

**TOWN OF PARMA
ZONING BOARD OF APPEALS
SEPTEMBER 19, 2013**

Members Present: Blake Keller
Stephen Shelley
Dean Snyder
Tim Thomas
Jim Zollweg

Members Excused: Veronica Robillard

Others Present: Jack Barton, Gary Comardo, Art Fritz

Public Present: Steven Frisbee, Arline Davis, Nora Plumeri, Steve Frisbee, Francis Scholand, Mary Lou Clifford, Jeremiah Clifford, Ralph Olney, Beverly Olney, Michael Eisele, Barb Burgess, John Burgess.

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

TABLED PUBLIC HEARINGS

1. JAMES ZABAWSKY – 1769 HILTON PARMA ROAD

The application of James Zabawsky, owner, for an area variance at 1769 Hilton Parma Road. The applicant is proposing to construct a detached garage with a side setback of five feet from the southerly property line and is requesting relief from Town Zoning Article 11, subsection 165-87.A.1 which establishes a minimum side setback of ten feet. This property is currently zoned Rural Residential (RR).

Jack Barton explained the applicant is withdrawing his application as they will be going with an attached garage which does not require a variance.

A **Motion** was made by Dean Snyder to accept the withdrawal of the application of James Zabawsky, owner, for an area variance at 1769 Hilton Parma Road.

Seconded by Blake Keller. **Motion carried (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

2. MICHAEL EISELE – 190 OGDEN PARMA TOWN LINE ROAD

The application of Michael Eisele, owner, for an area variance at 190 Ogden Parma Town Line Road. Applicant is requesting an area variance to add 883 square feet to an existing 621 square feet shed to provide additional area for storage. The total area of accessory structure on this property will be 2,105 square feet. Town Zoning Article 5, subsection 165.33.C.2 limits the total area of accessory structures to 600 square feet. This property is currently zoned Medium Density Residential (MD).

Michael Eisele explained that he is reducing the size of his request for this application from 883 square feet addition to 320 square feet of storage space, enough to store his saw mill and a tractor which are currently outside. Stephen Shelley asked if the shed was enlarged as shown on the tape map. The applicant responded that 30 years ago there was an increase of 10 feet and there is a building permit on file for that.

Tim Thomas asked if the detailed floor plan was completed that was asked for in the June 2013 minutes. The applicant explained that the only things in there would be the tractor and saw mill with enough room to walk down the center of it. There was a drawing of the finished building provided.

Public Comment:

Jeremiah Clifford – 198 Ogden Parma Town Line Road read a letter provided to the Zoning Board dated September 19, 2013 and signed by Jeremiah Clifford, Mary Lou Clifford and Mike Leonard bringing attention to a previously submitted petition that included the opposition to this request by neighbors and made part of the record from June 20, 2013. The letter also expressed concerns with there being a number of structures on this premises already and that Mr. Eisele is

asking to break the rules of the Town and feels that the variance should be denied. He further explained this equipment has been sitting outside for a number of years and why would he need to put up another structure that the neighbors have to look at.

Tim Thomas explained that the purpose of the Zoning Board is to possibly grant relief from the code at least minimally not to let people do what they want. There are many cases where people are looking to deviate from the code. There was discussion about the total square footage with the decrease in space being requested. The total would now be 1542 square feet including all accessory structures on the premises.

Mary Lou Clifford – 198 Ogden Parma Town Line Road. She asked if Jack Barton had gone out and looked at the sizes of these structures. Jack Barton stated that the total square footage is based on the building permits issued. She is concerned with the size of the structures already on the property and feels that it comes to a point when there can be no more buildings. Tim Thomas stated that per the code it is not the number of buildings that matters it is the total square footage of all buildings. Jack Barton explained that 20% of the property can be covered with buildings.

Francis Scholand – 144 Ogden Parma Town Line Road. He would like Jack to go out and measure these buildings.

Tim Thomas asked if there would be a chance of some of the other buildings being eliminated. Mr. Eisele stated no, this would eliminate some of the outside storage. Tim Thomas stated he was hoping to see a more detailed layout like was referred to in the June 2013 minutes, which stated a more detailed floor plan of both the proposed and current structures and he would like to see that before making a decision.

Laurie Eisele - 190 Ogden Parma Town Line Road. She feels that this has nothing to do with the buildings and more to do with a vendetta.

Public Hearing Closed.

Dean Snyder stated that since the applicant is reducing significantly the size of the structure and is really only looking for additional storage for a saw mill and tractor he does not feel that it is as important to have the exact layout of the floor plan. The neighbors have said that the saw mill has been sitting outside for two years and it must be an eye sore. Additional information would not make a difference to him with the reduced size. Tim Thomas agreed that the reduction of the square footage is a significant mitigating factor in this.

A **Motion** was made by Dean Snyder to approve the application of Michael Eisele, owner, for an area variance at 190 Ogden Parma Town Line Road to add 320 square feet to an existing 621 square feet shed to provide additional area for storage. The total area of accessory structure on this property will be 1,542 square feet. Town Zoning Article 5, subsection 165.33.C.2 limits the total area of accessory structures to 600 square feet.

In making this determination:

1. I don't believe the benefit can be achieved by other means feasible to the applicant. One of the neighbors commented that the saw mill had been sitting outside for two years and any type of equipment like that is going to last longer if it is out of the weather. So this is good for the equipment and it is good for the neighbors and not causing an eye sore. The applicant has reduced significantly the size of the addition relative to the original proposal and because of that I think that they have been able to reduce any impact to the neighborhood.
2. There will be no undesirable change in neighborhood character or to nearby properties. The rest of that property remains the same, the only difference is the saw mill and tractor will be stored indoors and not causing an eyesore.
3. The request is substantial.
4. There will be no adverse physical or environmental effects because of its location.
5. The alleged difficulty is somewhat self-created, in making this determination the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion carried (5-0)** (Ayes: Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; Absent: Veronica Robillard).

3. JOSEPH SELVAGGIO – 765 BURRITT ROAD

The application of Joseph Selvaggio, owner, for two area variances and a Special Permit at 765 Burritt Road. The applicant has added a second floor to the existing pole barn increasing the area of the accessory structure to 3,036 square feet and is proposing to construct a 1,056 square feet accessory apartment on the second floor. The applicant is requesting relief from Town Zoning Article 5, subsection 165-31.C.2 which limits the area for accessory structures to 2,000 square feet and Article 9, subsection 165-76.E which limits an accessory apartment on this property to 560 square feet. Accessory apartments are allowed in this district with a Special Permit. This property is currently zoned Agricultural/Conservation (AC). This application has been tabled until the October 17, 2013 meeting and was agreed to by the applicant and the Board.

NEW BUSINESS

4. ERIC AND JODI DEMARTE – 120 NORTH AVENUE

The application of Eric and Jodi DeMarte, owners, for an area variance at 120 North Avenue. Applicants are proposing to construct an accessory structure directly east of their home and are 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. This property is a corner lot and is considered to have two front yards, two side yards and no rear yard. This property is currently zoned Agricultural/Conservation (AC).

Jack Barton explained that the applicant is requesting to table this application until the October 2013 meeting because they will be asking for variances for two accessory structures and modifying their application.

A **Motion** was made by Dean Snyder to table the application of Eric and Jodi DeMarte, owners, for an area variance at 120 North Avenue without prejudice until the October 2013 meeting to allow the applicants time to modify their request. Seconded by Stephen Shelley. **Motion carried (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

5. RALPH AND BEV OLNEY – 3 GAILS TRAIL

The application of Ralph and Bev Olney, owners, for two area variances at 3 Gails Trail. Applicants are proposing to construct an 896 square feet accessory structure in the front yard which will bring the total area for accessory structures to 1,136 square feet. Applicants are requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits the total area of accessory buildings to 600 square feet and Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This property is a corner lot and is considered to have two front yards, two side yards and no rear yard. This property is currently zoned Medium Density Residential (MD).

Ralph Olney, owner and Jim Richardson, Builder, passed out a layout of the proposed structure. He is looking to be able to store a truck, pontoon boat and a tractor in this building. Mr. Richardson explained that this building would be able to be seen only by neighbor to the west. There are pine trees to the north and woods to the south. There was discussion about the unique shape of the property. Tim Thomas asked where these are stored now. Currently the boat is in the lake and he is purchasing the tractor. Tim Thomas asked why this is the best location. It was explained that the whole property is on a sprinkler system and that the property is not flat, the house is on a hill and there is no back yard. This spot is flat and he does not want to take any trees down.

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.

Public Comment: None. Public Hearing Closed.

A **Motion** was made by Jim Zollweg to approve the application of Ralph and Bev Olney, owners, for two area variances at 3 Gails Trail. Applicants are proposing to construct an 896 square feet accessory structure in the front yard which will bring the total area for accessory structures to 1,136 square feet. Applicants are requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits the total area of accessory buildings to 600 square feet and Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. In making this determination I applied the balancing test:

1. I don't believe the benefit can be achieved by other means feasible to the applicant. In order for any accessory structure to be located on this property it would have to go on the side yard because this is a corner lot with no rear yard and it is standard practice to apply a variance in these cases. Based upon the items that need to be stored and the layout of the property regarding trees and shape of the lot I feel the benefit cannot be achieved by other means feasible.
2. There will be no undesirable change in neighborhood character or to nearby properties given the topography and vegetation on the lot.
3. The request is substantial. It is almost twice the standard set out in the code.
4. There will be no adverse physical or environmental effects.
5. The alleged difficulty is self-created; however, 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 (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

6. STEVEN FRISBEE – 72 MOUL ROAD

The application of Steven Frisbee, owner, for two area variances at 72 Moul Road. Applicant is proposing to raze the existing barn and silo and construct a new 2,100 square feet barn in the same location which is set back from the road right-of-way 41 feet. Applicant is requesting relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory buildings to 1,500 square feet and Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This property currently zoned Rural Residential (RR).

Steven Frisbee, owner, explained that this is his rental property and the barn is 115 years old. He plans to tear down the current barn and silo and use for fill and rebuild on the exact same spot a new barn and silo. This will be 41 feet from the Town right-of-way from the road. He explained that he stores all of his equipment in this building. Tim Thomas asked if the old barn has a concrete floor. Mr. Frisbee stated that it is part wood and part concrete but it is breaking up. Tim Thomas asked what the current size is of the barn. Mr. Frisbee stated 30x50 with a 24 foot shed on the back. Total acreage is 42.3. Mr. Frisbee stated that he rents the house and the land out and the applicant's equipment will be in the barn. Tim Thomas asked if this supports a business. Applicant explained he is does excavating.

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.

Public Comment: None. Public Hearing Closed.

A **Motion** was made by Dean Snyder to approve the application of Steven Frisbee, owner, for two area variances at 72 Moul Road to raze the existing barn and silo and construct a new 2,100 square feet barn in the same location which is set back from the road right-of-way 41 feet. This motion grants relief from Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory buildings to 1,500 square feet and Article 10, subsection 165-82.C.3 which states in part that detached accessory buildings shall be located in the rear yard. This property currently zoned Rural Residential (RR). In making this determination:

1. I don't believe the benefit can be achieved by other means feasible to the applicant. The proposed structure is of very similar size to an existing building which has fallen into disrepair. The applicant has shown the specific need by listing each of the items he would like to store in the barn and it seems very suitable for this size and sees no opportunity for him to get by with a smaller structure than he has proposed.
2. There will be no undesirable change in neighborhood character or to nearby properties in fact it will be a significant improvement and will eliminate the eyesore of the barn which is well past its prime being replaced with a more modern structure.
3. The request is substantial.
4. There will be no adverse physical or environmental effects. The original barn was in this location, it is not located in the rear of the property but I believe that the current location is the appropriate place for it.
5. The alleged difficulty is somewhat self-created; however, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Jim Zollweg. **Motion carried (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

7. MICHAEL MANNIX – 210 WEBSTER ROAD

The application of Michael Mannix, owner, for an area variance at 210 Webster Road. Applicant is proposing to construct a 1,200 square foot accessory structure and is requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits this accessory structure to 600 square feet. This property currently zoned Medium Density Residential (MD).

Michael Mannix, owner, explained he is a car collector and there is not enough room in the existing garage to store cars, they moved to this location a year ago and he is hoping to expand. Stephen Shelley pointed out that this would be behind the neighbor to the south. Tim Thomas asked how many vehicles this would store. The applicant stated this would store two cars, a motorcycle and lawn equipment. Tim Thomas felt this was a little large for two vehicles. Mr. Mannix stated when the cars are apart being rebuilt the parts are spread out on the floor. Mr. Mannix explained this is a hobby.

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.

Public Comment: None. Public Hearing Closed.

A **Motion** was made by Stephen Shelley to approve the application of Michael Mannix, owner, for an area variance at 210 Webster Road. Applicant is proposing to construct a 1,200 square foot accessory structure and is requesting relief from Town Zoning Article 5, subsection 165-33.C.2 which limits this accessory structure to 600 square feet. This property currently zoned Medium Density Residential (MD).

In making this proposal

1. I don't believe the benefit can be achieved by other means feasible to the applicant. The applicant has explained why he needs as much room as he is asking for so a smaller building would not benefit the applicant.
2. There will be no undesirable change in neighborhood character or to nearby properties.
3. The request is substantial.
4. There will be no adverse physical or environmental effects.
5. The alleged difficulty is self-created; however, 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 (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

SPECIAL PERMIT RENEWAL

8. JOHN BURGESS – E.R.B. KENNELS – 347 MOUL ROAD

Application was received from John Burgess for renewal of a Special Permit allowing a dog kennel at 347 Moul Road.

Jack Barton referred to a letter from Arthur J. Fritz, Zoning Board Officer, concerning an inspection performed on September 11, 2013 which revealed no violation and no complaints are on file.

A **Motion** was made by Stephen Shelley to approve the request for renewal of a Special Permit for John Burgess to allow a dog kennel at 347 Moul Road with the same conditions as stated in the original Special Permit approval, to be renewed in 5 years, October 2018.

Seconded by Jim Zollweg. **Motion carried (5-0) (Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

9. ARTHUR J. FRITZ, JR. - 206 MOUL ROAD

Application was received from Arthur J. Fritz, Jr. for renewal of a Special Permit allowing a taxidermy studio at 206 Moul Road.

Jack Barton referred to a letter from Bob Prince, Building Inspector and Fire Marshal concerning a fire and safety inspection performed on September 12, 2013 showing some violations that need to be addressed prior to the Zoning Board meeting on September 19, 2013. Another inspection on September 16, 2013 showing that all matters and violations have been addressed and there are no complaint letters in the file.

A **Motion** was made by Jim Zollweg to approve the request for renewal of a Special Permit for Arthur Fritz, Jr. to allow a taxidermy studio at 206 Moul Road with the same conditions as stated in the original Special Permit approval, to be renewed in 5 years, October 2018.

Seconded by Stephen Shelley. **Motion carried (5-0)** (**Ayes:** Blake Keller, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard).

MINUTES OF AUGUST 15, 2013

The ZBOA minutes of August 15, 2013 were reviewed a **Motion** was made by Dean Snyder to approve the August 15, 2013 minutes as presented. Seconded by Stephen Shelley. **Motion carried (4-0)** (**Ayes:** Dean Snyder, Stephen Shelley, Tim Thomas, Jim Zollweg; **Abstain:** Blake Keller; **Absent:** Veronica Robillard).

OTHER BUSINESS

Future Training Opportunities- There was discussion about future training.

765 Burritt Road – scheduling inspections for the Board Members. Quotes are being worked on by the applicant.

SEQR Forms and changes- The form is changing from a two page document to a four page document. 99% of Zoning Board applications are type 2 so there will not be a change for those applications.

ADJOURNMENT

There being no further business, a **Motion** was made by Jim Zollweg, seconded by Stephen Shelley to adjourn the meeting at 8:20 p.m. **Motion carried (5-0)** (**Ayes:** Blake Keller, Dean Snyder, Stephen Shelley, Tim Thomas, Jim Zollweg; **Absent:** Veronica Robillard, Dean Snyder).

Respectfully submitted,

Carrie Webster, Recording Secretary