

**TOWN OF PARMA
ZONING BOARD OF APPEALS
SEPTEMBER 20, 2007**

Members Present: Patrick Buskey
Veronica Robillard
Dean Snyder
Stephen Shelley
Tim Thomas

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 and 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. R2F2, INC. – 5570 RIDGE ROAD WEST

Application of R2F2, Inc., for area variances at 5570 Ridge Road West. Applicant is proposing an addition to the front building with a front setback of 11 feet from the road right of way and a side setback of 19 feet from the westerly property line and is requesting relief from Town Zoning schedule 1 which requires a 100 feet front setback and a 20 feet side setback. This property is currently zoned Highway Commercial (HC).

Chairperson Robillard recalled that this application was tabled at the August meeting to provide the applicant an opportunity to recheck some important dimensions and provide the ZBOA with more information. She noted that no one was in attendance at this meeting to present this application. Jack Barton reported that the front setback of 11 feet was confirmed.

Following discussion, a **Motion** was made by Patrick Buskey to table, without prejudice, the application of R2F2, Inc., for area variances at 5570 Ridge Road West, due to the absence of the applicant. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

2. JAMES AND JOY BRUST – 11 JOHNSDALE TERRACE

Application was received from James and Joy Brust, owners, for an area variance at 11 Johnsdale Terrace. Applicants are requesting to allow an existing deck to remain at a side setback from the northerly property line of 13 feet. Applicants are requesting relief from town Zoning Article 11, subsection 165-87, which requires a 16 feet side setback. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled that this application was tabled at the August meeting to allow the applicants an opportunity to come back with verified measurements. She noted that no one was in attendance at this meeting to present this application.

Following discussion, a **Motion** was made by Stephen Shelley to table, without prejudice, the application of James and Joy Brust, owners, for an area variance at 11 Johnsdale Terrace due to the absence of the applicants. Seconded by Patrick Buskey. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

3. THOMAS AND STACY AVANGELISTA – 313 NORTH AVENUE

Application was received from Thomas and Stacy Avangelista, owners, for a special permit and area variance at 313 North Avenue. Applicants are proposing to construct a 1,389 square foot accessory apartment and are requesting a special permit to construct the apartment and relief from Town Zoning Article 9, subsection 165-76.E which states, in part, that an accessory apartment shall not exceed 35 percent (1,156 square feet) of the total floor area of the principal building. This property is currently zoned Agricultural Conservation (AC).

Chairperson Robillard recalled that this application was tabled at the August meeting to allow the applicant to bring new information that may include: (1) an alternative design which reduces the square footage of the accessory apartment closer to the maximum of 35% or (2) redesign to improve the unhindered internal access after the need of the accessory apartment is no longer necessary.

Thomas provided a new design of the proposed accessory apartment which he stated provides for an unhindered access to the apartment from the main house through a common hallway. He noted that in this ranch-style house, the previous guest room has been relabeled a foyer. This area provides an opening between the apartment and the main house. The doors will be removed and the openings drywalled. Tim Thomas requested a copy of the original plan. Thomas stated, again, that based on calculations at his mother-in-law's existing house, this amount of square footage for the accessory apartment is necessary for her to accommodate her furniture and to provide room in case, in the future, she should need a handicapped accessible living area. He noted that they live on 17 acres, and his request is 200 square feet over the maximum allowable 35% of the square footage of the main house, fits on this property. He recalled that there was no objection by the neighbors to this application. Thomas stated that when this accessory apartment is no longer needed, he will remove the kitchen and make this an addition to his residence, perhaps using it as a game room. He stated he has 3 children and feels he could utilize this area in the future. He stated that his mother-in-law has arthritis and fibromyalgia. Chairperson Robillard asked the applicant why this apartment isn't being constructed according to the ADA standards. Thomas replied that his mother-in-law doesn't need handicapped accessibility now. If she does in the future, he explained that this could be converted to a handicapped accessible area.

Board Discussion: Discussion was held on the size of the apartment and that this new plan still has the appearance of two separate dwellings. Jack Barton noted that the walls of the foyer could be moved to open the area up further because they are not load-bearing walls. Chairperson Robillard stated her concern about the size of the apartment. Jack Barton noted that the method of calculating the 35% was determined during a previous application. Chairperson Robillard noted the lack of justification provided by the applicant to approve an in-law apartment of this size. Dean Snyder suggested that this square footage would be more acceptable if the architect had redesigned this to blend the two living areas together. The apartment should blend better with the existing home or the in-law apartment should be reduced in size. Stephen Shelley stated that the applicant did not make enough changes to provide unhindered access; he just took some doors off. Discussion was held on giving the applicant an opportunity to come back once again with an improved plan that would blend the two living areas. Chairperson Robillard emphasized that design and size are a concern and that more of the in-law apartment should be designed to provide a blended access to the main house in the future. Discussion was held that a handicapped accessible apartment would be possible in a much smaller area. Chairperson Robillard again expressed concern that there was no substantial evidence that this relief is justified.

A **Motion** was made by Tim Thomas to table the application of Thomas and Stacy Avangelista, owners, for a special permit and area variance at 313 North Avenue to give the applicant an opportunity to redesign the in-law apartment's size at a minimum to meet current zoning. Seconded by Dean Snyder. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

4. RICHARD STARWALD – 422 LIGHTHOUSE ROAD

Application was received from Richard Starwald, owner, for area variances at 422 Lighthouse Road. Applicant is proposing to subdivide his property and reduce his lot width to 120 feet and reduce the lot size to .688 acres and is requesting relief from Town Zoning schedule 1, which requires a minimum lot width of 260 feet and an area of 2 acres. This property is currently zoned Rural Residential (RR).

Chairperson Robillard recalled this application was tabled at the August meeting to provide the applicant the opportunity to generate more compelling arguments to support this application.

Richard provided a written purchase offer for the property he proposed to subdivide. He also provided a tape map of the property. He stated that he would like to reduce his property's size and his neighbor would like to increase his property, so this is for the convenience of both. Tim Thomas recalled that Richard's property is currently non-conforming, but was conforming when it was established. Richard explained that his property has an existing width of 200 feet, which will be reduced to 120 feet; his neighbor has an existing lot width of 106 feet, which will increase to 186 feet wide. It was noted that the setback for Mr. Starwald's house would still meet code. Richard stated that there is no other long term intention in doing this.

Public Comment: None. The public hearing was closed.

Board Discussion: Jack Barton stated that they have an application to merge these properties. He noted that this will bring the corner lot more into conformance. Chairperson Robillard suggested that we put a time limit on this merge. Dean Snyder asked Jack Barton that if this application is approved, would it create an undesirable setback that would not meet current zoning codes when this lot is sold. Jack Barton replied that the setbacks at the time of sale would be based on 10% of the 120 feet width and should not create a problem.

A **Motion** was made by Dean Snyder to approve the application received from Richard Starwald, owner, for area variances at 422 Lighthouse Road to subdivide his property and reduce his lot width to 120 feet and reduce the lot size to .688 acres and this grants relief from Town Zoning schedule 1, which requires a minimum lot width of 260 feet and an area of 2 acres. This property is currently zoned Rural Residential (RR). In making this determination to approve, I believe that the benefit can not be achieved by other means feasible to the applicant. There will be no undesirable change in the neighborhood character or to nearby properties. In fact, it will reduce the combined level of non-conformity of the two affected properties by making this change. The request is substantial. There will be no adverse physical or environmental impact, since it is a change on the map only. No physical change will be noticed in the neighborhood. The alleged difficulty is self-created, but using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. This approval with the condition that the corner lot must be merged with the neighboring parcel. Seconded by Tim Thomas. **Motion carried (4-1)** (Ayes: Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas; Nays: Patrick Buskey)

NEW PUBLIC HEARINGS

5. CARLTON AND LALA KRAUSE – 44 MARJORIE LANE

Application was received from Carlton and Lala Krause, owners, for an area variance at 44 Marjorie Lane. Applicants are proposing to construct an accessory storage shed in their front yard with a setback of 87 feet from the Wilder Road right-of-way and are requesting relief from Town Zoning Article 10 subsection 165-82C.3, which states, in part, that detached accessory buildings shall be located in the rear yard. Town zoning defines this parcel as a through lot, having two front yards and no rear yard. This property is currently zoned High Density Residential (HD).

Carlton stated that they are placing the proposed shed in, what they consider, their back yard, but technically, because this is a through lot, there is no back yard. He explained their need for this 16 feet x 20 feet shed to provide storage for their new riding mower and other yard maintenance equipment, which is currently stored in their garage. This will provide them room to park their cars in the garage.

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.

Jack Barton reported that the front setback is actually 80 feet, not 87 feet, as advertised. He noted that the minimum setback from a county road is 75 feet, so this meets that requirement.

Following discussion, a **Motion** was made by Tim Thomas to approve the application of Carlton and Lala Krause, owners, for an area variance at 44 Marjorie Lane to construct an accessory storage shed in their front yard with a setback of 80 feet from the Wilder Road right-of-way and this grants relief from Town Zoning Article 10 subsection 165-82C.3, which states, in part, that detached accessory buildings shall be located in the rear yard. Town zoning defines this parcel as a through lot, having two front yards and no rear yard. This property is currently zoned High Density Residential (HD). In making this determination to approve, I don't believe the benefit can be achieved by other means feasible to the applicant. They are in a unique position in having a through lot. There will be no undesirable change in neighborhood character or to nearby properties. The request is substantial, but only by definition of a through lot. There will be no adverse physical or environmental effects. The alleged difficulty is not self-created, due to the unique nature of a through lot with no back yard. 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 unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

6. MARY VALLANI – 5082 RIDGE ROAD WEST

Application was received from Mary Vallani, owner, for an area variance at 5082 Ridge Road West. Applicant is proposing to erect an 18 square feet freestanding sign with a front setback from the road right-of-way of 0 (zero) feet and is requesting relief from Town Zoning Article 14 subsection 165-111.D which states, in part, that all freestanding signs shall be set back a minimum of 15 feet from all property lines. This property is currently zoned General Commercial (GC).

Carol Ann Day explained her need for a sign to advertise Caroline's Hair Salon. She stated they are looking to place the sign in front of the shop, perpendicular to the road. The sign will be placed as close to the house as possible, at approximately 7 feet from the road. This will not obstruct the view for ingress and egress. She noted the sign will not be illuminated.

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 Dean Snyder to approve the application of Mary Vallani, owner, for an area variance at 5082 Ridge Road West to erect an 18 square foot freestanding sign with a front setback from the road right-of-way of 0 (zero) feet and this grants relief from Town Zoning Article 14 subsection 165-111.D which states, in part, that all freestanding signs shall be set back a minimum of 15 feet from all property lines. This property is currently zoned General Commercial (GC). In making this determination to approve, I believe the benefit can not be achieved by other means feasible to the applicant. The sign's proposed location is extremely close to the house and there is no significant opportunity to move it further back from the right-of-way. There will be no undesirable change in the neighborhood character or to nearby properties. There are several neighborhood properties with similar setbacks for signs. The request is substantial. 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 Tim Thomas. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

7. SUSAN ERNISSE – 13 CLEARVIEW AVENUE

Application was received from Susan Ernisse for area variances at 13 Clearview Avenue. Applicant is proposing to construct an accessory storage structure in the front yard with a side setback of 5 feet from the easterly property line and 8 feet from the road right-of-way and is requesting relief from Town Zoning Article 10 subsection 165-82.C.3, which states, in part, that detached accessory buildings shall be located in the rear yard and zoning schedule 1, which requires a minimum front steak of 40 feet and a minimum side setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

Jack Barton read a letter from the applicant who has requested her application be tabled due to lack of required notifications.

A **Motion** was made by Dean Snyder to table, without prejudice, the application of Susan Ernisse for area variances at 13 Clearview Avenue to the October meeting due to incomplete notifications of neighbors. Seconded by Stephen Shelley. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

8. PREA, LLC, OWNER – 1933 NORTH UNION STREET

Application was received from Prea, LLC, for an area variance at 1933 North Union Street. Applicant is proposing to construct a detached garage with a front setback of 48 feet from the road right-of-way and is requesting relief from Town Zoning schedule 1, which requires a 75 feet setback. This property is currently zoned Medium Density Residential.

Dick Dibble stated he is the contractor for this job. He explained that the owner is remodeling this house and without a garage it will be difficult to resell. He stated that the original garage is no longer part of this parcel, because it was on the property that was subdivided off. The driveway that was used for the old garage will be used for the new garage. He noted the doors will face the road.

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 Prea, LLC, for an area variance at 1933 North Union Street to construct a detached garage with a front setback of 48 feet from the road right-of-way and this grants relief from Town Zoning schedule 1, which requires a 75 feet setback. This property is currently zoned Medium Density Residential. In making this determination to approve, I believe the benefit can be achieved by other means feasible to the applicant, but it would be undesirable to place the garage further back from the house. There will be no undesirable change to the neighborhood character or to nearby properties. The request is substantial. There will be no adverse physical or environmental effects. The difficulty is self-created, but using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community. Seconded by Dean Snyder.

Motion unanimously carried (5-0) (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

MINUTES OF AUGUST 16, 2007

The following changes were recommended: Page 3, line 1, change to "...it would remove the need for the variance."; page 5, Para 3, line 7, change to "..Board consider whether reducing."; page 6, Para 3, line 1, change to "Nick Montanaro". A **Motion** was made by Stephen Shelley to approve the August 16, 2007 minutes with the recommended changes. Seconded by Tim Thomas. **Motion carried (4-0)** (Ayes: Patrick Buskey, Dean Snyder, Stephen Shelley, Tim Thomas; Abstain: Veronica Robillard)

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley and seconded by Patrick Buskey to Adjourn the meeting at 9:15 pm. **Motion unanimously carried (5-0)** (Ayes: Patrick Buskey, Dean Snyder, Veronica Robillard, Stephen Shelley, Tim Thomas)

Respectfully submitted,
Diane Grundon, Recording Secretary