS
June 21, 2007**

Members Present: Patrick Buskey
Mark Kalen (alternate)
Veronica Robillard
Stephen Shelley
Tim Thomas

Members Excused: Dean Snyder

Others Present: Jack Barton

Public Present: See attached list

The meeting was called to Order by Chairperson, Veronica Robillard, at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. She stated that this is a five-member board, with one Board member absent, and the alternate Board member present. She explained that a quorum of three is required to pass a motion. Chairperson Robillard offered hearing aid devices for anyone who required them.

TABLED PUBLIC HEARINGS

1. DEBBIE J. TRANELLO, JEFF HOUSTON – 5575 RIDGE ROAD WEST

The application of the estate of Debbie J. Tranello, Jeff Houston, administrator, for 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).

Chairperson Robillard recalled that this application was tabled at the May meeting to obtain legal counsel from the Town Attorney regarding the legality of the new owner of this property continuing with this application. Jack Barton reported that the Town Attorney advised the Board that they could dismiss the application and allow the new owner to reapply if they choose to do so.

A **Motion** was made by Tim Thomas to dismiss the application of the estate of Debbie J. Tranello, Jeff Houston, administrator, without prejudice, for a use variance at 5575 Ridge Road West, for relief from Town Zoning Article 6, subsection 165-39.B for a multi-family dwelling. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

2. WILLIAM DEGRAEVE, JR. – 175 COLLAMER ROAD

The application of 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.B.1 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 brought a witness to confirm the use of an apartment at 175 Collamer Road. He introduced Wanda Gerslin, 1467 Hamlin Town Line Road. Wanda stated she is 85 years old and

has always lived around this area. She lived one-half mile from 175 Collamer Road and remembers the building. She stated she knew all the Collamers and remembers playing there with the kids. She recalls that this building was used as a tenant house, back to when she was 15 or 16. She stated there was never any machinery in the building. William estimated the house was built in the 1800's, with the Collamer family owning the property until 1988. William believes it was rented out as long as he can remember. He reported he has tenants with a lease in there right now. He recalled that someone has rented this as long as his parents have owned it.

Chairperson Robillard stated that in view of the information presented, the Board could consider this as a pre-existing, non-conforming condition, predating current zoning. This would grandfather this as a rental property. Wanda confirmed this building was used as a rental predating 1940.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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.

Discussion was held on the Board's preference to receive some written financial proof that this property has been rented. The Board would like to see rent receipts as far back as Mr. DeGraeve can locate them. William stated he could ask his parents to provide this going back to 1988.

Following discussion, a **Motion** was made by Tim Thomas to table the application of William DeGraeve, Jr., owner, for use and area variances at 175 Collamer Road to the June meeting to allow the applicant time to produce an audit history trail showing continuous use as rental property. Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

3. ANNA MIGITSKIY – 477 PECK ROAD

The application of Anna Migitskiy, owner, for area variances at 477 Peck Road, also known as lot 4 of the Breman Estates Subdivision. Applicant is proposing to subdivide property into 2 lots. Lot 4B is proposed to be a frontage lot that will be 244.9 feet wide, 349.99 feet deep and 1.97 acres in area. Lot 4A, a flag lot, is proposed to be 253.83 feet wide, 613.85 feet deep and 3.79 acres in area. Applicant is requesting relief from Town Zoning schedule 1 which requires newly created lots to have a minimum width of 260 feet, depth of 300 feet and an area of at least 2 acres. This property is currently zoned Rural Residential (RR). This application was tabled from the May meeting due to an error in the legal notice.

Anna reviewed the survey map, noting the part of her property that she won't be using and would like to sell. She reported that a neighbor has expressed interest in buying this property from her. She noted the trees in the front of her part of this flag lot. She would like to use the existing driveway and not bring the driveway through the woods. She recalled there is an easement to continue to use the existing driveway.

Tim Thomas noted both lots meet the depth requirement but not width.

Public Comment:

James Doyle – Attorney for Shawn Cappiello and Jay Chapman: Mr. Doyle referred to Mr. Cappiello's wish to purchase this property. He explained that Mr. Cappiello will not make this a building lot. He wishes to keep it as an undeveloped lot. He referred to this land as a berm or buffer to the subdivision. This is an important part of the ecological ambience. Mr. Doyle referred to a neighborhood petition that Mr. Chapman has obtained in which the neighbors unanimously oppose this application. Mr. Doyle asked the Board not to consider this as a financial hardship. He noted that this property was bought in the foreclosure process and already puts the applicant at a financial advantage. He stated his opinion that Anna is looking to enhance this financial benefit by selling off this lot. Mr. Cappiello is only offering to purchase this property to assure that this lot remains undeveloped, as the original subdivision intended.

Sean Cappiello – 475 Peck Road: Stated he and his wife purchased the property in this subdivision because they did not want a house on the lot in front of them. When the subdivision was designed, it was designed it with the intention for this lot 4 to be a buffer. He stated there was an easement that the road needs to be maintained. He stated that the house that Anna purchased has not been maintained. The wooded area between him and the property lot to be sold is small and drainage is poor. He felt that putting a house in there will affect the drainage. Since he purchased the property, he has put \$50,000 into landscaping, including many trees to offer privacy. He does not want to see this lot sold to have it developed. This would take away from the private setting created by the Breman Estates. He noted the pond on that property which harbors wildlife. He asked that the Board consider the environmental impact that would result if this lot were to be sold. He did not see any reason to put a house in there. He recalled his conversation with Anna that he would be willing to purchase this property to assure that it remained undeveloped.

Jack Barton stated that a variance would be needed to attach this lot to Mr. Cappiello's property if Mr. Cappiello and Mr. Chapman purchased it.

Jay Chapman: He stated he designed the subdivision for four houses, with no house in front. He felt that putting a house on this front lot would take away from the privacy of his subdivision.

Anna purchased this property in March of 2007. She stated that she isn't selling the lot to provide money to fix up the house. She explained the reason for buying this property and they want to sell this land because they have no use for it. She stated that the house needs a lot of work and they can't move in yet.

The public hearing was closed.

Board Discussion: Chairperson Robillard 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 Tim Thomas to deny the application of Anna Migitskiy, owner, for area variances at 477 Peck Road, also known as lot 4 of the Breman Estates Subdivision. Applicant is proposing to subdivide property into 2 lots. Lot 4B is proposed to be a frontage lot that will be 244.9 feet wide, 349.99 feet deep, and 1.97 acres in area. Lot 4A, a flag lot, is proposed to be 153.84 feet wide, 613.85 feet deep, and 3.79 acres in area. Applicant is requesting relief from Town Zoning schedule 1 which requires newly created lots to have a minimum width of 260 feet, depth of 300 feet and an area of at least 2 acres. This property is currently zoned Rural Residential (RR). In making this Motion to deny, I strongly feel the benefit can be achieved by other means feasible to the applicant. It will certainly create an undesirable change in the neighborhood character and to nearby properties. The contractor has explained that this lot 4 was intended to be a buffer to provide privacy for the other lots in back. The request is

substantial but overshadowed by the neighbors and the Town of Parma to some extent. The request will have adverse physical or environmental effects. The retention pond on lot 4 provides drainage and landscaping provides a buffer to the neighbors. The alleged difficulty is 100% self-created and detrimental to the neighbors and far outweighs any benefit to the applicant, and using the balancing test substantiates the denial of this application. Seconded by Mark Kalen. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

Chairperson Robillard polled the Board for their reasons for denial.

Tim Thomas: Stated his motion speaks for his reason. The applicant has an opportunity to work out a purchase of the property by the neighbor.

Mark Kalen: Agrees with the Motion. I am cognizant of the neighbors and their petition against this; and the designer of this development who is also against this and wants to keep the original intent of the lot.

Stephen Shelley: Denied for the same reasons. This applicant does not conform to the area mentioned and will change the neighborhood character and goes against the original intent of the subdivision.

Patrick Buskey: Denied because it goes against the original intent of the subdivision. It would create an undesirable change to the neighborhood and subdivision. This applicant would take a buffered subdivision and unbuffer it. This would create an adverse physical and environmental effect. The retention pond needs to be maintained. It is definitely a self-created difficulty. The applicant purchased this property knowing lot 4 was a buffer for this subdivision.

Veronica Robillard: Concurs with her colleagues. Expressed concern for topographic and environmental issues which weighed in her vote. Using the balancing test indicates denial is in order.

4. DAVID REID – 126 BAILEY ROAD

The application of David Reid, owner, for area variances at 126 Bailey Road. The applicant is proposing to subdivide property into 10 building lots which will be accessed by a new cul-de-sac road. Lot 1 is proposed to be 236.36 feet wide where 260 feet is required, lot 2 is proposed to be 210 feet deep and lot 3 is proposed to be 260 feet deep where 300 feet is required. The remaining 7 lots will comply with current zoning regulations. This property is currently zoned Rural Residential (RR).

Kris Shultz, surveyor, provided a revised survey map, noting that he has indicated all future lots and their dimensions. He provided a satellite imaging of this proposed subdivision. He noted the access road in relationship to the house on the south. The road has been brought to the north requiring removal of the existing garage, barn and pool. He provided photographs of different views from Bailey Road. He noted the proposed road will look very similar to what is present now. He noted the picture of the Carlson house (to the South) indicating the trees which would be between the roadway and the Carlson property which minimizes the impact of the roadway on this property. He explained that three variances were needed for frontage lots: lot 1 variance needed for width of 236.36. He notes they took 60 feet off for the proposed roadway. Lot 2 variance is needed for depth. Lot 3 variance is needed for depth. Lot acreage and width are conforming. This variance resulted from the roadway curve which makes it esthetically pleasing versus a straight roadway. Kris stated that the only option to this and not requiring a variance would be to remove the house on lot 1 and put the driveway through the center of this lot. He felt that the variances requested are not substantial. He recalled that this application has been designed and redesigned in keeping with the neighbor's issues, including drainage. He felt that this application will actually improve the drainage conditions. Kris stated that this is not unique to the neighborhood, as the majority of lots on Bailey Road do not meet the 260 feet width

requirement. Kris stated that they are looking to relocate the garage or build a new garage for the house on lot 1.

Public Comment:

Donna Carlson – 134 Bailey Road: Asked to see the new aerial view. Expressed concern that lot 1 will not maintain the part of the road on her side. Kris replied that he felt confident that the people on lot 1 will maintain that strip of land between the roadway and her property. He stated that they will try to keep as many of the existing trees as possible. Kris felt that with the house on lot 1, there is a better chance of the roadway being maintained versus the house being removed.

George Herbert – 127 Bailey Road: States he lives across the street from lot 1. He expressed concern that cars going in and out of the roadway will create headlights shining in his driveway. His house is 70 feet back from the road. He felt that a 60 feet roadway will change the look of the neighborhood. He suggested moving the roadway over and creating a better looking frontage. Kris responded that they started out with the road farther over but it has evolved to the present location. Kris suggested that vegetative screening can be used to deflect headlights.

The public hearing was closed.

Board Discussion: Chairperson Robillard 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 Tim Thomas to approve the application of David Reid, owner, for area variances at 126 Bailey Road. The applicant is proposing to subdivide the property into 10 building lots which will be accessed by a new cul-de-sac road. Lot 1 is proposed to be 236.36 feet wide where 260 feet is required, lot 2 is proposed to be 210 feet deep and lot 3 is proposed to be 260 feet deep where 300 feet is required. The remaining 7 lots will comply with current zoning regulations. This property is currently zoned Rural Residential (RR). In making this Motion to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has come before us three times with several variances and they have worked with the Building Department and the Zoning Board to come to this proposal and they have done an outstanding job of making this project work to the benefit of the neighbors and the applicant. There will be no undesirable change in neighborhood character or to nearby properties. There is adequate buffer on the north and south side of lot 1 where the road is located. The design of the cul de sac is well designed and fits in with the character of the neighborhood. Mr. Schultz indicates he was willing to work with Mr. and Mrs. Herbert regarding their concern about headlight screening. The request is not substantial. The variance for lots 1 and 3 are 9.1% and 13.3%, respectively, of that required. Lots 2 and 3 are irregular shaped lots. There will be no adverse physical or environmental effect. The existing buffering is adequate. The barn posed a safety hazard and has been eliminated. The alleged difficulty is self-created, however, the applicant and survey engineer have done an outstanding job in making this project acceptable. 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 (4-1)** (Ayes: Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Nays: Patrick Buskey; Absent: Dean Snyder)

A 10 minute recess was called at 9:00 pm.

NEW BUSINESS

5. MARILYN HUNTER – 74 PEASE ROAD

The application of Marilyn Hunter, owner, for an area variance at 74 Pease Road. Applicant is requesting to allow a new manufactured home to remain at a front setback of 37 feet from the road right of way and is requesting relief from Town Zoning schedule 1 which requires a setback of 60 feet. This property is currently zoned Medium Density Residential (MD).

Brian Dunning, a friend of Marilyn Hunter, recalled that Marilyn received a variance in February, 2007 for this manufactured home. He recalled that everything they requested was for a variance of 40 feet for this 1998 manufactured home. He explained that the pillars were drilled at the 40 feet setback but the overhang is at 37 feet. He provided a picture of all the other manufactured homes in the area which indicated this home sits back farther than the others. He reported that it would be cost prohibitive to move the trailer three feet back.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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 Tim Thomas to approve the application of Marilyn Hunter, owner, for an area variance at 74 Pease Road to allow a new manufactured home to remain at a front setback of 37 feet from the road right of way and this grants relief from Town Zoning schedule 1 which requires a setback of 60 feet. This property is currently zoned Medium Density Residential (MD). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. A mistake was made by the contractor not allowing for the overhang of the manufactured home. There will be no undesirable change in the neighborhood character or to nearby properties. Other mobile homes in that area are set back at 40 feet or closer. The request is substantial, but the applicant has stated that it would be cost prohibitive to move the trailer three feet back. There will be no adverse physical or environmental effect. The alleged difficulty is not self-created by the applicant. This is a contractor error. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

6. DENNIS SCHULER – 78 WEST BEACH ROAD

The application of Dennis Schuler, owner, for an area variance at 78 West Beach Road. Applicant is proposing to remove old deck and replace with a larger deck with a side setback from the westerly property line of 4 feet and is requesting relief from Town Zoning schedule 1 which requires a setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

Dennis explained that the deck is two feet in from the house line. He would like to move it 2 feet to make it even with the side of the house. The existing deck is unsafe and improperly installed. The new deck will be 8 ½ feet deep and 16 feet wide. The existing deck is set back at 6 feet now and the house is at 4 feet. The new deck will be at 4 feet also, even with the house. He is replacing a second story deck.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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 to approve the application of Dennis Schuler, owner, for an area variance at 78 West Beach Road to remove an old deck and replace it with a larger deck with a side setback from the westerly property line of 4 feet and this grants relief from Town Zoning schedule 1 which requires a setback of 10 feet. This property is currently zoned Waterfront Residential (WF). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. The existing second story deck was improperly constructed posing a safety hazard. The applicant wishes to replace and enlarge it putting it in line with the house. There will be no undesirable change in neighborhood character or to nearby properties. The applicant is proposing to line the deck up with the west side of the house which sits 4 feet from the property line and the deck will line up with the house. The request is substantial, but this is lakefront property and this type of variance is common. There will be no adverse physical or environmental effects. 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 (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

7. RICHARD NOWACK, JR. – 401 WILDER ROAD

The application of Richard Nowack, Jr., owner, for area variances at 401 Wilder Road. Applicant is proposing to construct a 576 square feet accessory storage structure at a setback of 3 feet from the property line and is requesting relief from Town Zoning Article 5, subsection 165-34.C.2 which limits accessory storage structures to 400 square feet and schedule 1 which requires a 10 feet setback. This property is currently zoned High Density Residential (HD).

Richard explained he is looking to build a shed. The size requested is needed for things he has to store and the setback is requested to position it where it will be screened from the neighbor. He listed the following items he will store in this 24 feet x 24 feet accessory storage structure: lawn mower, garden tools, motorcycle, car not driven in the winter, snowblower, workshop and tools. He pointed out his garden location which he doesn't want to lose. He stated it would be a lot of work to move his garden and the small fencing around it. He noted that there is a creek in the back of his property, which prevents placement there. He also noted that 3 or 4 trees would need to be taken down if any other location were chosen.

Public Comment:

Brad Fish – 430 Wilder Road: Stated he lives behind Mr. Nowack. He stated he requests this placement. It will be screened in this location from his view.

Tim Thomas noted that this area does not appear to be a high density district.

The public hearing was closed.

Board Discussion: Chairperson Robillard 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.

Discussion was held on the lack of specific information on why the 576 square feet is needed and why the allowed 400 square feet would not be sufficient. Richard stated he would be willing to provide a specific list of items and a drawing indicating his plan for storage.

Following discussion, a **Motion** was made by Tim Thomas to table the application of Richard Nowack, Jr., owner, without prejudice, for area variances at 401 Wilder Road to the June meeting to allow the applicant time to provide a specific list and drawing to justify the need for a 576 square feet accessory storage structure and to justify the 3 feet setback. Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

8. GEORGE CEDENO – 48 MARJORIE LANE

The application of George Cedeno for area variances at 48 Marjorie Lane. Applicant is proposing to construct an accessory storage shed in the front yard with a front setback from the Wilder Road proposed right-of-way line of 40 feet and is requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is a corner lot which is defined by zoning as having 2 front yards, 2 side yards and no rear yard. Applicant is also requesting relief from schedule 1 which requires a 75 feet setback from Wilder Road. This property is currently zoned High Density Residential (HD).

George noted they live on a corner lot with no back yard. He explained they need a 10 feet x 10 feet shed and plan to locate it in a part of the yard where it is the least visible. Miriam Cedeno stated if the shed were moved farther back in the yard, they will see it from their sliding door. She stated this is the least visible spot for them and the neighbors. She noted placement is right next to the 5'-6' berm. Placement any closer would put it right in the middle of their yard. The berm has pine trees and so does their yard.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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.

The Board noted an alternative location for this shed.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of George Cedeno for area variances at 48 Marjorie Lane to construct an accessory storage shed in the front yard with a front setback from Wilder Road proposed right-of-way line of 50 feet this grants relief from Town Zoning Article 10, subsection 165-82C.3 which states, in part, that all detached accessory buildings shall be located in the rear yard. This property is a corner lot which is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This also grants relief from schedule 1 which requires a 75 feet setback from Wilder Road. This property is currently zoned High Density Residential (HD). In making this determination to approve a 50 feet front setback from the Wilder Road right-of-way, I believe the benefit can not be achieved by other means feasible to the applicant. The placement of the shed at 50 feet set back will serve the applicant and the neighbor and put us closer to the required setback and will not result in visual obstruction. There will be no undesirable change in neighborhood character or to nearby properties. There is adequate vegetation existing to screen the shed. This is a corner lot with essentially no back yard. The request is substantial, with regard to the setback from Wilder Road. There will be no adverse physical or environmental effects. The alleged difficulty is somewhat self-created relative to the setback issue, but the corner lot issue 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 Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

9. BRYAN AND LYNN MOULTON – 247 PINE HILL ROAD

The application of Bryan and Lynn Moulton, owners, for area variances at 247 Pine Hill Road. Applicants are proposing to construct a 720 square feet accessory storage building with a side setback from their westerly property line of 5 feet and are requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory storage structures to 600 square feet and schedule 1 which requires a 10 feet side setback. This property is currently zoned Medium Density Residential (MD).

Bryan noted this was approved two years ago but they did not apply for a building permit and now must reapply. This storage building would house an antique classic car, yard equipment, bicycle and deck furniture, which are currently stored in an 8 feet x 12 feet shed that will be removed. The location of the shed is dictated by tree location. He referred to the sketch map indicating tree location. He explained that the 5 feet setback eliminates the need to remove a large maple tree. He provided a picture of a similar structure, which has the option of a loft area. Bryan stated he planned to add the loft. It was explained to Bryan that if the loft and stairs were put in that it makes it double the size and this would require another variance. The applicant then indicated that considering this, he will eliminate the loft and make this a one story accessory structure.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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 Tim Thomas to approve the application of Bryan and Lynn Moulton, owners, for area variances at 247 Pine Hill Road to construct a 720 square feet accessory storage building with a side setback from their westerly property line of 5 feet and this grants relief from Town Zoning Article 5, subsection 165-33.C.2 which limits accessory storage structures to 600 square feet and 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 believe the benefit can not be achieved by other means feasible to the applicant. The structure will be approximately 20% of the allowed size by code. The applicant has substantiated the need to store an antique classic car, yard equipment, bicycle, and deck furniture. Several trees will be saved in the area by using the proposed plan. There will be no change in the neighborhood character or to nearby properties. The proposed structure is in the rear yard, well hidden from the road. The request is substantial on the setback; 20% on square footage, which is not substantial. There will be adverse physical or environmental effects. The applicant has indicated that the loft will not be constructed and that the existing shed will be removed upon construction of the new structure. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

10. DAVID KEHOE – 582 BURRITT ROAD

The application of David Kehoe, owner, for an area variance at 582 Burritt Road. Applicant is proposing to replace existing shed on property with new 10 feet by 14 feet structure at the same rear setback of 10.6 feet and is requesting relief from Town Zoning schedule 1 which requires a setback of 20 feet from the rear property line. This property is currently zoned Rural Residential (RR).

David explained that he wants to remove an old 8 feet x 10 feet shed which is in disrepair. He plans to replace it with a 10 feet x 14 feet shed. He noted that the new shed matches up with the neighbor's shed for size and placement. He described the placement, noting if he moved it forward it would make access to the shed difficult.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that 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 noted that five of the notification receipts were not date stamped. He suggested that the applicant get certificates of mailing from the five people whose receipts were not stamped.

Following discussion, a **Motion** was made by Stephen Shelley to table the application of David Kehoe, owner, for an area variance at 582 Burritt Road without prejudice to allow the applicant to obtain a certificate of mailing for the five notifications that were not date stamped. Seconded by Tim Thomas. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

11. CHRISTINE DIDOMENICO – 499 PECK ROAD

The application of Christine DiDomenico, owner, for area variances at 499 Peck Road. Applicant is requesting to allow existing 12 feet by 16 feet storage shed to remain in the front yard and is proposing to construct 1500 square feet accessory storage building in the front yard and is requesting relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory storage structures to 1500 square feet and Article 165-82.C.3 which states in part that all detached accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Mark DiDomenico, Christine's husband, explained the proposed accessory storage building will be placed in the rear of the property in very dense woods. He stated that they have 24+ acres of land with nothing around them. He explained he can't place the building in the back yard because it is a swamp back there. The shed will not be visible from their driveway. The shed will be sided. He stated that the existing shed will be removed.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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 Tim Thomas to approve the application of Christine DiDomenico, owner, for area variances at 499 Peck Road to allow an existing 12 feet by 16 feet storage shed to remain in the front yard and is proposing to construct a 1500 square feet accessory storage building in the front yard. This grants relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory storage structures to 1500 square feet and Article 165-82.C.3 which states, in part, that all detached accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR). In making the determination to approve, I believe that the benefit can not be achieved by other means feasible to the applicant. The proposed accessory storage building will be 1100 feet back from the road on a very private lot. The rear yard is very low and not accessible due to drainage problems. There will be no undesirable change in neighborhood character or to nearby properties. The storage building will be set back from the road and screened by woods. The request is substantial. The distance from the road is 1100 feet and the majority of the property is heavily wooded and should not cause any problems to the neighbors. There will be no adverse physical or environmental effects. 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. This approval with the condition that the existing shed is to be removed upon construction of the new structure. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

12. MARK AND MICHELE DEPETRES – 11 CARRIE MARIE LANE

The application of Mark and Michele DePetres, owners, for an area variance at 11 Carrie Marie Lane. Applicants are proposing to construct a 12 feet by 16 feet pool deck that will project into the front yard and are requesting relief from Town Zoning Article 11, subsection 165-88.D which limits decks to the side yard. This property is currently zoned High Density Residential (HD).

Mark described their plan for a freestanding deck on the south side of their pool. He explained that no other placement is possible. It will be 51” off the ground and the railing will be 36” high. It will be a well built, attractive deck. He provided pictures, noting a berm on the west side and a shed on the other.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard 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 of Mark and Michele DePetres, owners, for an area variance at 11 Carrie Marie Lane to construct a 12 feet by 16 feet pool deck that will project into the front yard and this grants relief from Town Zoning Article 11, subsection 165-88-D which limits decks to the side yard. This property is currently zoned High Density Residential (HD). In making this determination to approve, I do not believe that the benefit can be achieved by other means feasible to the applicant. This is a unique corner parcel with no back yard. The applicant has demonstrated to my satisfaction that this is the best possible placement. There will be no undesirable change in the neighborhood character or to nearby properties. The request is substantial but considering the uniqueness of this corner lot, this is acceptable. The alleged difficulty is self-created, but he needs a deck to utilize the pool. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community. Seconded by Patrick Buskey. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

SPECIAL PERMIT RENEWALS

13. HOBIE CATS PRIVATE SAILING CLUB – 153 LAKESIDE BLVD.

Application was received from Herve Dauvergne, 61 Payne Beach Road, Hilton, NY 14468, for renewal of a special permit allowing a private sailing club on lake front property owned by Wolf Associates, LLP at 153 Lakeside Blvd.

Chairperson Robillard reported no complaints on file

Following discussion, a **Motion** was made by Tim Thomas to renew the Special Permit received from Herve Dauvergne, 61 Payne Beach Road, Hilton, NY 14468, to allow a private sailing club on lake front property owned by Wolf Associates, LLP, at 153 Lakeside Blvd., under the following original conditions:

1. For a period of four years, renewable in July 2011
2. Parking to be done solely on the Wolf property
3. No parking on the road
4. Club members only will be allowed to park on the Wolf property
5. Strict conformance with all NYS DEC and Town Conservation Board environmental impact conditions established by these organizations will be required
6. No regattas will be held at this location
7. Conservation Board is notified of the renewal.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

MINUTES OF MAY 17, 2007

The following changes were recommended: Page 4, Para 6, last sentence, change to “complaint with a 14% reduction.” Para 5, line 17, change to “..the request for 2.9 acres is negligible. Using the balancing test...”; Page 7, Para 1, line line 11, change “rate” to “ratio.” Page 8, Para 4, change to “ a Motion was made by Tim Thomas to table...” A **Motion** was made by Tim Thomas to approve the May 17, 2007 minutes with the recommended changes. Seconded by Mark Kalen. **Motion carried (3-0)** (Ayes: Mark Kalen, Veronica Robillard, Tim Thomas; Abstain: Patrick Buskey, Stephen Shelley; Absent: Dean Snyder)

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas and seconded by Mark Kalen to Adjourn the meeting at 11:20 pm. **Motion carried (5-0)** (Ayes: Patrick Buskey, Mark Kalen, Veronica Robillard, Stephen Shelley, Tim Thomas; Absent: Dean Snyder)

Respectfully submitted,
Diane Grundon, Recording Secretary