

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JANUARY 17, 2019**

Members Present: Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac

Members Excused: Veronica Robillard, Dean Snyder

Others Present: Dennis Scibetta, Blake Keller

Public Present: Angelo Bianchi, Nicholina Trinca, Frank Trinca, Joan Bell, Stephen Bell, Alissa Hauck

The meeting was called to Order by Acting Chairperson Thomas at 7:00 p.m. He explained the function and the decision-making process of the Zoning Board of Appeals. He noted this is a five member board with four members present and a quorum of three is required to pass a motion.

CONTINUING BUSINESS FROM DECEMBER 20, 2018

1. STEPHEN CONNOLLY – 1235 HILTON PARMA CORNERS ROAD

Application of Stephen Connolly, lessee, for a Special Permit at 1235 Hilton Parma Corners Road. The applicant is proposing to operate an automobile sales business with the ability to display 5 automobiles for sale. This property is currently zoned Highway Commercial (HC) which allows the display and sale of motor vehicles with a Special Permit.

The applicant asked to have the application tabled to the February 2019 meeting for health reasons.

A **Motion** was made by Dan Melville to **table** the application of Stephen Connolly, lessee, for a Special Permit at 1235 Hilton Parma Corners Road without prejudice to the February 2019 Zoning Board of Appeals meeting at the request of the applicant.

Seconded by Corinne Zajac. **Motion carried to table (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

NEW BUSINESS

2. WILLIAM & MARGARET LITTLEBOY – 1442 HILTON PARMA CORNERS ROAD

The application of William and Margaret Littleboy, owners, for a Special Permit at 1442 Hilton Parma Corners Road. The applicants are requesting to have 6 dogs on this property 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).

Dennis Scibetta reported that notifications were not mailed out. They received a letter from William Littleboy on January 16, 2019 asking for the application to be tabled to the February 2019 meeting so they can get all of the required notifications to the neighbors.

A **Motion** was made by Dan Melville to **table** the application of William and Margaret Littleboy, owners, for a Special Permit at 1442 Hilton Parma Corners Road without prejudice to allow time for notifications to be mailed out.

Seconded by Corinne Zajac. **Motion carried to table (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

3. STEVEN BUBEL –160 FERGUSON DRIVE

The application of Steven Bubel, owner, for an area variance at 160 Ferguson Drive. The owner has constructed a garage with a front setback of 12 feet and is requesting relief from Town Zoning Article V, subsection 165-35.C.7 which states that the front setback is to be 25 feet. This property is currently zoned Waterfront Residential (WF).

Acting Chairperson Thomas noted the Board has to look at this application as if the building was not already in place.

Alissa Hauck stated that she was contracted by the owner to build the barn and she received a permit to build where another building previously stood. The measurements taken by the Town were incorrect when the building permit was issued. Dennis Scibetta said this was measured from the center of the road not the right of way in error and he issued the permit. She stated that if the barn complied with the setback it would encroach on the leach field. Acting Chairperson Thomas asked if she has anything showing where the septic system is to substantiate why they could not comply with the setback. Ms. Hauck said she did not. Dan Melville did not feel it was necessary to have that.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. There are no letters in the file.

Before opening this up to Public Comment, Acting Chairperson Thomas explained parts of the code and that the only thing this Board is looking at is the setback of the structure. The Town of Parma Code states that every residential residence is required to have a garage; the garage must be subservient to the primary structure and the Zoning Board has no jurisdiction over the size of the garage.

Public Comment: None

Angelo Bianchi, owns the property to the East and stated he is concerned about the size of the building. He feels this is a quiet neighborhood and this building is too big for the area, sits too close to the road and he feels it changes the character of the neighborhood. He thought since this is a double lot the septic system could be moved to a different location. He is concerned that with the size of the structure it could be used

to run a business. He also feels approving this might cause more people to build before coming to the Board. Acting Chairperson Thomas stated that even if the building had complied with the setback, it could still be that big. Mr. Bianchi is not sure how this situation can be remedied. Acting Chairperson Thomas stated that the Board is here to go through the process and make sure the criteria are being met with minimal impact on the neighbors.

Nancy Bianchi, owner of property to the East stated that she is worried there will be issues and a business being run out of the building which will change the neighborhood. She understands that he is allowed to bring all of his business equipment in and store it in the barn and she said Dennis explained very nicely to her that he is not supposed to be working on equipment or creating a lot of noise, he can only store the equipment there. Acting Chairperson Thomas stated that that raises another issue if he is operating a business at the property. She is concerned it will depreciate their properties.

Frank Trinca, 164 Ferguson Drive, didn't understand why he had to notify all of his neighbors when he wanted to put a 3-4 car garage on his property but he did not receive any notification. It was noted that Mr. Trinca needed to notify the neighbors to obtain a variance because he was building a garage on property across the street from his primary residence not on the premises the house sits. Because of the error in the measurement the applicant did not need a variance originally.

Acting Chairperson Thomas stated that it has been established that there was an error in measurement. If this had been done properly the applicant would have had to notify the neighbors but he still could have built the same size structure and then he could have asked for the closer setback if there was a need. Mr. Trinca did not think the owner could just knock down his previous garage and now build another one. Acting Chairperson Thomas asked if notifications are required when a building is demoed. Dennis Scibetta said no. Mr. Trinca asked if the Board has seen the building. Acting Chairperson Thomas said that part of the process is to visit the sites of each application. Nancy Bianchi stated she would rather leave the building where it is than move it back further because that would be worse for everyone and more visible; however, she would like there to be a change to prevent this from happening in the future.

Steve Bell, 168 Ferguson Drive, asked what the purpose of the setback is. Dennis Scibetta said the purpose is to provide safety to the surrounding neighbors. Mr. Bell thinks this will devalue the property, is too close to the road and is dangerous when pulling out of the driveway. Ten years ago he also had to notify his neighbors and feels he was treated differently when building his garage across the street from his residence than this applicant is treated. After discussion it was determined that a variance was needed because Mr. Bell built on the south side of the road across from the parcel his premises is on that is why he needed to notify his neighbors, not because he was treated differently. A parcel cannot be connected across the road. Acting Chairperson Thomas stated if the error in measuring was not made then this applicant would have also had to notify the neighbors.

Wendy Bell, 168 Ferguson Drive, feels that this is dangerous because it is so close to the road. She also feels that this is a barn not a garage. She was concerned that when she tried to contact the Building Department about what was being built she did not receive any contact or affirmation that someone had come out to look at the building and there was no visible permit.

Marc Hryhorenko, 140 Ferguson Drive, asked if this applicant only needed this one variance. Acting Chairperson Thomas stated yes. Mr. Hryhorenko stated that this does not bother him. He purchased the property on the lake for the view of the lake not to look at the structures on the road side. He feels that there would not be an issue if a few years back the Town did not have the road side be the front yard of the property. He also felt that plants and shrubs would help camouflage the structure.

Public Hearing: Closed

Acting Chairperson Thomas said that he would like to have documentation showing where the septic is and time to discuss this with council. Stephen Shelley felt the building was large but the Board has no control over that. The neighbors were in agreement that they did not want this moved back. Corinne Zajac would like to be assured that this is not going to be a home business. Dennis Scibetta stated Mr. Bubel is a contractor and keeps his equipment in the garage however; there are no employees coming and going, no commercial vehicles and no one coming to the house or parking there. The only complaint the Building Department has received was about his equipment being outside, now it is stored inside. He would be in violation if he started bringing trucks up and down the road, customers coming to the property or employees coming and parking.

Dennis Scibetta stated he has talked to the neighbors several times and has said that it was his mistake for measuring from the centerline of the road. There was a structure at that same setback previously and that added to the confusion with the measuring of the setback. Mr. Scibetta apologized for the error. As far as the size of the building, they were well within their right to build the building that size. Dan Melville stated that there are other structures on this road that have similar setbacks and are as close if not closer to the road. Stephen Shelley wondered if there would be a downside to tabling. Acting Chairperson Thomas felt that it would benefit the Town to have all of the needed information.

Alissa Hauck stated that she followed all of the rules she was supposed to follow and received a permit and feels that if the neighbors don't want it moved back further why table this and create more work for her. Acting Chairperson Thomas said no one is accusing her of anything, she is a victim of circumstances in this also; however, it is the Board's job to investigate completely and have a sound decision in the end.

A **Motion** was made by Corinne Zajac to **table** the application of Steven Bubel, owner, for an area variance at 160 Ferguson Drive without prejudice to the February 2019 Zoning Board of Appeals meeting to afford the Town time to confer with council and the applicant time to get documentation showing where the leach field is on the premises. **Seconded** by Stephen Shelley. **Motion carried to table (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

SPECIAL PERMIT RENEWALS

4. RUSLAN MALANCHYN – 109 HILL ROAD

Application was received from Ruslan Malanchyn, owner, for renewal of a Special Permit at 109 Hill Road to operate an in-home business 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).

Dennis Scibetta noted a letter was received from Olena Malanchyn on January 17, 2019 asking to withdraw the application for a Special Permit because she no longer resides at the address. The daughter is currently living at this address and it is not being used any longer for a business.

5. ANNA RICOTTA – 5064 RIDGE ROAD WEST

The application of Anna Ricotta, owner, to renew a Special Permit at 5064 Ridge Road West, to display and sales of 71 vehicles as stated in the previous Permit. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

On January 16, 2019 Arthur J. Fritz, ZEO, inspected the property regarding conditions of the Special Permit and at the time of the inspection there were no violations of the Special Permit conditions. Dennis Scibetta reported that there was a fire and safety inspection on this property and there were no issues and no complaints on file.

A **Motion** was made by Corinne Zajac to **approve** the application of Anna Ricotta, owner, for a Special Permit to display and sell automobiles at 5064 Ridge Road West with the same following conditions as the previous renewal:

1. This special permit allows 71 display spaces as stated in the previous permit issued.
2. As stated in a previous permit, hours of operation to be 10 am to 6 pm, Monday through Friday; 10 am and 3 pm, Saturday; and a minor change in hours to 12 pm to 3 pm, Sunday.
3. That the owner assures that vehicles that are displayed or stored do not encroach on the right-of-way of Ridge Road.
4. There will be an inspection performed prior to the issuance of this Special Permit by the Zoning Enforcement Officer.
5. The period of the special permit shall be for three years, to be renewed September 2021.

This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit. Seconded by Dan Melville. **Motion carried to approve (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

MINUTES OF DECEMBER 20, 2018

The ZBOA minutes of December 20, 2018 were reviewed. **Motion** was made by Dan Melville to approve the December 20, 2018 minutes as amended. Seconded by Stephen Shelley. **Motion carried to approve (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

ADJOURNMENT

There being no further business, a **Motion** was made by Dan Melville, seconded by Stephen Shelley to adjourn the meeting at 8:30 p.m. **Motion carried (4-0) (Ayes:** Dan Melville, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Veronica Robillard, Dean Snyder).

Respectfully submitted,

Carrie Fracassi
Recording Secretary