

TOWN OF PARMA
ZONING BOARD OF APPEALS
April 20, 2017

Members Present: Stephen Shelley
Tim Thomas
Jim Zollweg

Members Excused: Dan Melville, Veronica Robillard, Dean Snyder

Others Present: Dennis Scibetta, Dan Barlow

Public Present: Ruth Flow, Jessica Kyte, Tara Puntasella, Kris Schultz, Karl Mueller, Olena Malanchyn

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. Dennis Scibetta explained that because there are only three seated Board members if after presenting the application, if the applicant feels that they would like to have their matter tabled until there are more Board members present then that will be done and the applicant can come back.

NEW BUSINESS

1. RUTH FLOW – 1536 CLARKSON PARMA TOWN LINE ROAD

The application of Ruth Flow, owner, for an area variance at 1536 Clarkson Parma Town Line Road. The applicant is proposing to subdivide the 4.5 acre parcel into 2 lots. Lot 1 has an existing house and is proposed to have a width of 371.80 feet, a depth of 271.28 feet and have an area of 2.776 acres. Lot 2 is proposed to have a width of 247 feet at front setback, a depth of 227.50 feet and have an area of 1.553 acres. The property is currently zoned Agricultural/Conservation (AC) which requires lots to have each of the following minimum requirements: 300 feet width, 350 feet depth and an area of 3 acres. The applicant is also seeking relief from Town Zoning Article X, subsection 165-80.D which states in part that no lot shall be reduced in size if, as a result thereof, its area or any of its dimensions shall be smaller than required by this chapter.

Kris Schultz on behalf of the applicant showed the Board the Preliminary Subdivision Map that will be going to the Planning Board. Currently there is frontage on both Peck Road and Clarkson Parma Townline Road. The existing water lines run down the property from Peck Road. This parcel was deeded with two separate descriptions and approximately 20-30 years ago it was merged but never formally. It exists on the tax map as one parcel. The corner was never part of the parcel. The applicant was the owner of the parcel before the code change in 1998. This parcel has been in the family for over 50 years. The idea always was to subdivide this so that her son could build on the property. Kris Schultz provided a tax map to the Board that shows many lots in that area that do not meet the current code, and he felt that this meets the character of the neighborhood. Many of these lots were built on after the change in the code. There was discussion about the two lots. Lot 1 would have a depth and area variance. Lot 2 would have a width, depth and area variance and then a variance for both lots for the reduction in size. There are a total of 6 variances needed.

Acting Chairperson Thomas read a letter from Laura Becker dated April 20, 2017, owner of 3085 Clarkson Parma Town Line Road. She stated that she has no issues with this property being created and a house being built on that property. The applicant stated that she had talked to the neighbors and they all seemed to have no problem with it.

Acting Chairperson Thomas asked if this is considered a corner lot. Dennis Scibetta said no, it is almost a flag lot. The houses on these properties will front on Clarkson Parma Town Line Road.

Public Comment: None
Public Hearing: Closed

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. Dennis Scibetta stated that they discussed it at the Planning Board level and they decided it would be easier to go to the Zoning Board first. This will be sent back to the Planning Board for approvals depending on what happens here.

Dennis Scibetta asked if the applicant would like to move forward with a decision and poll the Board or they could ask to have it tabled. Kris Schultz and the applicant wished to poll the Board as to their thoughts before moving forward with the decision.

Jim Zollweg is in favor of this.

Tim Thomas is also in favor because it fits into the character of the surrounding properties.

Stephen Shelley is in favor of it because this is an issue of the code changing and there are a number of lots that do not comply in the area.

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Ruth Flow, owner, for a number of area variances at 1536 Clarkson Parma Town Line Road. The request is to subdivide the 4.5 acre parcel into 2 lots. Lot 1 has an existing house and is proposed to have a width of 371.80 feet, a depth of 271.28 feet and have an area of 2.776 acres. Lot 2 will have a new house on it and is proposed to have a width of 247 feet at front setback, a depth of 227.50 feet and have an area of 1.553 acres. The property is currently zoned Agricultural/Conservation (AC) which requires lots to have each of the following minimum requirements: 300 feet width, 350 feet depth and an area of 3 acres. This also grants relief from Town Zoning Article X, subsection 165-80.D which states in part that no lot shall be reduced in size if, as a result thereof, its area or any of its dimensions shall be smaller than required by this chapter.

In making this motion to approve, I considered the balancing test and its several components:

- The benefit cannot be achieved by other means feasible to the applicant. There is really no other way to re-subdivide this and be able to keep the property in the family.
- There will be no undesirable change in neighborhood character or to nearby properties. There was evidence presented that it is almost the rule in the vicinity of this property. Many of the lots have a wide variety of dimensions, many of which are not in compliance with the current code. This change will not make the property unusual with respect to the neighborhood.
- The request is substantial. One of the parcels is half the size of what is required.
- There will be no adverse physical or environmental effects added by this structure.
- The alleged difficulty is not self-created. Notably in this case, these are long time owners of the property who have been residents and owners of the property for a very long time. The change was created by the change in the code not by the owner's actions. Using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

2. OLENA MALANCHYN – 109 HILL ROAD

The application of Olena Malanchyn, located at 109 Hill Road, for a Special Permit. The applicant is proposing to operate an in-home business (real estate brokerage) on the first floor of the dwelling in accordance with Town Zoning Article IX, subsection 165-79.1. The property is currently zoned Rural Residential (RR).

Olena Malanchyn, owner stated that she is a Real Estate Broker and would like to propose to use her home as an office. She is the Principal Broker; there are no employees or other realtors. To do this she needs to put some kind of signage. If meeting with clients she is going to houses that are being sold and if her client is selling she is meeting them at their house. It would be very occasionally that she would meet someone at her residence. If that did need to happen, it would be by appointment only. Her driveway can fit up to 6 cars. The signage that she would be putting up would meet the code. Dennis Scibetta stated that by New York

State Law she is required to have a sign to be a Broker. It does not make any sense to buy a building right now until she expands the business. All paperwork is kept at her house and there is a designated room she can use for the office. Dennis Scibetta stated that the applicant bought the house and has fixed it up a lot. Stephen Shelley asked what the hours of operation would be. Applicant stated it would be 9-5pm, Monday through Friday.

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 several calls to the Building Department, all were positive. Dennis Scibetta read an email from Patrick Buskey who also had very positive remarks about how the house looks and he would like to make sure that the house keeps its residential character.

Public Comment: None
Public Hearing: Closed

After discussion, a **Motion** was made by Stephen Shelley to **approve** the application of Olena Malanchyn, located at 109 Hill Road, for a Special Permit. The applicant is proposing to operate an in-home business (real estate brokerage) on the first floor of the dwelling in accordance with Town Zoning Article IX, subsection 165-79.1. The property is currently zoned Rural Residential (RR).

In approving this request:

1. The applicant will conform to all requirements under Town Zoning Article IX, subsection 165-79.1.
2. Visitors, if any, will only come to the residence by appointment and during normal business hours (9am-5pm) so as not to disturb neighbors.
3. There will be no employees.
4. There will be no parking on the street.
5. This Special Permit will be good for one year, renewable in April 2018.

Seconded by Jim Zollweg. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

3. KARL MUELLER – 136 HINKLEYVILLE ROAD

The application of Karl Mueller, owner, for 2 area variances at 136 Hinkleyville Road. The applicant is proposing to construct a 960 square foot pole barn, with a wall height of 14 feet, on property that currently has 240 square feet of existing accessory structures, which would bring the total of accessory structures on the property to 1,200 square feet. The owner is requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet and Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet. The property is currently zoned Medium Density Residential (MD).

Karl Mueller, owner stated he would like to build this structure to keep his boat, a 57 Olds, lawn equipment and a log splitter in so that it is not sitting out all summer long where people can see it. In the winter the boat and the 57 Olds are stored off site, which is an expense. The cost of storage is \$600.00 per year.

He has put up a row of Hemlock trees to obscure the view of the building. He stated that he has spoken to a bunch of the neighbors who seemed ok with this. Tim Thomas asked about the reason for the 14'. He stated that he has just retired and he is going to buy a RV which would need the higher doors. He provided a drawing with sizes to the Board to show how the items would fit inside. Jim Zollweg asked if he was going to be able to get the items from the garage to the road. The applicant stated that looking at the house to the left (North Side) there is 19' and that is how he would get the items around the house.

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 was a letter in the file from Lawrence and Pamela Huff, 128 Hinkleyville Road and an approved building lot at 132 Hinkleyville Road. They were not opposed to Mr. Mueller having addition storage on the lot but he would like the setback to be at least 200' to protect the view from any prospective buyers of the lot next to him. He would also like the property staked out to make sure it is the proper distance of the lot line. Mr. Scibetta stated that those are requests that he could ask the applicant about but he cannot direct the applicant to do that.

Public Comment: None

Public Hearing: Closed

Dennis Scibetta polled the Board so the applicant could decide to move forward or table the application.

Jim Zollweg is in favor of the application.

Tim Thomas is in favor of the application.

Stephen Shelley is in favor of the application.

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Karl Mueller, owner, for 2 area variances at 136 Hinkleyville Road. The applicant is proposing to construct a 960 square feet pole barn, with a wall height of 14 feet, on property that currently has 240 square feet of existing accessory structures, which would bring the total of accessory structures on the property to 1,200 square feet. The owner is requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 square feet and Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet. The property is currently zoned Medium Density Residential (MD).

In making this motion to approve, I considered the balancing test and its several components:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant has a significant number of items that have to be sheltered. The alternative is to store all of the objects off site inconveniently at a fee. The applicant has provided a diagram showing all of the items that will be stored and the size of this structure is appropriate including the applicant will have a recreational vehicle necessitating the need for the 14' sidewalls.
- There will be no undesirable change in neighborhood character or to nearby properties. The applicant has indicated that there is a substantial vegetative boundary that will be in place. This structure is close to 200 feet from Hinkleyville Road. This type of structure is not out of line with the neighborhood standards.
- The request is substantial.
- There will be no adverse physical or environmental effects added by this structure.
- 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 Stephen Shelley. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

4. NOREMAC HOLDINGS LLC – 4692 RIDGE ROAD WEST

The application of Noremac Holdings LLC, owner, for an area variance at 4692 Ridge Road West. The applicant is proposing to replace an existing free-standing sign with one that has a height of 20 feet and are requesting relief from Town Zoning Article XIV, subsection 165-113.B.5 which states in part that a free-standing sign shall not exceed 16 feet in height. This property is currently zoned Highway Commercial (HC).

Tara Puntasella, agent for Expedite the Diehl, explained that Mazda is looking to replace a non-conforming sign. The current sign has a variance and that variance needs to be revisited to update the sign. They would like to have a height of 20'. The sign is consistent with the character of the neighborhood. Placing this higher from the ground will make it easier to see so this business can be safely identified. This sign would enhance the business district. There will not be a negative effect on the neighboring properties. The proposed sign is consistent with the Mazda brand image across the United States.

Board Discussion: Dennis Scibetta reported that notifications were in order with two corrected issues, 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.

Public Comment: None
Public Hearing: Closed

Acting Chairperson Thomas thought that this is an attractive sign and it will be at a good height. The Board was in agreement that this was a favorable application.

After discussion, a **Motion** was made by Stephen Shelley to **approve** the application of Noremac Holdings LLC, owner, for an area variance at 4692 Ridge Road West. The applicant is proposing to replace an existing free-standing sign with one that has a height of 20 feet and are requesting relief from Town Zoning Article XIV, subsection 165-113.B.5 which states in part that a free-standing sign shall not exceed 16 feet in height. This property is currently zoned Highway Commercial (HC). In considering this application, 20 feet is not a significant difference from the existing height. When westbound approaching the place of business the current sign does not give efficient warning for the location of the driveway and then people have to turn around and come back.

In making this motion to approve, I considered the balancing test:

- The benefit cannot be achieved by other means feasible to the applicant. There did not seem to be other opportunities that the applicant could do.
- There will be no undesirable change in neighborhood character or to nearby properties. This is certainly within the scope and appearances of other businesses.
- The request is not substantial.
- There will be no adverse physical or environmental effects added by this structure.
- 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 Jim Zollweg. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

MINUTES OF MARCH 16, 2017

The ZBOA minutes of March 16, 2017 were reviewed. **Motion** was made by Stephen Shelley to **approve** the March 16, 2017 minutes as presented. **Seconded** by Jim Zollweg. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

ADJOURNMENT

There being no further business, a **Motion** was made by Jim Zollweg, seconded by Stephen Shelley to adjourn the meeting at 8:25 p.m. **Motion carried to approve (3-0)** (Ayes: Stephen Shelley, Tim Thomas, Jim Zollweg; **Excused:** Dan Melville, Veronica Robillard).

Respectfully submitted,

Carrie Webster
Recording Secretary