

**TOWN OF PARMA
ZONING BOARD OF APPEALS
NOVEMBER 16, 2017**

Members Present: Dan Melville
Veronica Robillard
Jim Zollweg

Members Excused: Stephen Shelley, Tim Thomas, Dean Snyder, Alternate

Others Present: Dennis Scibetta, Dan Barlow

Public Present: John Jurs, Andrey Demchuk

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 explained that this is a five member board and a quorum of three is required to pass a motion.

NEW BUSINESS

1. JOHN JURIS – 42 MARJORIE LANE

The application of John Jurs, owner, for an area variance at 42 Marjorie Lane. The applicant is proposing to construct an accessory storage shed in the front yard and is 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. Town Zoning defines this parcel as a through lot, having two front yards and no rear yard. This property is currently zoned High Density Residential (HD).

John Jurs, applicant explained that he would like to build a storage shed 30' from all of the property lines. His yard fronts onto Marjorie Lane and Wilder Road runs behind them. His property is considered a through lot. Chairperson Robillard stated that the shed being proposed conforms to size and setback regulations. This application only deals with the definition of front yard/back yard. The neighbors all have sheds and those neighbors also had to get variances. Dennis Scibetta stated that this should have been dealt with at the Planning Board level by law he could not turn his house around and front his property on Wilder Rd. Although this meets the definition of a through lot it really is not the case.

Chairperson Robillard stated that in the application there was mention of a pool but the advertisement did not include the pool so the Board cannot consider the pool. There was discussion that the same process would have to happen for the pool. Jim Zollweg stated that there would have to be another application but he suggested that maybe the fee could be waived since it was missed in this advertisement. Dennis Scibetta stated that he could ask the Town Board to waive the fee.

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. Dennis Scibetta stated that he has spoken to the neighbor and they support this and they also had to go through this process.

Public Comment: None
Public Hearing: Closed

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of John Jurs, owner, for an area variance at 42 Marjorie Lane. The applicant is proposing to construct an accessory storage shed in what is defined as a front yard and is 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. Town Zoning defines this parcel as a through lot, having two front yards and no rear yard however technically speaking this is not a through lot and Wilder Road could not function as a front yard with access. This property is currently zoned High Density Residential (HD).

In making this determination the balancing test was considered:

- The benefit cannot be achieved by other means feasible to the applicant. It is not possible because of the definition of a through lot.
- There will be no undesirable change in neighborhood character or to nearby properties. It is perfectly consistent with the other homes in the neighborhood. The location where the shed will be is surrounded by trees and separated from property boundaries by a reasonable distance.
- The request is not 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 (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused**: Stephen Shelley, Tim Thomas).

2. ANDREY DEMCHUK – 64 WEBSTER RD

The application of Andrey Demchuk, owner, for 2 area variances located at 64 Webster Road. The applicant is proposing to erect a 2,000 square feet pole barn with a wall height of 14 feet and 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. This property is currently zoned Medium Density Residential (MD).

Andrey Demchuk, owner explained that the property is just under 3 acres and is surrounded by woods and a creek. He would like to build a storage building to store his belongings that are currently stored outside.

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. Dennis Scibetta stated that a neighbor came in with a concern about the shed being in the front yard and he was ok with this when he realized it will be in the back yard.

Chairperson Robillard asked if the items are personal. The applicant stated that they are. The items to be stored are 2 boats, 2 trailers (a flat bed and a utility trailer). Chairperson Robillard asked why he needs the 14' wall height. Mr. Demchuk said that the one boat is about 11'6 high. Chairperson Robillard has a concern the size of the structure being 3x the allowed amount. She felt there would be a lot of excessive space and asked if he would consider a smaller structure. Mr. Demchuk explained that the garage attached to his house is only 6' high and he would like to have space for a workshop.

Jim Zollweg is concerned that this property is in a Flood Zone because this property is dominated by water features. He had a current flood map of the property and felt the Board should be sure before ruling on this because the Board cannot permit a building in a flood zone. There was further discussion that there is a possibility that this is in a flood zone and this should be looked at more. Dennis Scibetta suggested tabling this until there is a full board and there is clarification over where the flood zone is. He thought that this property might have been taken out of the flood zone but he would like to double check that.

Public Comment: None

Public Hearing: Closed

After discussion, a **Motion** was made by Jim Zollweg to **table** without prejudice the application of Andrey Demchuk, owner, for 2 area variances located at 64 Webster Road to the December meeting to check the flood zone status of the property.

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

SPECIAL PERMIT RENEWAL

3. SUSAN RAS – 5520 RIDGE ROAD WEST

Application was received from Susan Ras, owner, for renewal of a Special Permit at 5520 Ridge Road West to display and sell automobiles in accordance with Town Zoning Article 9, subsection 165-78. The property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit and sit plan approval.

Art Fritz reported that a Zoning Inspection was completed on November 1, 2017 and there were no violations. There are no complaints in the file.

There was discussion about the lateness of this renewal and lapsed inspection. Dennis Scibetta stated that there are yearly fire inspections done on these properties. Chairperson Robillard asked Dan Barlow, Town Board Liaison, to discuss with the Town Board the chronic problem with renewing these Special Permits in a timely manner jeopardizing the welfare and safety of the community. She would like the reins tightened so that these will be taken care of more timely. The Board felt that this is embarrassing to the Town and the Board. Chairperson Robillard explained that it is not the Zoning Board's job to enforce these and there needs to be a more efficient process. Dennis Scibetta explained that his understanding is that this has gone on for years and he does not feel that it is the applicants fault in most cases. There was further discussion about tools that the Zoning Enforcement Officer could be using to make sure these are done timely. Dennis Scibetta said that Elaine has worked with the BAS system to create the tool that should be used to send out the renewal, schedule the inspection and meeting, that system has been shown to the ZEO on several occasions but it is not currently being used.

It was brought to the attention of the Board that there might be a change in ownership around March 2018. It was discussed that if that change takes place then the new owner will have to apply for a Special Permit.

Following discussion, A **Motion** was made by Jim Zollweg to **approve** the application of Susan Ras, owner, for renewal of a Special Permit at 5520 Ridge Road West to display and sell

automobiles in accordance with Town Zoning Article 9, subsection 165-78 with the following conditions as listed in the original Special Permit application and the renewal of March 19, 2015:

1. Not to exceed 35 display spaces.
2. Hours of operation: Monday through Sunday, 8am to 10pm.
3. No outside speakers.
4. For a period of 2 years from the original expiration date, renewable May 2018.

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

MINUTES OF OCTOBER 19, 2017

The ZBOA minutes of October 19, 2017 were reviewed. **Motion** was made by Jim Zollweg to **approve** the October 19, 2017 minutes as presented. Seconded by Dan Melville. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

ADJOURNMENT

There being no further business, a **Motion** was made by Jim Zollweg, seconded by Dan Melville to adjourn the meeting at 8:00 p.m. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

Respectfully submitted,

Carrie Webster
Recording Secretary