

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
May 19, 2011**

**Members Present:** Tina Brown  
Dean Snyder  
Stephen Shelley  
Jim Zollweg (alternate)

**Members Excused:** Veronica Robillard, Tim Thomas

**Others Present:** Jack Barton, Jim Roose

**Public Present:** See attached list

Acting Chairperson Snyder called the meeting to Order at 7:00 p.m. He explained the function of the ZBOA and the decision-making process. He explained that this is a five-member board, with two permanent members absent and the alternate board member present. He explained that a quorum of three is required to pass a motion. He offered hearing aid devices for anyone who required them.

**PUBLIC HEARINGS**

**1. CAROL AND RONALD HEFFER – 15 NORTH AVENUE**

Application of Carol and Ronald Heffer, owners, for an area variance at 15 North Avenue. Applicants are proposing to remove an existing shed and construct a new shed in the side yard to the south of the dwelling. Applicants are requesting relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard. This parcel is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Waterfront Residential (WF).

Ron explained that he plans to put up a shed for storing items presently stored in their attic. They are finding it difficult to access the attic. The new shed will be 12' x 16'. The existing shed is 1 1/2' from the garage. If the proposed shed were built with the required offset, it would put it in the middle of the yard. Instead, they are looking to place this shed on the south side of the lot right off the south boundary line. This would keep it back from the road. Jack Barton stated that a 10 feet setback from the south property line is required. Ron stated this placement would put the shed approximately 100 feet from the road. He sketched the placement of this shed on the survey map provided. It will be approximately 45 feet from the right of way and 10 feet off the lot line.

**Public Comment:** None. The public hearing was closed.

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

A **Motion** was made by Jim Zollweg to approve the application of Carol and Ronald Heffer, owners, for an area variance at 15 North Avenue to remove an existing shed and construct a new shed in the side yard to the south of the dwelling. This grants relief from Town Zoning Article 10, subsection 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard. This parcel is a corner lot and by definition has two front yards, two side yards, and no rear yard. This property is currently zoned Waterfront Residential (WF). They are proposing to locate this shed in the southern part of the property, at least 45 feet from the right of way of North Avenue with a minimum setback of 10 feet from the southerly property line. In making the determination to approve this application:

- I don't believe the benefit can be achieved by other means feasible to the applicants. They don't have a basement and items to be stored in the shed are now stored in their attic, which is difficult for them to access now.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is somewhat substantial, but there is no rear yard in this corner lot.
- There will be no adverse physical or environmental effect.
- The alleged difficulty is somewhat self-created, as they can use the old shed, but the character of this lot is a corner lot and has no rear 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 (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

## 2. SABINE FREDERICK – 351 HUFFER ROAD

Application of Sabine Frederick, owner, for a special permit to operate a home business at 351 Huffer Road. The owner is proposing to use an area in the basement for a retail store. This property is currently zoned Agricultural/Conservation (AC) which allows a home business with a special permit.

Sabine explained that her business is not a “real store” since most of her business is done on the internet. She listed Air Soft items will be sold, such as back packs, hunting gear, shirts and pants. She stated that all advertising will be done on the internet. She stated that no guns will be sold. She stated that she may have a small sign at the end of her driveway indicating her business. She explained that any on-site customers would be only occasional and would occur on a Saturday. She planned no other employees. She explained that she will dedicate a 14' x 14' area in the basement to store items for this business. There will be no separate entrance. She listed the web address for her business as “Pure Airsoft.”

**Public Comment:** None. The public hearing was closed.

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

A **Motion** was made by Stephen Shelley to approve the application of Sabine Frederick, owner, for a special permit to operate a home business at 351 Huffer Road. The owner is proposing to use an area in the basement for a retail store, not to exceed 25% of the area of the home. This property is currently zoned Agricultural/Conservation (AC) which allows a home business with a special permit. This approval is based on zoning code 165.55, general provisions of a special permit. The applicant has stated that they will be using a portion of the basement for the business and that primarily the business will be conducted over the internet. The business name will be "Air Soft" and will provide customers with vests, batteries, back packs, sights, and other upgrade items needed for the sport. There will be no more than 1-2 deliveries in the course of a month and there will not be any customers in person during the evenings. Hours of operation for in person customers will be 9-5 on Saturdays and Sundays from 9 to 1, or by appointment, as per the letter submitted by the applicant. All conditions of this special permit are to be consistent with zoning code 165.79.1. In making the determination to approve:

- There will be no undesirable change in the neighborhood character or to nearby properties. The frequency of visits to the home is very limited.
- There will be no adverse physical or environmental effects.
- Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.
- To be renewed in one year, May 2012.

Seconded by Tina Brown. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

### **3. ROBERT AND BARBARA SURASH – 11 AMPOR BEACH**

Application of Robert and Barbara Surash, owners, for an expansion of a non-conforming structure and area variances at 11 Ampor Beach. The existing structure is considered a non-conforming structure because it encroaches into the easterly (side) and southerly (front) required setbacks. Applicants are proposing a two story addition with a side setback of 9 feet from their westerly property line. The roof eave will extend 3.5 feet into the required yard (setback). Applicants are requesting the expansion of a non-conforming structure in accordance with Town Zoning Article 12, subsection 165.91. Applicants are also requesting relief from Town Zoning schedule 1 which requires a 10 feet side setback and Article 11, subsection 165-88.A which limits eave projection into required yards to 3 feet. This property is currently zoned Waterfront Residential (WF).

Bob explained when they purchased this property in April of 2008 they envisioned an addition. Based on advice from an architect from RIT and after 1 1/2 years of looking at a variety of plans, they decided on this one but this breaches on the setback on the west side. He stated they looked at changing the plans but, considering the lot configuration and roof of the existing structure and aesthetics, they decided to go ahead with this plan. Barb stated the house is set back farther than the other neighboring homes so this will not interfere with anyone's view of the lake. Bob explained that there is no other possible way to put on an addition due to the location of the house, location of the road, and the other homes in the area. This is the best possible location. They looked at building upward but it is very cost-prohibitive.

**Public Comment:** None. The public hearing was closed.

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

Jack Barton presented a letter from the Planning board from their May 16, 2011 meeting. They reviewed the above referenced application for a 20' x 28' addition to the existing single family home. The Planning Board looked at the adjoining properties and found this would not impact the view of the lake by the neighbors. They noted that this is an existing non-conforming structure. This will not create a negative environmental impact and the drainage run off should be directed away from the neighbors.

A **Motion** was made by Stephen Shelley to approve the application of Robert and Barbara Surash, owners, for an expansion of a non-conforming structure and area variances at 11 Ampor Beach. The existing structure is considered a non-conforming structure because it encroaches into the easterly (side) and southerly (front) required setbacks. This approves an addition with a side setback of 9 feet from their westerly property line. The roof eave will extend 3.5 feet into the required yard (setback). This grants the expansion of a non-conforming structure in accordance with Town Zoning Article 12, subsection 165.91. This also grants relief from Town Zoning schedule 1 which requires a 10 feet side setback and Article 11, subsection 165-88.A which limits eave projection into required yards to 3 feet. This property is currently zoned Waterfront Residential (WF).

With respect to the expansion of the non-conforming structure, because of the nature of this waterfront property with multiple instances of non-conforming structures, I believe this application should be approved.

With respect to the second variance for a 9 feet side setback from the westerly property line and the roof eave extending 3.5 feet into the side setback,

- I don't believe the benefit can be achieved by other means feasible to the applicant.
- The request will not create an undesirable change in neighborhood character or to nearby properties.
- It is not substantial. This grants a 6" variance from the 3' required for eave projection into the side setback. A 9' setback is also small, with a 10' setback required, and only is for a small portion of the house.
- There will be no adverse physical or environmental effect.
- The alleged difficulty is self-created. The applicant does not have to put on an addition. But, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Tina Brown. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

#### **4. THOMAS WINTEMUTE – 65 LAKESIDE BOULEVARD**

Application of Thomas Wintemute, owner, for area variances at 65 Lakeside Boulevard. The applicant is proposing to subdivide the property creating a parcel that will maintain the existing width of 80 feet, have a depth of 40 feet, and an area of 5,580 square feet and is requesting relief from Town Zoning Article 12, subsection 165-89.A. which states a non-conforming lot shall not be further reduced in size and Schedule 1 which requires a lot to have a minimum depth of 120 feet and a minimum area of 12,000 square feet. This property is currently zoned Waterfront Residential (WF).

Jack Barton noted that no notifications were presented and the applicant was not present.

Chairperson Snyder polled the Board whether to proceed with the hearing or table this application:

Stephen Shelley: We should be consistent with what we have done in the past and table the application.

Jim Zollweg: table

Tina Brown: table

Dean Snyder: table

A **Motion** was made by Stephen Shelley to table the application of Thomas Wintemute, owner, for area variances at 65 Lakeside Boulevard, without prejudice, to the June 16, 2011 ZBOA meeting, due to the lack of notifications and the absence of the applicant at this meeting. Seconded by Jim Zollweg. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

### **SPECIAL PERMIT RENEWALS**

#### **5. RICHARD FERRETT – 5570 RIDGE ROAD WEST**

Application was received from Richard Ferrett, 5570 Ridge Road West, for renewal of a special permit to allow the display and sale of 55 vehicles, as well as motorcycle sales and repair.

Jack Barton reported no complaints on file and a recent inspection found no violations, with the exception of an out of date fire extinguisher, which the fire marshal will follow up on.

A **Motion** was made by Tina Brown to approve the application of Richard Ferrett, 5570 Ridge Road West, for renewal of a special permit to operate sales and service business for motor vehicles out of a rear one story building and to operate sales of motorcycles in the front building with service and storage of motorcycles on the lower floor of the same structure. This property is currently zoned highway commercial (HC) which allows this use with a special permit. Approval with the following original conditions:

- No more than 55 cars for sale at one time and this includes the entire property.
- Adequate handicapped parking and customer parking, as determined by the planning board.
- Hours of operation: 9:00 am to 9:00 pm, Monday through Thursday; 9:00 am to 6:00 pm Friday and Saturday; 12 noon to 5:00 pm on Sunday.
- No on-street parking.
- Existing lighting to be directional toward the building and not to face the road.
- Sign to be within zoning laws.
- Sales of automobiles and motorcycles only – no repairs, no dismantling of cars, no junk cars, no storage of automobiles not for sale.
- Annual inspection and approval by the fire marshal
- Proper disposal of oil and batteries, as per application.
- For a period of two years, renewable in March, 2013.

Seconded by Jim Zollweg. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

#### **6. DAVE DECONNICK - 645 MANITOU ROAD**

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

Jack Barton reported that the inspection of this property is scheduled for tomorrow. He reported no complaints on file.

Discussion was held that the applicant's name prior to this request has been under Craig Bryce.

A **Motion** was made by Tina Brown to table the application of Dave Deconnick for renewal of a special permit at 645 Manitou Road to the June ZBOA meeting without prejudice. This will allow time for the inspection to be completed and to clarify why the applicant's name has been changed. Seconded by Jim Zollweg. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

#### **MINUTES OF APRIL 21, 2011**

The ZBOA minutes of April 21, 2011 were reviewed. The following changes were recommended: page 1, Para 4, line 3, change to "He stated he has a building permit for renovation"; page 3, under Donato application, change all reference to "corner lot" to "through lot"; page 5 and 6 change "area" to "are." A **Motion** was made by Tina Brown to approve the April 21, 2011 ZBOA minutes with the recommended changes. Seconded by Stephen Shelley. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Stephen Shelley, Jim Zollweg; Abstain: Dean Snyder; Absent: Veronica Robillard, Tim Thomas).

#### **ADJOURNMENT**

There being no further business, a **Motion** was made by Jim Zollweg, seconded by Stephen Shelley, to adjourn the meeting at 8:27 p.m. **Motion unanimously carried (4-0)** (Ayes: Tina Brown, Dean Snyder, Stephen Shelley, Jim Zollweg; Absent: Veronica Robillard; Tim Thomas).

Respectfully submitted,

Diane Cook, Recording Secretary