

**TOWN OF PARMA
ZONING BOARD OF APPEALS
November 15, 2012**

Members Present: Blake Keller
Veronica Robillard
Tim Thomas

Excused Members: Stephen Shelley
Dean Snyder
Jim Zollweg

Others Present: Bob Prince, Gary Comardo

Public Present: Epifanio Profeta, Luigi Flacco, Scott Pfundt, Nataliya Dutchak, Kris Schultz, Victoria Regan, Natalie Jay.

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. She explained the function of the ZBOA and the decision-making process. It was explained that a quorum of three is required to pass a motion.

TABLED BUSINESS

1. 5018 RIDGE ROAD, LLC – 5018 RIDGE ROAD

The application of 5018 Ridge Road, LLC, for a Special Permit at 5018 Ridge Road West. The applicant is proposing to display and sell motor vehicles, which is allowed with a Special Permit. The applicant is also requesting to erect a 60 square feet mounted sign along with a 32 square feet free standing sign and is requesting relief from Town Zoning Article 14 subsection 165-111.C which states that no sign shall be placed or erected on the roof of the building and subsection 165-113.B.2 which limits the total signage on the south front of the building and the free standing sign to 82.5 square feet. This property is currently zoned Highway Commercial (HC).

Kris Schultz, engineer for the project, explained that this was tabled at the last meeting because notifications were not in order. Kris Shultz explained the application.

Mr. Schultz explained that after discussion with the building department and additional measurements a variance for the square footage of the sign is no longer required. Mr. Schultz also explained that the modification of the special use permit is needed because they are adding additional land and merging them so a new special permit will be needed to encompass the whole project. Chairperson Robillard asked if that merger had happened yet. Mr. Shultz stated that it is contingent upon this approval. He also explained and passed out pictures to the board members that in regards to the placement of the sign on the roof there are other businesses on Ridge Road with similar signage and that their sign would be in line with those businesses and is not unusual.

Tim Thomas asked about the number of parking spaces. Mr. Schultz explained that currently there are 31 display, 10 customer and 3 employee spaces. When looking at the new map the plan shows 74 spaces which is why the modified Special Permit is needed to encompass the entire project. By looking at the map, you can see that there are display spaces all along the road, three employee spaces and then customer spaces not to exceed 74 spaces per Planning Board approval.

Chairperson Robillard asked if the building can sustain the increased amount of traffic and people. Mr. Schutlz said yes, that even at a busy time you are talking about 2 or 3 people at a time. Mr. Schultz stated that this is going to be mainly a sales office, any repairs would be done at the other sites. Bob Prince explained that there are two bays, and four offices. Mr. Prince also explained that they do not plan to repair cars on the premises but they did not want to eliminate the garage and the bays would only be used for detailing, cleaning and washing cars.

Tim Thomas asked what the possible hours were going to be. Scott Pfund, General Manager of Chevy, stated that the hours would mirror the hours of the Chevy store which are 9am to 9pm, Mon-Thursday; 9am to 5:30pm, Friday, 9am to 5pm, Saturday; and Noon to 4 pm, Sunday.

Board Discussion: Bob Prince 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 action under SEQR and no further review is required. Bob Prince explained that the address was advertised as 5018 Ridge Road West because of the merger that would be taking place.

Public Comment: There was none. Public Hearing Closed.

A **Motion** was made by Tim Thomas to approve the application of 5018 Ridge Road, LLC, for a variance at 5018 Ridge Road West. The applicant is requesting relief from Town Zoning Article 14 subsection 165-111.C which states that no sign shall be placed or erected on the roof of the building. This property is currently zoned Highway Commercial (HC).

In making the motion to approve

- I don't believe the benefit can be achieved by other means feasible to the applicant. Erecting another post mounted sign would become somewhat obtrusive and obstructive and the additional advertising on the roof provides the applicant with a reasonable visible alternative to increase their visibility without having to erect another post mounted sign.
- There will be no undesirable change in neighborhood character or to nearby properties. The roof mounted sign in this application is not out of character for the neighborhood and is certainly consistent with other roof top mounted signs on the Route 104 corridor.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created, however, when using the balancing test; the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Blake Keller. **Motion carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

A **Motion** was made by Tim Thomas to approve the application of 5018 Ridge Road, LLC, for a Special Permit at 5018 Ridge Road West for the display and sales of motor vehicles which is allowed with a Special Permit. This property is currently zoned Highway Commercial (HC) with the following conditions:

1. That number of parking spaces for display, employee, and customers shall not exceed 74 spaces but is subject to Planning Board approval as to how those spaces should be delegated based on the requirements.
2. The hours of operation shall be 9am to 9pm, Monday through Thursday; 9am to 5:30pm, Friday; 9am to 5pm, Saturday; and Noon to 4 pm on Sunday.
3. No onsite repairs shall take place on this parcel.
4. No outside storage of car parts or any other related materials that could be perceived as a car repair business.
5. Lights shall be directed away from Route 104 and Route 259.
6. There shall be no outside speakers but the permit will allow a paging system for the express purpose of paging employees.
7. For a period of two year, to be renewable November 2014.

Seconded by Blake Keller. **Motion carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

The third request for a variance for the total square footage of the signage, upon further re-measurements and re-calculations of the south side and west side facing facade, it was determined that this variance is no longer required as it is in compliance with subsection 165-113.B.2.

NEW BUSINESS

2. TIMOTHY AND MICHELLE WANDTKE – 43 DELAVERGNE DRIVE

The application of Timothy and Michelle Wandtke, owners, for 2 area variances at 43 Delavergne Drive. Applicants are requesting to place a 14 feet by 20 feet tent structure at a 0 foot setback from the easterly side property line and a 0 foot setback from the rear property line. Applicants are requesting relief from Town Zoning schedule 1 which requires a minimum side and rear setback of 10 feet. This property is currently zoned Waterfront Residential (WF).

Board Discussion: Bob Prince read an email from the applicant dated November 15, 2012 requesting that this matter be tabled to the next meeting to allow proper notifications to go out.

A **Motion** was made by Blake Keller to table the application of Timothy and Michelle Wandtke, owners, to allow additional time for proper notifications to go out to the December 2012 meeting without prejudice. Seconded by Tim Thomas. **Motion carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

3. EPIFANIO PROFETA – 145 DEAN ROAD

The application of Epifanio Profeta, owner, for an area variance at 145 Dean Road. The applicant is proposing to reduce the width of the property access strip from Dean Road to 16.5 feet and is requesting relief from Town Subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street. This property is currently zoned Rural Residential (RR).

4. EPIFANIO PROFETA – 145A DEAN ROAD

The application of Epifanio Profeta, owner, for an area variance at 145A Dean Road. The applicant is proposing to reduce the width of the property access strip from Dean Road to 16.5 feet and is requesting relief from Town Subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street. This property is currently zoned Rural Residential (RR).

5. EPIFANIO PROFETA – 149 DEAN ROAD

The application of Epifanio Profeta, owner, for an area variance at 149 Dean Road. The applicant has a land locked parcel of land and is proposing to provide a 16.5 feet wide strip of land to Dean Road. Applicant is requesting relief from Town Subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street. This property is currently zoned Rural Residential (RR).

Epifanio Profeta, owner of all three properties stated that he lives at 145 Dean Road. He stated he purchased this property knowing this variance would be necessary. He purchased this land so that his kids could build on the property at some time in the future. He stated that this request was approved back in July 2004 but it had lapsed because he was unaware of the time-frame so he has to start the process again. Tim Thomas asked why he waited so long from when it lapsed. Mr. Profeta said that his son was married two years ago and has a baby on the way and are now ready to build on the land. The son wants to build on the unapproved lot at 149 Dean Road.

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 action under SEQR and no further review is required.

Bob Prince showed the Board a map that was found by the Building Department today with a note on it stating that No building permits will be issued for Lot 2 until the public road on Brandon Pines is constructed. That public road is not in yet. Mr. Profeta stated his understanding is that at one time there were plans to build another subdivision

but that those plans are no longer in the works. Bob Prince just wanted to make the Board aware that the note was there and that this issue may have to go back in front of the Planning Board.

Public Comment:

Luiga Flacco, 169 Dean Road stated that he is against this application because he feels that the town requirement should remain at 60 feet like when he built and that there is not enough room for emergency vehicles. Chairperson Robillard stated that the Planning Board will make sure that safety is ensured. There was further discussion between the Board and Mr. Flacco about the town requirements and Planning Board and Zoning Board roles. Mr. Prince explained that each individual parcel needs 20 feet access. Tim Thomas clarified that this is a net change of 10 feet but visually it will look like one big driveway. Bob Prince stated that the applicant's property has frontage of 50 feet.

Tim Thomas asked Bob Prince can the board condition that there be a cross-access easement. Bob Prince stated that the board can as long as the board feels it is reasonable. The board asked the applicant if would be willing to have a cross access easement. The applicant stated yes.

There was discussion with the applicant about the process that would be needed if approved and whether the Board can give the applicant additional time to pull the building permit. Bob Prince stated that he thought the board does have some discretion with the time-frame. Tim Thomas stated that he is not uncomfortable giving him an extra three months since we are going into the winter weather season. They discussed how long that process might take and whether it would be better for the applicant to get everything in order and then come back to the board or if approved tonight if things are not finished timely he will be back in front of the board again. The applicant stated that he would like the Board to act on this tonight. It was explained that the applicant would have one year to get a permit and then the building permit has a one year time limit, so in an essence the applicant has two years.

A **Motion** was made by Tim Thomas to approve the application of Epifanio Profeta, owner, for an area variance at 145 Dean Road, and to grant the request to reduce his access strip to Dean Road from 20 feet wide to 16.5 feet wide and for relief from Town Subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street. This property is currently zoned Rural Residential (RR). The following conditions apply:

1. A cross-access easement be filed, which the applicant is in agreement with and that is his wish as well.
2. The Board is granting the applicant the flexibility of a 3 month extension to pull the building permit allowing him 12 months instead of the required 9 months and to have the Planning Board approval for the unapproved lot at 149 Dean Road.

Also approved is the application of Epifanio Profeta, owner, for an area variance at 145A Dean Road to reduce his access strip to Dean Road from 20 feet wide to 16.5 feet wide and for relief from Town subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street. This property is currently zoned Rural Residential (RR).

This motion also includes approval of the application of Epifanio Profeta, owner, for an area variance at 149 Dean Road to provide a 16.5 wide strip of land to access a land locked parcel of land to Dean Road, and to grant relief from Town subdivision regulations Article 4, subsection 130-15.D.3 which requires backlands and flag lots to have a minimum 20 feet wide strip of land to a public street.

In making the motion to approve

- I don't believe the benefit can be achieved by other means feasible to the applicant.
- There will be no undesirable change in neighborhood character or to nearby properties, since the driveway will appear the same, and there will be no difference if this driveway services three homes rather than two.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created, however, when using the balancing test; the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Blake Keller. **Motion carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

6. ALEKZSIY AND NATALIYA DUTCHAK – 2 COUNTRY MEADOW WAY

The application of Alekzsiy and Nataliya Dutchak, owners, for an area variance at 2 Country Meadow Way. The applicants are proposing to construct an accessory storage shed in the side yard and are 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 and by definition has two front yards, two side yards and no rear yard. This property is currently zoned High Density Residential (HD).

Nataliya Dutchak, owner stated that they would like to put up a shed to store their belongings that are currently in their garage so there is no room for the cars in the garage. Chairperson Robillard asked if the shed was already up because she saw one when going to the property. Ms. Dutchak explained that the shed attached to the dog run is just a small plastic shed they are using right now. Tim Thomas clarified with the applicant that once this shed is in place then the small shed will be removed. The applicant said it would be removed. Blake Keller said that the new shed would be in the Northeast corner of the property.

Board Discussion: Bob Prince 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 action under SEQR and no further review is required. Bob Prince explained that the Building Department also thought the small shed was the shed in question and that the small shed would have to be removed because plastic sheds are not allowed in the Town of Parma.

Public Comment: There was none. Public Hearing Closed.

A **Motion** was made by Blake Keller to approve the application of Alekzsiy and Nataliya Dutchak, for an area variance at 2 Country Meadow Way. The applicants are proposing to construct an accessory storage shed in the side yard and are 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 and by definition has two front yards, two side yards and no rear yard. This property is currently zoned High Density Residential (HD). The following condition applies:

1. The temporary shed will be removed at such time as this shed is completed.

In making the motion to approve

- I don't believe the benefit can be achieved by other means feasible to the applicant.
- There will be no undesirable change in neighborhood character or to nearby properties. Many of the houses have similar storage sheds.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created, by the nature of the fact it is a corner lot and by definition has two front yards, two side yards and no rear yard, when 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 carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

MINUTES OF OCTOBER 18, 2012

The ZBOA minutes for October 18, 2012 will be reviewed and acted on at the December 20, 2012 meeting.

OTHER BUSINESS

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Blake Keller to adjourn the meeting at 8:45 p.m. **Motion carried (3-0)** (Ayes: Blake Keller, Veronica Robillard, Tim Thomas; Absent: Stephen Shelley, Dean Snyder, Jim Zollweg).

Respectfully submitted,

Carrie Webster, Recording Secretary