

**TOWN OF PARMA  
ZONING BOARD OF APPEALS  
October 16, 2014**

**Members Present:** Dan Melville  
Veronica Robillard  
Dean Snyder  
Stephen Shelley  
Jim Zollweg

**Members Excused:** Tim Thomas

**Others Present:** Dennis Scibetta, Art Fritz, Kyle Mullen

**Public Present:** Robyn Mason, Margaret Farrell, David Farrell, Brendon Davis, Ryan Lockwood, Brad Smith, Lesia Pavlovych, Steve Pavlovych

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

**TABLED FROM THE SEPTEMBER 18, 2014 MEETING**

**1. RONALD J. COTROPIA – 214 HUFFER ROAD**

The application of Ronald J. Cotropia, owner, for an area variance at 214 Huffer Road. The applicant is seeking relief from Town Zoning Article V, Subsection 165-32.E.1, Schedule 1 which states in part that the minimum lot width is to be 260 feet. The proposed lot will be 250.03 feet in width. This property is currently zoned Rural Residential (RR). This application has been tabled until the November 20, 2014 meeting.

Dennis Scibetta explained that the applicant is withdrawing his application because he has entered into an agreement with the neighbor which will allow him to acquire land making the lot legal and no variance will be required.

**2. PAVS, LLC – 4704 RIDGE ROAD WEST**

The application of PAVS, LLC, owner, for a Special Permit at 4704 Ridge Road West. The applicant is seeking a special permitted use in accordance with Article IX, subsection 165-63 which states that the Zoning Board of Appeals may approve a permit for a public or private golf course within a Rural Residential (RR) district.

Kris Schultz, on behalf of the owner, handed out information to the Board. Chairperson Robillard stated that last month there was discussion about the Board getting information before the meeting and that never happened so it is her understanding that the Board is only looking at the Special Permit for the Golf Course. There was discussion about the legal listing the proposed improvements and that information was not in the legal. Kris Schultz stated that he thought the information was in the legal but he did not look at the legal in the paper. Dean Snyder stated his understanding was the Building Department and the applicants were going to discuss the application and the legal and felt that because none of the proposed improvements were advertised he can move forward tonight. This is the same position the Board was in last month. Stephen Shelley stated that based on the unapproved minutes from last month's meeting his understanding was that all the Board was going to hear tonight was a formal withdrawal and the applicant was going to come back with a new application. Dennis Scibetta stated that was his understanding. Kris Schultz stated that was not his understanding, he thought the proposed renovations were going to be advertised for this meeting. Dr. Snyder said this is the same application as last month, not the new one that the Board was expecting. Mr. Schultz wanted to continue going through this presentation. Chairperson Robillard said that cannot happen because it was not advertised. Chairperson Robillard stated that if they act on the Special Permit than that

would allow the applicant to obtain building permits. Mr. Schultz stated that all renovations have been stopped and they are not ready to pull any permits now. He wants a clear idea of what needs to happen now. Dennis Scibetta explained that obtaining the Special Permit is the first step in moving forward with this or future applications or renovations none of which can happen without the Special Permit. Kris Schultz stated that he is ok with moving forward with the Special Permit tonight and then moving forward from there. Dr. Snyder felt that if that is all we were coming back for that could have been done last month, like the minutes said and they were pretty clear that there was going to be a withdrawal, fees waived by the Town Board and a new application presented and feels that it is counterproductive to look at the first part this month and then the second part next month. There was discussion about the option having been given last month to push the tabling out further because of the level of detail that is needed to move forward. Dean Snyder is reluctant to look at the Special Permit because it makes more sense to do this together; the applicant does not gain anything by looking at this tonight. Mr. Schultz agrees with this and would like this tabled. Jim Zollweg feels that there is no reason to table this again and this should be withdrawn. Dr. Snyder feels this can be tabled because it was tabled last month and Chairperson Robillard felt that this should be withdrawn or acted on. Kris Schultz said he is not willing to withdraw this because his understanding was that the Building Department was supposed to re-advertise this with the proposed renovations.

Chairperson Robillard polled the Board to see if this should be tabled or acted on:

**Dean Snyder:** feels that this should be tabled until next month because of a miscommunication. He is not sure where that miscommunication occurred but at this point the minutes are unapproved and therefore have not been sent to the applicant so he felt that there is plenty of opportunity for miscommunication.

**Jim Zollweg:** does not feel that the procedures of the Board will allow that, the application is as the application is. If there is going to be something different than there has to be a new application made and feels that this has to be denied or withdrawn and a new application made and the fees are between the applicant and the Town Board, if tabling than the Board is obligated to review the exact same thing again next month. Dr. Snyder felt that if the Board were going to be looking at a new application then the one that is being tabled would probably be withdrawn but thinks it is up to the applicant to decide what to do. Chairperson Robillard stated that it should be our decision because they had a month to decide and provide a new application and new information and they did not do anything.

**Stephen Shelley:** sees no harm in hearing the Special Permit or granting the Special Permit.

**Dan Melville:** feels that this should be withdrawn and a new application made. He is not in favor of tabling this matter again but if the applicant wants us to hear it then the Board could listen.

**Chairperson Robillard:** felt that this should be withdrawn or acted on tonight. This has been tabled already and the Board has received no further information until tonight at the meeting when the applicant has been told that all information should be provided to the Board prior to tonight's meeting. She felt like the Board can only look at the golf course as it stands for a Special Permit or a withdrawal. If there was a question about the fees than that should have been dealt with at the Town Board level not at this Board. Chairperson Robillard is also concerned about the building permits that were never pulled for work performed and that in order for them to get permits they need a Special Permit.

Dr. Snyder stated that he is reluctant to move on the Special Permit without an update on the renovations taking place without Building Permits. Dennis Scibetta stated that the Building Department did have the opportunity to extensively tour the premises and they are comfortable with where everything is now but that the applicant will need permits to move forward. He felt that they are working together to get all of this stuff cleared up and are all on the same page. Chairperson Robillard asked if they can make changes without the Special Permit. Dennis Scibetta stated no and felt that they have two options to move forward. 1.) Approve the Special Permit, which will allow the golf course to operate as is in a Rural Residential District and will allow them to move forward and the future uses can be acted on by the various boards or 2.) This can be withdrawn; a new application brought to the Board including all of the future uses and that would be a clean application. Mr. Scibetta does not see why this would be tabled again. Dr. Snyder felt that this could be tabled because this was tabled already. Chairperson Robillard felt that the applicant did not do what they needed to do. There was a short recess taken so that Mr. Schultz could speak to his clients.

After the recess Mr. Schultz wanted to thank the Board for their time and effort with this and stated that they would like the Special Permit acted on tonight and the additional items will be in a new application, building upon this application. Chairperson Robillard stated that any new information will need to be to the Building Department in time to be in the board packets not brought the night of the meeting and that the ball is in the applicant's court for the new application and next step. Dennis Scibetta stated that the Building Department will be working with the owners for the information. It was discussed that October 31<sup>st</sup> is the last day to get on the agenda and it is required that information be to the Building Department 10 days prior to be in the informational packet. If that information is received the night of the meeting it is possible it would have to be tabled. Chairperson Robillard asked how many acres this is. Applicant stated this is 154 acres, which is required for 18 holes. Dr. Snyder asked how much parking is available now. Kris Schultz stated there are currently 200 spaces. Dr. Snyder clarified that there are 200 parking spots not 300 spaces and 195 are required.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, there are no letters in the file, 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.

A **Motion** was made by Jim Zollweg to **approve** the application of PAVS, LLC, owner, for a Special Permit at 4704 Ridge Road West. This Special Permit, which is issued in accordance with Article IX, subsection 165-63, will allow the applicant to operate a public or private golf course within a Rural Residential (RR) district. The conditions on this permit are:

1. These facilities, services and operations of the golf course are allowed to continue as they exist today, October 16, 2014. Specific details: This is an 18 hole golf course which has directly supporting buildings and infrastructure. It also includes, as an accessory use, a main building with a restaurant/club house, pro shop and event /party room. The seating for the restaurant is 99 and the seating for the event/party room is 99.
2. The hours of operation: **Summer Season**, April 1 through October 31, 6 a.m. to 10 p.m., seven days a week. Special Events/Parties may run to 2 a.m., usually on Friday or Saturday nights. **Winter Season**, November 1 through March 30, No Golf. Special Events/Parties may run to 2:00 a.m., usually on Friday or Saturday nights.
3. There are a total of 200 spaces for parking which are designated right now and that will be the permitted number of spaces associated with this Special Permit.
4. This Special Permit will be for 1 year, valid until November 2015.

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

It was noted that this is no longer a grandfathered pre-existing non-conforming use but a Special Permit and will need to have continued extensions on this permit.

## **NEW BUSINESS**

### **3. BRADLEY SMITH – 155 FERGUSON DRIVE**

The application of Bradley Smith, owner, for an area variance at 155 Ferguson Drive. The applicant seeking a setback of 8.1 feet from the side property line for an existing accessory building. The applicant is asking relief from Town Zoning Article V, subsection 165-35.E.1, schedule 1 which states the minimum side setback of an accessory building is 25 feet. This property is currently zoned Waterfront Residential (WF).

Bradley Smith, owner, explained that this barn is 20 years old and after a recent survey it was determined that this building does not meet the setback requirements on the SW corner of the building because while the house is square with the street the property is actually on an angle. There was discussion surrounding part of this land being subdivided. Mr. Smith explained that he is keeping both parts of this and that the building will be on one lot.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, there are no letters in the file, 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 Bradley Smith, owner, for an area variance at 155 Ferguson Drive. The applicant is seeking a setback of 8.1 feet from the side property line for an existing accessory building which was built prior to the current code. The applicant is asking for relief from Town Zoning Article V, subsection 165-35.E.1, schedule 1 which states the minimum side setback of an accessory building is 25 feet. This property is currently zoned Waterfront Residential (WF).

In making the determination using the balancing test:

- The benefit cannot be achieved by other means feasible to the applicant. The accessory structure currently exists so there is really no other means to achieve the goal.
- There will be no undesirable change in neighborhood character or to nearby properties. This has been preexisting for a significant amount of time so there will be no change
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created, but pre-existing; using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community.

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

#### **4. ROBYN AND CARMA MASON – 4838 RIDGE ROAD WEST**

The application of Robyn & Carma Mason, owners, for a Special Permit at 4838 Ridge Road West. The applicants currently have 8 dogs on this property that are being housed in a camper that has been converted to a dog kennel and are requesting a Special Permit in accordance with Town Zoning Article 10, subsection 165.82.AA.3. A Special Permit is required to have more than three dogs on a property. This property is currently zoned Rural Residential (RR).

Robyn Mason, owner, explained that she has eight dogs, one dog is her moms (Dale) and is used for companionship; this dog alerts Ms. Mason if there is an issue with her mom, and the remaining dogs are hers. She has obtained some of these dogs through a rescue shelter and is a foster home for dogs; she has kept three of the four dogs she has fostered. She owns 46 acres of land and fruit trees. A 7000 square foot kennel and a heated camper keep the dogs out of the elements. She explained that she needs the dogs to keep the deer to the back of the property because they have eaten many of the fruit trees. She was made aware of the need to have a Special Permit to house this many dogs when she came in to license the dogs with the Town. The dogs range in age from four months to three years old, all are spade or neutered except for the two puppies. Stephen Shelley asked if any of these dogs are kept in the back of the property. Ms. Mason stated that when the puppies are one year of age she will get a permit to build a secure area for them at the back of the property. Chairperson Robillard asked if the dogs stay in the camper. The applicant stated yes; this is connected to the run and is heated. Dan Melville asked if there are any complaints in the file. Art Fritz stated no this came up when she licensed the dogs.

**Board Discussion:** Dennis Scibetta reported that notifications were in order; there are no letters in the file.

The applicant said that if she did not take these dogs in they were going to be euthanized because they were abused. Chairperson Robillard asked if she would be taking in any more dogs. The applicant stated no; 8 is enough. She also stated that all of the dog's shots are up to date and see a veterinarian. Chairperson Robillard asked what happens to the feces. Robyn Mason stated that it composts itself. Dennis Scibetta said that during an inspection of the property by him and Art Fritz, there was no evidence of feces and the dogs are well cared for.

**Public Comment:** None

**Public Hearing Closed.**

Dan Melville asked if this is approved is this only good for the current 8 dogs. It was explained that this would be good for only these 8 dogs with the understanding that in the future the applicant would come closer to compliance. The applicant stated that she had no idea that she could not have this amount of dogs until she came in to license them. It was explained to the applicant that she cannot replace these dogs.

A **Motion** was made by Dan Melville to **approve** the application of Robyn & Carma Mason, owners, for a Special Permit at 4838 Ridge Road West to house 8 dogs on this property that are currently being housed in a camper that has been converted to a dog kennel and are requesting a Special Permit in accordance with Town Zoning Article 10, subsection 165.82.AA.3. The applicant has large acreage of land and uses these dogs to maintain her privacy; also one of the dogs is used as a service dog for a senior. These dogs are well maintained and taken care of. A Special Permit is required to have more than three dogs on a property. This property is currently zoned Rural Residential (RR).

1. This Special Permit will only be good for the 8 dogs currently being housed on the property and they cannot be replaced without coming back to the Zoning Board of Appeals. The current dogs on the property and allowed under this special permit are Jessie, Jake, Maggie, Maddison, Garth, Jasper, Maya, and the applicant mother's dog Dale. The oldest dog is three years old and the youngest are 4 month old puppies.
2. The camper being used as a kennel needs to be removed after the need is over for these 8 dogs.
3. This Special Permit shall be for a period of 1 year, renewable in October 2015.

**Seconded** by Stephen Shelley. **Motion carried to approve (4-1) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Jim Zollweg; **Nay:** Dean Snyder; **Absent:** Tim Thomas).

Dr. Snyder stated that he does not want to set a precedent and is having a difficult time approving this. He says that the Humane Society fosters several dogs at a time because they have a hard time keeping enough dogs for people who want them and that the risk of them being euthanized here is very low as opposed to the states in the South. He feels that 8 is a tremendous amount of dogs relative to the Town Code and more people might try and have more than three dogs. He stated that he does not think this is a good idea and understands that there is an emotional attachment but the threat of these dogs being euthanized is much lower once these dogs come up here. Ms. Mason stated that the two dogs were so abused and afraid of men, Maggie can be aggressive towards certain people and Maddison runs away. Now they are in a large kennel and supervised; she feels they are making progress being with her and feels they might have had to be put down otherwise. Chairperson Robillard stated that she also struggled with this one and shares Dr. Snyder's concerns. There was discussion about putting the need to protect the property and that the one dog services a senior citizen in the motion. Art Fritz felt that the motion could not state "protect safety or safeguard" the property and that the camper needs to be removed after this use is over. Dan Melville felt that this Board does not set precedent. Dr. Snyder felt that the applicant is describing the need for guard dogs that are intolerant of men, poorly socialized and chase deer and he does not feel that dogs with these issues are the kind of dogs that the Parma Town Code wants to support and is worried about what the risks might be. Chairperson Robillard asked if Dr. Snyder would feel better if there were a timeline attached to this. Dr. Snyder stated that he doesn't believe that a timeline helps, in a past case the dogs had been on the premises for 8 and 9 years before they attacked and were determined dangerous; these dogs were also poorly socialized and used as guard dogs. The applicant responded that of the 8 dogs there are only 2 that are afraid and have issues. Jim Zollweg asked if she has any kind of support system to help with these dogs because he feels that this is an area that needs some expertise. The applicant said she has support through her vet and feels that because these dogs are young they can be trained and since she has had them she has seen a change in them.

Kyle Mullen noted that if there are two violations of Chapter 9 of the Parma Town Code or if any one of these dogs is declared a dangerous dog then this Special Permit will be revoked. The applicant stated that she understands this.

**5. DAVID & MARGARET FARRELL – 482 PECK ROAD**

The application of David and Margaret Farrell, owners, for an area variance at 482 Peck Road. The applicants are proposing to construct a garage addition with a side setback of 4.2 feet and are seeking relief from Town Zoning Article XI, subsection 165-87.A.1 which states, in part, that the minimum side yard setback shall be equal to 10% of the lot width which, in this case, is 10 feet. This property is currently zoned Agricultural/Conservation (AC).

Margaret Farrell, owner, explained that they want to add a single car garage bay to the existing garage to store a third car. This also will be used to store lawnmowers and lawn equipment. This would be a 12 foot addition. There was some discussion over a wall that is on the survey map but has since been taken out so the dimensions referring to the wall can be ignored. Dennis Scibetta stated that after reviewing the survey map there is a frame shed in the back corner of the property line that is out of compliance. The applicant stated that this also was found when this survey was done and this also will be brought back into compliance with the proper setbacks. Dr. Snyder said that this will actually be more in compliance than what was there are of the survey date of September 17, 2014 so this is an improvement over what has been there for a long time.

**Board Discussion:** Dennis Scibetta reported that notifications were in order, there are no letters in the file, 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 David and Margaret Farrell, owners, for an area variance at 482 Peck Road. The applicants are proposing to construct a garage addition with a side setback of 4.2 feet and are seeking relief from Town Zoning Article XI, subsection 165-87.A.1 which states, in part, that the minimum side yard setback shall be equal to 10% of the lot width which, in this case, is 10 feet. This property is currently zoned Agricultural/Conservation (AC).

In making this motion using the balancing test:

- The benefit cannot be achieved by other means feasible to the applicant. The only other means would be to place this on the opposite end of the home and that does not seem feasible and makes more sense to attach this to the existing garage.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is substantial because it is more than 50% of what the code call out.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created because there is already an existing garage and they need more storage; however, using the balancing test, the benefit to the applicant exceeds any detriment to the health, safety and welfare of the community.

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

**MINUTES OF SEPTEMBER 18, 2014**

The ZBOA minutes of September 18, 2014 were reviewed a **Motion** was made by Stephen Shelley to **approve** the September 18, 2014 with the following revision: Page 2, paragraph 6, line 2, correct the spelling of Kubota. **Seconded** by Jim Zollweg. **Motion carried (4-0) (Ayes:** Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; **Abstain:** Dan Melville; **Absent:** Tim Thomas).

**OTHER BUSINESS**

**None**

**ADJOURNMENT**

There being no further business, a **Motion** was made by Dan Melville, seconded by Stephen Shelley to adjourn the meeting at 9:06 p.m. **Motion carried (5-0)** (**Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Jim Zollweg; **Absent:** Tim Thomas).  
Respectfully submitted,

Carrie Webster, Recording Secretary