

# TOWN OF PARMA PLANNING BOARD

## JULY 16, 2012

Members Present:

Chairman  
Executive Secretary

Tod Ferguson  
Jack Barton  
Bob Pelkey  
Steve Aprilano  
Michael Reinschmidt  
Mark Acker

Public present: Kris E. Schultz (Schultz Associates), Tom Barbeto, Paul Vindigini, Pat Buskey, Jim Roose (TB) and Erin Barbeto.

Meeting started: 7:02 pm

### PUBLIC HEARING

Winston Place Subdivision

Union Street

Chairman Tod Ferguson reopened the tabled application.

Kris Schultz presented revised plans to the Board, along with copies of 9 to 10 previously approved plan and tax maps with the same type of issues as this plans has. Mr. Schultz stated that he wanted to show what has been typically approved in the past and how the front lot line was interpreted in those plans.

Mr. Schultz stated that the revised plans now show lot number 2 having the home facing the road and the lot depth is now 175.3 feet, the home on the back lot has been turned northerly and home on lot number 1 has a full 175 feet depth.

Chairman Tod Ferguson stated that the Zoning Board of Appeals made a ruling on the King Hamlin Parma subdivision in which they defined how to determine what is the front lot line and the Planning Board needs to follow their ruling.

Mr. Schultz stated that the Board has a right to look at all plans and interpret the plans and that he feels that these plans meet all the requirements and are consistent with how the Board has approved lots in the past, that he does not feel that it would be fair to his client to make him pay the fees to go to the Zoning Board of Appeals, where he does not feel the Zoning Board of Appeals would deny this application, and delay his client for two more weeks. His client is doing this as an investment, he lives on the property in the home on lot number 1.

Mike Reinschmidt stated that the home on lot number 2 seems to be moved 5 feet is this because of the shift of the lines. Mr. Schultz showed on the plans why the movement and that the movement meet set backs.

Winston Place Continued:

Bob Pelkey asked Mr. Schultz out of the 9 or 10 examples he gave to the Board, how many of those went to the Zoning Board of Appeals for their approval. Mr. Barton stated that most of these plans were prior to 1998 and before the code change and that he knew of at least one of the plans had gone to the Zoning Board of Appeals.

A discussion followed on the examples that Mr. Schultz brought to the Board's attention. Mr. Schultz again stated to the Board that this is how the Board has approved plans in the past and that he is just asking them to be consistent with their prior approvals.

Steve Aprilano asked about the homes immediately to the north of this proposed subdivision, which way did they face? Mr. Schultz stated that one was maybe to the west and the other he was not sure which way it faced.

Mr. Barton explained that if the Board had in error approved plans that did not meet Town Code they can not be used as a precedent. Now that the Board has a better knowledge of the Town Code they must follow the Town Code and if the plans presented do not meet Town Code that is a matter for the Zoning Board of Appeals to grant relief if they believe the application meets the criteria for relief.

Mr. Schultz agreed that these plans do not meet Town Code but the Town Code does not say which line is to be the front line of the property just that the front line is the line facing the road, very ambiguous. That there have been different interpretations of the code to date and that he feels this is a gray area and he believes that the examples that he has brought with him tonight show that it can be interpreted differently.

Mr. Barton read the definition of front lot line from the Town Code.

Mr. Schultz then argued that the Fire Marshal required that the home on lot number 3 have sprinklers because they have determined the private drive to be a street or road, there by requiring sprinklers be placed in the home or a hydrant be placed within the required distance. Mr. Schultz felt that the private driveway should be considered a road because it has a hammerhead which is required in the Town Code for a roadway with no-thru traffic. Mr. Schultz stated that the Town can not have it both ways.

Mr. Schultz then stated that he is just asking the Board to be consistent with their prior decisions and that they are complying with the Town Codes.

A lengthy discussion followed on the Town Code and the Fire Code. Mr. Barton stated that he does not know what the Fire Code considers a road but the Town does not consider a private driveway a public road. Mr. Schultz disagreed and argued that it does.

Mr. Barton stated that sprinklers are required in the house on lot number 3 if it is more than 1,000 feet away from a hydrant. Mr. Schultz stated that he has spoken to

Bob Prince and Mr. Prince has told him that this private driveway is considered a road/street under the Fire Code.

Mr. Schultz went on to say that private drives all of the County are now being named and that they plan on putting a name on this private drive. By doing this it helps 911 identify the property and clears up address issues.

Mr. Baton stated that the Town does not recognize names of private driveways that the Town recognizes the name of the original road or street.

Mr. Schultz stated that this is a tendency throughout the County for emergency vehicles and that if Parma is not doing it now they will be doing it in the future.

Mark Acker asked Mr. Barton to clarify if the Town of Parma recognizes the name of private drives. Mr. Barton stated that the Town does not. A lengthy discussion followed.

Chairman Tod Ferguson re-opened the Public Hearing and asked if there was anyone from the public who would like to speak for or against this project.

Tom Barbeto - 1914 North Union Street

-Asked if the private driveway has to meet the width requirements of a roadway.

Jack Barton explained the minimum requirements for a dedicated roadway in the Town of Parma and then explained that this project will be using a cross access easement for lot numbers 2 and 3 and then went on to explain what a cross access easement is.

-Asked if the requirements for these 20' access strips to each lot takes up any of the road frontage.

Mr. Barton explained that it does cut down the road frontage of the first lot.

- Questioned where the snow will go when the owners are doing snow removal on the private drive.

Mr. Schultz explained that it would be pushed on to the owners property and would not be pushed on to the neighbors property.

-Stated that when there is a large snow fall he has problems with water going into his garage.

Mr. Schultz explained the proposed drainage of the site and stated that the amount of water flowing to Mr. Barbeto's property will be reduced and at the minimum it will not increase.

-Stated that an adjoining property had a pond put in and he was told the same thing about drainage but now his property floods.

Mr. Schultz stated that he did not know anything about that particular project and then went through the process that he could go through with the Town in regards to his flooding issue.

Erin Barbeto - 1914 North Union Street

-Stated that she is not for this development and the surrounding neighbors were not for this development but approving this application they would be setting a precedent and it is up to the Board to preserve the property.

Chairman Tod Ferguson explained to Mrs. Barbeto that if the plans meet the Town Code there is nothing that Planning Board can do, they can not stop the development but they were charged with making sure that the plans do meet Town Code.

Chairman Tod Ferguson closed the Public Hearing.

Chairman Tod Ferguson then poled the Board to find out what their thoughts were in regard to the determination of which line is the front line.

Bob Pelkey stated that he was having difficulty with the determination of which line is the front line and questioned what is the criteria for a flag lot when a home owner wants to put up a shed or a pool. Mr. Barton stated that the shed would have to be in rear yard and the pool could be in side or rear yard. A discussion was held on the two proposed lots and where these accessories could be placed in these yards.

Mike Reinschmidt questioned when a home is angled, as it is proposed on lot number 3, how do you decided which is the front yard and which is the rear yard. Mr. Barton stated that the code makes reference to the right-of-way and explained how it is determined, that is not based on the angle of the home.

Mark Acker stated that he was not sure that he was clear as to the definition of road in the Town of Parma Code. Mr. Barton stated that this is not a dedicated road and as how the Fire Code sets out the definition of a road he could not address.

Mr. Schultz stated that a clearer definition needs to be placed in the Town Code and then went on to explain to the Board how the Board should go about doing this, by going to the Town Board.

Mr. Schultz then stated that this plan is not that much different from what the Town typically approves and it is going to take time and money to go to the Zoning Board of

Winston Place Continued:

Appeals, that he has brought in examples of what has been previously approved and that he is pressing the Board to continue what they have been doing in the past.

Mr. Barton stated that the Board does not have the discretion to interpret zoning that is the Zoning Board of Appeals job, that if errors were made in the past that does not mean that the Board can continue to make the same error and those errors can not be used as precedents.

A discussion followed between Mr. Schultz and Mr. Barton about how the plans should be interpreted.

Mr. Schultz again stated that the Board should be consistent with the way things were interpreted in the past and that if they want to changes the rules they can change them and go forward from there.

Steve Aprilano stated that he feels there is a possible zoning issue and that the interpretation of the front line needs to be established on the flag lots and feels that the Zoning Board of Appeals needs to be the Board who makes that decision.

Mike Reinschmidt stated that just because something wrong was done in the past does not mean that this Board is going to follow, the Board needs to follow the Town Code. He agrees with Mr. Aprilano.

Mr. Acker and Mr. Pelkey both agree with Mr. Aprilano.

The Board agreed that the plans need to be addressed by the Zoning Board of Appeals for an interpretation of the front line or for variances.

A discussion followed on the application to the Zoning Board of Appeals.

The Board referred these plans to the Zoning Board of Appeals for a determination on the front line and for depth variances as needed.

#### CONTINUING BUSINESS

DOAN CHEVROLET 5035-5057 Ridge Road West & 1821 & 1825 North Union Street

Mr. Schultz presented these plans for final approval.

Mr. Schultz stated that he just received the building department's comments, along with the Fire Marshal's comments, late in the afternoon today and was not able to revise the plans to address those comments but believes he can address all the comments at the meeting tonight to satisfy all of the issues.

Mr. Schultz requested that the Fire Marshal comments be sent directly to him in the future and not to the Building Department to be forwarded to him.

Mr. Schultz again stated that the revisions were not made on the plans but he can give verbally what changes will be made and is asking that the Board give a contingent final upon him making these changes to the plans.

Mr. Schultz then went through the comments of the Building Department and the Fire Marshal.

1. In regards to the front door of the new building, will there be a curb or flush.  
-Mr. Schultz stated that it will be flush and same layout as Doan Dodge. There will be a 20'x20' space, that bollards will be detrimental to the dealership, anything that would block the view of a multi-million dollar dealership is a detriment and that there is lots of distance before hitting the building. Mr. Schultz stated that he will advise the client that the Town feels that some sort of curb or bollards should be placed in front of door and that if they do not place them it is at their own risk.

Discussion followed on this, Mr. Schultz stated that they would be willing to stripe out the area.

2. Removal of recreational fee block from plans.  
-Mr. Schultz stated he would do that.
3. Details on sheet 9, have overlapping lettering.  
-Mr. Schultz stated he would clean that up.
4. No Parking - Fire Lane signs, need to be added to existing building.  
-Mr. Schultz said he would do that.
5. Bollards to protect transformers.  
-Mr. Schultz said he will do that.
6. Fire Marshal comments: curbing within fire lane?  
-Mr. Schultz stated that depended on where he was looking and that he would contact the Fire Marshal find out what he is discussing and change per his request.
7. Max hydrant space is 300 feet from building.  
-Mr. Schultz showed the Board two different ways he could address this issue and would discuss with Fire Marshal.

Doan Chevy Continued:

8. Rear hydrant, rear of new structure, has a parking space in front of it.  
-Mr. Schultz stated that they will move that hydrant to a spot where it is accessible at all times.
9. Minimum fire lane is 30 feet, the entrance is 25 feet.  
-Mr. Schultz explained why not 30 feet, and that they were making a 30 feet wide fire lane around entire building.
10. Fire lane and access beyond 150 feet shall have a turnaround.  
- Mr. Schultz explained that no turnaround is needed because they will be able to drive around the building.

Mr. Schultz stated that he would meet with Bob Prince, make the necessary changes to the plans, circulate them to all the people who will need to sign the new plans (Town Engineer, Monroe County Health Department, etc..) and then bring them into building department for their signature and the Chairmans if the Board would be able to grant a conditional final approval as requested, so that his client does not have to be held up.

Mr. Barton requested that Mr. Schultz contact the Spencerport Fire Department to make sure they had no issue with the turning radius as proposed. Mr. Schultz stated that he would.

Mr. Barton stated that the Town Attorney has reviewed the Storm Water Maintenance Agreement and has approved same. There is some question in regards to language of easements but suggested that the approval be given subject to the Town Attorney's approval of the easements.

After a discussion, a motion was made by Steve Aprilano and seconded by Mike Reinschmidt to grant final approval of this project SUBJECT TO the following:

1. All issues above stated 1-10 be addressed and approved by Building Department and/or Fire Marshal.
2. The Town Attorney approves the easements for this application.
3. The Spencerport Fire Department approves of the turning radius.
4. That the engineer circulate new revised plans to all the signing authorities to get new signatures.

Motion carried unanimously 5-0.

MISCELLANEOUS

117 Hill Road

Property Split

Kris Schultz presented plans to split this 11 acre ± parcel, tax account #31.04-1-3, into two parcels.

The plans show one lot to be 5.795 acres and the other lot to be 5.575 acres.

Both lots conform to zoning and lot number 2 has been labeled as not approved for building.

Jack Barton requested that the spelling of Parma be corrected on the plans. Mr. Schultz said that he would do that.

Motion to grant split of tax account number 31.04-1-3 into two separate parcels, as shown on the plans presented to the Board at tonight's meeting, was made by Bob Pelkey and seconded by Steve Aprilano. Motion carried unanimously 5-0.

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A motion was made by Bob Pelkey and seconded by Mike Reinschmidt to accept the minutes of the July 5, 2012 meeting as presented. Motion carried unanimously 5-0.

Sobb Re-subdivision:

Jack Barton stated that these plans were approved sometime ago and that the owner of the property would now like to move the proposed home forward but that there is a highway reservation on the plans and that the Code calls for a 75 feet set back from Highway reservation. Mr. Barton has been in touch with the Monroe County Surveyor in regards to this issue and has a letter from the County Surveyor dated 7/9/12. Said letter refers to this highway reservation as a "legal fiction" and that there is no highway reservation and that as of 2009, this is no longer placed on plans.

After a discussion the Board agreed that with the letter from the County Surveyor they were okay with the movement of the proposed home.

The Board also discussed that if this is no longer a requirement, the Town Code should be looked at and addressed accordingly.

There being no further business, a motion was made by Mark Acker, seconded by Steve Aprilano to end the meeting at 8:22 pm. Motion carried unanimously 5-0.

Respectfully submitted,

Maureen L. Werner  
Recording Secretary