

TOWN OF PARMA
ZONING BOARD OF APPEALS
February 16, 2017

Members Present: Dan Melville
Stephen Shelley
Dean Snyder
Tim Thomas
Jim Zollweg

Members Excused: Veronica Robillard

Others Present: Dennis Scibetta, Art Fritz, Dan Barlow

Public Present: Karen Allen

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

After discussion it was decided to take these matters out of order to allow the applicants for the tabled matter time to arrive.

NEW BUSINESS

1. KAREN A. ALLEN – 215 HINKLEYVILLE ROAD

The application of Karen A. Allen, owner, for an area variance at 215 Hinkleyville Road. The applicant is proposing to construct an addition with a front setback of 31.64 feet from the road and is requesting relief from Town Zoning Article X, subsection 165-33.E.1, Schedule 1, which states that the front setback is to be 75 feet. This property is currently zoned Medium Density Residential (MD).

Karen Allen, owner, explained that her elderly mother moved into their house approximately a year ago and she is wheelchair bound. Their house is a 1200 square foot ranch. They have been making due with what they have but would like to make some accommodations for her and make it more accessible for her. They are looking to increase the house 10' out so that they can widen the doorways, and have more bathroom and bedroom space. Acting Chairperson Thomas asked if this would be considered an in-law apartment and whether there would be a handicap accessible ramp. Dennis Scibetta answered no because there will be no separation of quarters or kitchen added. The applicant stated they were not sure if there would be a ramp installed. There is currently a 7' porch and overhang, after the addition there would still be a 2' overhang and they are using the existing roof. The addition may actually be less than 10'. Dean Snyder wanted to know what it was going to look like and would like to have a drawing showing that. There was discussion about tabling this until the board could get a copy of the proposed front elevation view, or until they can finalize the plan with room layouts. The view will pretty much look the same with some different windows; they are keeping the existing roof so that they are not changing too much. There was discussion about approving the application with what was provided as long as there are no dramatic changes. It was felt that if the applicant decided to move the door to one side or the other than that would not be acceptable and they might have to come back. The applicant stated the only difference between the two plans was in Plan A the door was closer to the garage and in Plan B the door was centered. They discussed approving both Plan A and Plan B and then the option would be with the applicant for which way to go then the applicant would not need to come back. The applicant showed the Board a floor plan.

Board Discussion: Dennis Scibetta 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. There were no letters in the file. The Building Department felt that this would be keeping in the neighborhood character of the neighborhood as other houses on the street have done the same.

Public Comment: None
Public Hearing: Closed

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Karen A. Allen, owner, for an area variance at 215 Hinkleyville Road. The applicant is proposing to construct an addition with a front setback of 31.64 feet from the road and this motion will provide relief from Town Zoning Article X, subsection 165-33.E.1, Schedule 1, which states that the front setback is to be 75 feet. This property is currently zoned Medium Density Residential (MD).

In making this motion to approve the balancing test was considered which has several criteria:

- The benefit cannot be achieved by other means feasible to the applicant. According to the testimony of the applicant they do have an elderly person residing with them. They have an older very small residence and based upon the situation I feel that this is the only solution they have to create a livable situation.
- There will be no undesirable change in neighborhood character or to nearby properties. There were two different design options looked at and both options were acceptable and will not create an undesirable change in the neighborhood character or to nearby properties.
- The request is substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

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

TABLED FROM THE JANUARY 19, 2017 MEETING

2. STEVEN & ELIZABETH PROKOPIENKO – 166 WEBSTER ROAD

The application of Steven and Elizabeth Prokopenko owners, for an area variance at 166 Webster Road. The applicants are proposing to erect a 6 feet fence with a zero foot setback to enclose the backyard. The applicants are requesting relief from 1) Town Zoning Article 16, subsection 165-128.B.1 which states that fences may be erected up to a height of 4 feet within the rear or side yard. This property is currently zoned Medium Density Residential (MD).

Acting Chairperson Thomas stated that this was tabled at the last meeting to allow the applicant time to provide further information.

Dennis Scibetta stated that there has been no communication from the applicant and no further information was provided. There was discussion about tabling this but after discussion it was decided that this should be ruled on tonight. It was very specific in the meeting minutes when the information was due and there has been no communication from the applicant.

After discussion, a **Motion** was made by Dean Snyder to **deny** the application of Steven and Elizabeth Prokopenko owners, for an area variance at 166 Webster Road to erect a 6 feet fence with a zero foot setback to enclose the backyard. The applicants requested relief from 1) Town Zoning Article 16, subsection 165-128.B.1 which states that fences may be erected up to a height of 4 feet within the rear or side yard. This property is currently zoned Medium Density Residential (MD).

In making this motion to deny:

- The benefit cannot be achieved by other means feasible to the applicant. As discussed in the previous meeting there are vendors that supply electric fences with collars that are used for containment of dogs without fencing. The discussion was that Great Pyrenees and unable to be contained with these type of enclosures. In discussion with Invisible Fence and their 30,000 installations in the regional area they have over 400 that contain Great Pyrenees. They do not believe that this breed cannot be contained as long as they have the proper equipment and appropriate collars and most importantly proper training.

- There will be no undesirable change in neighborhood character or to nearby properties. To approve a 6' fence encompassing the whole yard does make an undesirable change to the neighborhood character and the property.
- The request is substantial. Current Zoning allows for a 6' dog run in a backyard for a length of up to 50 linear feet. The proposed application is approximately 800 linear feet. So the code does not give a provision for dog run which is very inconsistent with what the applicant requested. The applicant also requested a zero foot setback. A zero foot setback does not allow the applicant to maintain the fence on the opposite side which is a substantial change.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. A large percentage of the Town residences have similar requirements with different breeds of dogs and have found a mechanism to contain their animals in a safe manner without building a 6' fence around their entire property. Using the balancing test, the benefit to the applicant is far outweighed by the detriment to the health, safety and welfare of the community.

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

Acting Chairperson Tim Thomas polled the Board as to their reason to deny.

Dan Melville - My basis was because the applicant did not show us any proof that they needed to fence to contain the animal and there are other alternatives they could use.

Jim Zollweg – The balancing test says other means feasible to the applicant. I am convinced that the Invisible Fence would work and the applicant did not show any proof contrary to that. I believe that this would create a very undesirable change to the neighborhood character because of both the length and height. The detriment to the community would outweigh any benefit to the applicant.

Tim Thomas – The benefit can easily be achieved by other means feasible to the applicant. The applicant had an opportunity to present information to refute that and there was no communication from them to the Building Department which was clearly stated in the meeting minutes from last month. This would have created a very undesirable change to the neighborhood.

Stephen Shelley – I base my denial based on the five items in the balancing test. Four of them were not met. This can be achieved by other means. This is a substantial request that will create an undesirable change in the neighborhood. This is self-created. In addition the applicant did not come back with any further information or attend the meeting tonight.

Dean Snyder – My motion stands for my denial.

MINUTES OF JANUARY 19, 2017

The ZBOA minutes of January 19, 2017 were reviewed. **Motion** was made by Stephen Shelley to **approve** the January 19, 2017 minutes as presented. **Seconded** by Dan Melville. **Motion carried to approve (4-0)** (Ayes: Dan Melville, Stephen Shelley, Dean Snyder, Jim Zollweg; **Abstain:** Tim Thomas **Excused:** Veronica Robillard).

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville, seconded by Dean Snyder to adjourn the meeting at 7:40 p.m. **Motion carried to approve (5-0)** (Ayes: Dan Melville, Stephen Shelley, Dean Snyder, Tim Thomas, Jim Zollweg; **Excused:** Veronica Robillard).

Respectfully submitted,

Carrie Webster
Recording Secretary