

**TOWN OF PARMA
ZONING BOARD OF APPEALS
February 17, 2011**

Members Present: Tina Brown
Veronica Robillard
Stephen Shelley
Dean Snyder
Tim Thomas

Others Present: Jack Barton, Jim Roose (board liaison), Jim Zollweg (alternate)

Public Present: See attached list

Chairperson Robillard called the meeting to Order at 7:05 p.m. She explained the function of the ZBOA and the decision-making process. She explained that this is a five-member board and that a quorum of three is required to pass a motion.

PUBLIC HEARING

1. RICHARD AND LORI SALTON – 562 HAMLIN PARMA TOWN LINE ROAD

Application of Richard and Lori Salton, owners, for an area variance at 562 Hamlin Parma Town Line Road. Applicants are requesting relief from Town Zoning Schedule 1 which requires a front setback of 75 feet. The home on this property was constructed with a front setback of 54.4 feet. This property is currently zoned Medium Density Residential (MD).

Richard Salton identified himself, stating that Jack Barton would speak for his application.

Jack Barton described the lot as a flag lot. He explained that the builder built the house and, unbeknownst to the Salton's, this house was constructed at a 54.4' setback instead of the required 75' front setback. This was noticed in December 2009 on the instrument survey that was submitted for the final inspection. Jack noted that the Town doesn't receive an instrument survey until the end of the construction phase. He explained that this is a flag lot and not easily noticeable that it did not meet code. The contractor built the house at 54.4' because he used the footprint of the home that was on the approved site plan. The front setback for a flag lot is to be measured 75' from the rear property line of the property in front of the flag lot. He noted that not all towns measure from the property line. Therefore, this error was made. Discussions were held by the planning board and the town board over the past year on how to approach this situation. Other towns were questioned on how they handle flag lots. Jack noted that the other lots in this subdivision will meet the front setback requirement. Discussion was held that with a 54.4' front setback, it allows more use of the backyard for this lot, which, if built to code, would have been very limiting in this case.

Public Comment: None. The public hearing was closed.

Board Discussion: Chairperson Robillard reported that notifications were in order. Jack Barton reported that the request was returned by Monroe County as a matter of local determination. Jack reported that this is a Type II SEQR with no further action required.

Stephen Shelley suggested that setback lines be included in the original site plan and check list to the building department.

A **Motion** was made by Tim Thomas to approve the application of Richard and Lori Salton, owners, for an area variance at 562 Hamlin Parma Town Line Road. This grants relief from Town Zoning Schedule 1 which requires a front setback of 75 feet. The home on this property was constructed with a front setback of 54.4 feet. This property is currently zoned Medium Density Residential (MD). In making this determination to approve:

- The benefit cannot be achieved by other means feasible to the applicant. The error that was made was really no fault of the current property owner. The evidence points to the builder and the surveyor and it would be extremely unfeasible for the property owner to comply since the home has been in place since December 2009. This is an extraordinarily unique circumstance. This is a flag lot and not on a main thoroughfare, which somewhat mitigates the error.
- There will be no undesirable change in the neighborhood character or to nearby properties. In some respect, this error benefited the applicant because the placement of the home allows more rear yard area, although this was not planned this way.
- The request is substantial. The required setbacks for this flag lot were listed on the site map but was not noticed by the contractor or the surveyor, as it should have been.
- There will be no negative physical or environment effects.
- The alleged difficulty is not self-created. The home owner had no way of knowing this house was not meeting code. Using the balancing test, the benefit the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

2. JAMES AND LISA PANFIL – 2 CONNIES LANE

Application of James and Lisa Panfil, owners, for area variances at 2 Connies Lane. Applicants have constructed a four feet high picket style fence in the front yard and an accessory storage shed in the side yard and are requesting relief from Town Zoning Article 16, subsection 165-128.A.1 which states in part that fences in the front yard are limited to a height of three feet and Article 10, subsection 165-82.C.3 which requires sheds to be located in the rear yard. This property is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Medium Density Residential (MD). Area variances were granted for these structures in 2010 but expired before the applicants obtained building permits.

Jack Barton reported that the notifications were sent out only 6 days prior to this meeting. He explained that law requires that notifications be sent out 7 days prior to the meeting.

A **Motion** was made by Stephen Shelley to table the application of James and Lisa Panfil, 2 Connies Lane, to the March ZBOA meeting, without prejudice, to allow the applicants additional time to meet the 7 day notification requirement prior to the meeting. Seconded by Tina Brown. **Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

Jack noted that the notifications for this tabled application for the March meeting would not require another certified letter.

SPECIAL PERMIT RENEWALS

3. FRANK AND LUIGI SANTONASTASO – 5070 RIDGE ROAD

Application was received from Frank and Luigi Santonastaso, owners, for renewal of a special permit at 5070 Ridge Road West to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton reported no complaints on file. A recent inspection by the ZEO reported too many cars on display. A re-inspection on 2/16/11 found the applicant to be in compliance.

Following discussion, a **Motion** was made by Tim Thomas to approve the application received from Frank and Luigi Santonastaso, owners, for renewal of a special permit at 5070 Ridge Road West, to operate an auto sales and repair service. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit. This approval is given with the original conditions, as follows:

- Hours of operation: Monday through Friday, 9 am to 7 pm; Saturday, 9 am to 5 pm; Sunday, 11 am to 4 pm.
- The fire marshal to inspect and approve.
- Signs per zoning ordinance.
- No outside speakers.
- Lighting to be directed away from Ridge Road West.
- No junk cars on the premises.

For a period of one year, to be considered for renewal in January, 2012. Seconded by Stephen Shelley. **Motion unanimously carried (5-0) Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

4. ANDREA MACDONALD – 744 PECK ROAD

Application was received from Andrea MacDonald, owner, for renewal of a special permit to operate a horse boarding facility at 744 Peck Road. Current zoning of this property is Agricultural Conservation (AC) which allows this use with a special permit.

Jack Barton report no violations were identified on the February 15, 2011 inspection by the ZEO and there were no complaints on file.

A **Motion** was made by Tim Thomas to approve the application of Andrea MacDonald, owner, for renewal of a special permit to operate a horse boarding facility at 744 Peck Road, with the following conditions:

- Number of horses boarded not to exceed 25 horses, regardless if they are owned by the property owner or boarded
- In accordance with 165.76.A.-I be reviewed to assure that it meets all the requirements.
- For a period of three years, renewable in March, 2014.

Seconded by Tina Brown. **Motion unanimously carried (5-0) Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

5. DAN RICOTTA, PLATINUM AUTO – 5064 RIDGE ROAD

Application was received from Daniel Ricotta, owner, AKA Platinum Auto, for renewal of their special permit at 5064 Ridge Road West to allow the display and sales of automobiles. This property is currently zoned Highway Commercial (HC) which allows this use with a special permit.

Jack Barton reported there were no complaints on file. He stated that on February 10, 2011, an inspection by the ZEO reported too many cars on display. A re-inspection on February 16, 2011 reported no violations.

A **Motion** was made by Tim Thomas to approve the application received from Daniel Ricotta, owner, AKA Platinum Auto, for renewal of the modified special permit granted on December 21, 2006 to allow the display and sales of automobiles at 5064 Ridge Road West, with the following conditions:

- This special permit allows 71 display spaces and 13 customer and employee parking spaces, as presented on the plan, with the 6 display spaces on the west and 8 display spaces on the east.
- Hours of operation to be 10 am to 6 pm, Monday through Friday; 10 am to 3 pm on Saturday; and Sundays by appointment only.
- This approval is for a period of one year, retroactive to June 2010, to be renewed June, 2011.

This property is currently zoned Highway Commercial (HC) which allows this use with a special permit. Seconded by Tina Brown. **Motion Unanimously Carried (5-0) Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

6. ANTHONY CAPUANO – 5248 RIDGE ROAD

Application was received from Anthony Capuano, owner, for renewal of a special permit for the display and sale of used motor vehicles at 5248 Ridge Road West. This display area for these vehicles will be in front of the existing mini-storage units located on the property. This property is currently zoned Highway Commercial (CH) which allows this use with a special permit.

Jack Barton reported no complaints were on file. He noted there was no recent inspection report in the file.

A **Motion** was made by Stephen Shelley to table the application of Anthony Capuano, 5248 Ridge Road, for a special permit renewal, without prejudice, to the March meeting to obtain an inspection report. Seconded by Tina Brown. **Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

7. THOMAS AND ERIN BARBETO – 1914 NORTH UNION STREET

Application was received from Thomas and Erin Barbeto, owners, for renewal of a special permit to operate a home business at 1914 North Union Street in accordance with Town Zoning Article 9 subsection 165.79.1. The applicants are proposing to operate a pet grooming business in their home. This property is currently zoned Medium Density Residential (MDR) which allows this use with a special permit.

Jack Barton reported there were no complaints on file and a recent inspection on January 14, 2011, did not identify any violations.

A **Motion** was made by Tim Thomas to approve the application of Thomas and Erin Barbeto, owners, for renewal of a special permit to operate a home business at 1914 North Union Street in accordance with Town Zoning Article 9 subsection 165.79.1, to allow them to operate a pet grooming business in their home, with the hours of operation to be consistent with current zoning laws. To be renewable in two years, February 2013. Seconded by Stephen Shelley. **Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

8. GIUDITTA VIAPIANO – 983 MANITOU ROAD

Application was received from Giuditta Viapiano for renewal of a special permit to allow an accessory in-law apartment at 983 Manitou Road.

Jack Barton reported no complaints on file and no violations.

Jack reported that the identity of the person this in-law apartment is used for was not available.

A **Motion** was made by Tim Thomas to table the application of Giuditta Viapiano for a special permit at 983 Manitou Road, without prejudice, to the March meeting to verify the mother's name and to confirm that there is still a need for this apartment. Seconded by Tina Brown. **Motion unanimously approved (5-0) Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

9. JOHN VELTRE – 120 DUNBAR ROAD

Application was received from John Veltre, owners, for a special permit to allow an in-law accessory apartment at 120 Dunbar Road in the 654 square feet addition to the rear of their existing home. This property is currently zoned Medium Density Residential (MD) which allows this use with a Special Permit.

Jack Barton stated there were no complaints on file and no violations reported. He reported that the identity of the person this in-law apartment is used for was not available.

A **Motion** was made by Stephen Shelley to table the application of John Veltre for a special permit at 120 Dunbar Road, without prejudice, to the March meeting to verify the mother's name and to confirm that there is still a need for this apartment. Seconded by Tim Thomas. **Motion Unanimously Carried (5-0)** (Aye: Tina Brown, Stephen Shelley, Dean Snyder, Tim Thomas, Veronica Robillard)

MINUTES OF JANUARY 20, 2011

The ZBOA minutes of January 20, 2011 were reviewed. The following change was recommended: page 2, Para 1, line 13, change to "there will be no undesirable change...". A **Motion** was made by Tim Thomas to approve the January 20, 2011 ZBOA meeting minutes with the recommended change. Seconded by Tina Brown. **Motion carried (4-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Tim Thomas; Abstain: Dean Snyder).

OTHER

Handouts: Jack Barton provided updates for the zoning manual to each board member.

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Tina Brown, to adjourn the meeting at 7:55 p.m. **Motion unanimously carried (5-0)** (Ayes: Tina Brown, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Respectfully submitted,

Diane Cook, Recording Secretary