

**TOWN OF PARMA
ZONING BOARD OF APPEALS
MARCH 21, 2019**

Members Present: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas

Others Present: Dennis Scibetta, Blake Keller, Corinne Zajac

Public Present: Roger Cavallaro, Leonard Olivieri, Mark Bonin, Rich Laudisi, Connie Wilcox, Jack Wilcox, Bill Hitt, Bonnie Hitt, Sharon Quataert, Richard Frank, Lynn Gongwer, Tom Tresohlavy, Richard Vance

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

CONTINUING BUSINESS FROM FEBRUARY 21, 2019

1. 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Dennis Scibetta stated that this application has been withdrawn by the applicant.

NEW BUSINESS

2. ADAM ALLIET AND JESSICA MULHOLLAND – 133 BAILEY ROAD

The application of Adam Alliet and Jessica Mulholland, contract vendees, for an area variance at 133 Bailey Road. The applicants are proposing to erect a house where the width of the property is 175 feet and are requesting relief from Town Zoning Schedule 1 which states that the minimum lot width is to be 300 feet. The property is currently zoned Agricultural/Conservation (AC).

Dennis Scibetta stated the applicant is asking this to be tabled to the next meeting to allow them time to prepare their application for the Board. There was discussion about tabling this out longer than April but was decided to take it one month at a time.

A **Motion** was made by Tim Thomas to table the application of Adam Alliet and Jessica Mulholland without prejudice to the April 2019 Zoning Board of Appeals at the request of the applicant to allow the applicant time to prepare and present their application.

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

3. ROGER CAVALLARO, III – 14 CONNIES LANE

The application of Roger Cavallaro, III, owner, for an area variance at 14 Connies Lane. The applicant is proposing to erect a 2,300 sq. foot pole barn and is requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 sq. feet. This property is currently zoned Medium Density Residential (MD).

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required.

Roger Cavallaro, stated that he is looking to erect a 2,300 sq. foot pole barn to store his vehicles to protect them from the weather. The cars currently in his driveway would be moved into the structure. His property is approximately 3 acres. He is asking for a building a little smaller than his application last year that was denied. He explained when he purchased the land in 1997 he asked the Building Department at that time if he would be able to build a 60x80 pole barn on the property and was told it would not be a problem. He bought the property and built his house in 1998. During that time the code changed to allow a structure up to 600 sq. feet only. He wished he had been told that change was going to take place. He had information on other applications that have been approved for larger structures in medium density.

He said he could connect it to the house without getting a variance but the cost to do that would be about \$100,000 and completing the detached building would be around \$40,000. He also would have to move the raised septic system to add onto the house and he provided a letter from Mr. Crowley stating that cost would be between \$20,000 and \$25,000.

Tim Thomas noted that last year the applicant was looking for approval for a 2,400 sq. foot building which was denied this building is 2,300 sq. feet, he did not feel that was a substantial enough change to come back. Dennis Scibetta stated that he talked to legal and the change from last year would be because the structure would be subservient to the house, which it was

not last time. Dr. Snyder said he agrees with that because when it was denied last time several Board Members stated it was because it was larger than the house. Tim Thomas asked Mr. Scibetta if this were attached to the house could it be as large as he would like it to be. Mr. Scibetta said it can be as long as it is subservient to the house.

Mr. Cavallaro felt he made a mistake at the last meeting when he was asked if he was willing to go smaller and he said no. He should have said he would be willing to go smaller. There was discussion about whether the vehicles being stored outside are all registered. The applicant stated he was not sure if they were all registered or not, they are all titled to him. Chairperson Robillard asked if any of the cars are for resale. The applicant stated these are his cars, some he has had since he was a teenager. The vehicles he stores offsite are show cars that cannot sit outside in the elements. There was discussion about storing more vehicles offsite. There are 12 vehicles currently in his driveway and the contents of his garage attached to his house. His attached garage holds 3 cars, 2 Quads, 4 Snowmobiles, lawn mower and gas grill.

Dan Melville asked if there would be a driveway to the garage and a concrete floor inside. Mr. Cavallaro said he would not have a driveway; the cars only come out a couple times a year. There will be a concrete floor. Dr. Snyder noted the only difference he sees from last year to this year is the size, which is a decrease of 4%. He asked if there were any other changes from the last application. The applicant said no. Dr. Snyder said one of the comments last year in the minutes was if it was 50% smaller than what he was asking for they would have been more able to approve it. There was no discussion in the minutes about attaching it to the house.

Dr. Snyder does not understand the comment that it cannot be seen from the road because there would be a clear view by both neighbors. Mr. Cavallaro said from the center of the cul-de-sac you would not be able to view it because his house would be blocking it but that does not block the neighbors. Dr. Snyder asked what the dimensions of the building would be. The applicant said it would be 57 ½' by 40' with a wall height less than 12 feet with Metal siding/roof. This will not be used for repair work. He will not be taking any trees down. He would like to place this as far back as possible on the property. Dr. Snyder asked if he has a history of being involved in car sales or repairs. The applicant said he did not.

Tim Thomas felt that 4% reduction from last year was not a substantial change however the applicant seems to be willing to consider something smaller. He would like the applicant to rethink his needs, make some changes and come back with other options. The applicant is concerned with another year going by without the ability to store his vehicles inside.

Dr. Snyder felt that the questions open right now would not change his opinion or the outcome of his decision. He stated that the Board was very clear when they stated if it was half the size

they might consider it. He didn't think the Board has ever approved a building for storage of one particular item; they usually lean towards the storage of equipment to care for the property. He is disappointed by the fact that there are unregistered cars currently in the driveway and didn't think there has been any new information to change his opinion. He would be concerned with approving this because the next owner may not have the same need and may use this for something the Board would not approve of and felt the Board has to be cautious of that.

Tim Thomas felt that a 4% decrease was not substantial enough of a change since the last application. He would like to see another plan and thought the applicant should come in with a new application that is substantially different.

Stephen Shelley stated he denied it last time due to the size of the structure and felt that the reduction from last time was insignificant even if the current plan makes it smaller than the house. He would like the applicant to look at reducing the size.

Dan Melville asked if the applicant had purchased any of the vehicles since last year. The applicant stated he did not; he has had his newest car for approximately 5 years.

Public Comment: None

Public Hearing: Closed

Tim Thomas asked if the Board denies this can he bring another application. Dennis Scibetta said he could bring another application but it would have to be substantially different or he would have to wait one year to come back. Tim Thomas did not feel this could be tabled because it is not a substantially different application from last time. Dr. Snyder disagreed; because Board Members denied it because it was larger than the house, lowering it only 4% made it smaller than the house, therefore, making it a substantive change. However, it does not come close to the Board's recommendation of decreasing the size by 50%. He could come back next month if he had a plan showing it being half the size of the current request.

Dennis Scibetta noted that moving the raised leach field would require additional permitting from Monroe County and there are wetlands on the property that he would need to stay out of.

A **Motion** was made by Dean Snyder to **deny** the application of Roger Cavallaro, III, owner, for an area variance at 14 Connies Lane to erect a 2,300 sq. foot pole barn requesting relief from Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 sq. feet. This property is currently zoned Medium Density Residential (MD).

In making my determination:

- The benefit can be achieved by other means feasible to the applicant. The applicant currently has the opportunity to store vehicles, and although it is costly this is an excessively large number of vehicles to store on a residential property.
- There will be an undesirable change in neighborhood character or to nearby properties. This pole barn will be in clear view of the neighbors on both sides of it. Although the proposed building does not have a driveway or electric this will be permanently on the property and there is no indication those will not be added at a future date. This is a very large building that will not be hidden by shrubbery or trees in the proposed location.
- The request is substantial. It is approximately 380% of what is currently allowed. It is proposed to house 12 vehicles on a property that currently has a six car garage.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created. Using the balancing test, the benefit to the applicant does not outweigh any detriment to the health, safety and welfare of the community.

Seconded by Tim Thomas. **Motion carried to approve to deny the application (5-0) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Chairperson Robillard polled the Board:

Dr. Snyder: My motion stands for my reason to deny.

Tim Thomas: There was discussion at length of other means feasible to the applicant. The change in the neighborhood character is significant even though this is one of the largest lots. There would be a direct view by both neighbors to the North and South of the structure. This is excessive in size. Although this was heard last year and the applicant did address the subordinate to the house issue 4% is a very small reduction in size from the last application and there is not a substantive difference. The alleged difficulty is self-created.

Stephen Shelley: The variance was reduced minimally since the last application. There are other means feasible to the applicant and he would like the applicant to reduce the size of the request.

Dan Melville: There was not a large enough reduction in size since the last application.

Chairperson Robillard: This request is similar to the last request and the difference is minimal. Substantive new information was not presented to allow the structure. The balancing test does not lend itself to approval.

4. KENNETH and RENEE LALONDE – 110 CRIMSON WOODS COURT

The application of Kenneth & Renee Lalonde, contract vendees, for 3 are variances at 110 Crimson Woods Court. The applicants are proposing to erect a 3,520 square foot accessory building with a wall height of 16 feet in the front yard. This property currently has a 690 square foot accessory building which would bring the total square footage of accessory buildings on the property to 4,210 square feet. They are requesting relief from 1) Town Zoning Article V, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet, 2) Town Zoning Article X, subsection 165-82.C.2 which limits the wall height to 12 feet and 3)

Town Zoning Article X, subsection 165-82.C.3 which states in part that all accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Sharon Quataert, agent for the buyers of the premises stated that the applicant would like to build the structure to store vehicles. This will be designed by an architect to fit into the property and will hopefully be placed to not cause any obstructions or hardships to the neighbors.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination. This is a Type II action under SEQR and no further review is required. Mr. Scibetta noted that when they were doing an inspection they found a blue shed on the property that is not permitted and will have to be removed if this is approved. There were no letters in the file.

It was clarified that the 690 sq. foot structure on the property is a pool cabana. The sq. footage of the house is approximately 7,000 sq. feet. Stephen Shelley asked if they are combining two lots. Dennis Scibetta stated they have been to the Planning Board and will be merging this with a property on Manitou Road. They will have about 31 acres after the merge.

Chairperson Robillard asked if there were Deed Restrictions. Sharon Quataert said there are but those are private between the homeowners. Dennis Scibetta said that Deed Restrictions are not filed with the Town and those are between the homeowners.

Tim Thomas asked why the need for the 16 ft. wall height. Sharon Quataert said it is to fit a boat with a height of 12 ½ ft. that sits on a trailer which adds an additional 3' in height.

Public Comment:

Rich Laudisi, owner 109 Crimson Woods, felt this structure does not belong here. This is substantial in size and will change the character of the neighborhood. He had had concerns that trees would have to be removed to fit this in. He put a building up two years ago and he complied with the required Zoning and Deed Restrictions, his building conforms to the main house's design, color, construction and finish. He provided pictures of his house and the structure he built which were similar looking. He would like to see this denied as this is self-created and felt it is the Boards job to preserve and protect the character of the neighborhood.

Leonard Olivieri, owner 108 Crimson Woods, stated they built their house in 2002 and would also like the applicant to comply with Zoning. He built an accessory building that complied with all Zoning and Deed Restrictions, which he showed pictures of the house and building to the Board. He felt the applicant is looking for three very substantial variances. He would be able to see this structure from his property and feels it would create an undesirable change and felt there are other ways to accomplish this. He would prefer it be placed to the rear of the

property. He felt this is very substantial and self-created. He also felt that it is the Boards job to preserve and protect the character of the neighborhood.

Tim Thomas asked about the Deed Restrictions. Mr. Scibetta noted that Deed Restrictions have no impact at the Town level and are handled at a different jurisdiction. Mr. Scibetta wanted to address the idea that this is going to be a metal pole barn; the drawing provided is only to show the size of the building. The plans are being designed by an architect to fit the character of the house but they were not ready for tonight's meeting. The property is being purchased by the applicant, it is not contingent on this variance, but has not closed yet. The status of the sale has no impact on the decision of the Board. Dr. Snyder stated the status of the sale has no impact on the Board's decision; there is no hardship for the owner. Dr. Snyder stated the information and drawing provided does not show that it will be consistent with the neighborhood.

Connie Wilcox, owner, 105 Crimson Woods, is concerned that a building this large could be turned into a rental unit in the future. Chairperson Robillard said that the applicant provided a diagram showing what will be stored in the building which is at the Town for anyone to view and she read the lists of belongings that will be stored there. All belongings are owned by the family.

Lynn Gongwer, owner, 1483 Manitou Road, is concerned with the size because they can see it from their property and wondered why the owners could not store their boat at a Marina. There is concern about a shared driveway.

Richard Frank, owner, 1483 Manitou Road, asked about the wetlands and was concerned the building will be really close to a pond on the properties and what the impact might be.

Richard Vance, owner, 253 Peck Road, was concerned some of the belongings being stored are for a business. Dr. Snyder went over the list and did not think any of those items were commercial and with 30 acres of land you need some larger equipment to maintain it.

Mark Bonin, owner, 106 Crimson Woods, was concerned what would happen to the building when they move.

Bonnie Hitt, owner, 104 Crimson Woods, was also concerned with what would happen to the building when they move out and with the noise levels from all of the toys. She would also like to see a drawing of what will actually be built.

John Wilcox, owner, 105 Crimson Woods, has concerns with all of the vehicles and the ability to run a business out of the structure. He was worried this large of a building will affect the other properties.

Sharon Quataert, stated the very reason the applicant wants to build the structure is to keep the "toys" inside. She felt if the neighbors looked at the plans they would see that it is nestled

into the woods and feels the neighbors will not see it. Chairperson Robillard said that anyone could have gone into the Building Department to view what was provided to the Board.

The public feels this will impact the neighborhood and the Board's job is to listen to those concerns and take those into account when making a decision. Dr. Snyder stated that while this will be surrounded on three sides by trees it will be seen by some.

Public Hearing Closed.

There was discussion about the options available to the Board and the applicant. The applicant could withdraw the application and come back with a new one addressing tonight's concerns and with a drawing showing what the building would look like. The Board could continue and make a determination tonight.

Dr. Snyder felt that this is a large property with very little usable space behind the house because of wetlands on the premises, leaving very few location options and with the layout of the property the location sited is probably as good as it will get. He would like more information, including the design of the pole barn before he would feel comfortable making a ruling. The structures on the neighbor's properties are beautiful and look like they belong there, what is currently being proposed does not look like it belongs. What might be acceptable in one neighborhood might not be in another one. It is important that if someone were to be driving through this structure should look like another house. The applicant has personal items that show a need to have a building this size but the concern is what happens to the building when the applicants move and new homeowners do not have the same need. He would ask the applicant to re-evaluate their needs and consider making it smaller and having offsite storage for some of the larger items to make this fit in. He would like to table this to give the applicant time to review the information that was discussed tonight and come up with a plan that is more consistent with the neighborhood.

Dan Melville is concerned with the size of the building and feels 3 times the allowed amount by the code it is too big for the area. He also would like to see a design of the building before making a decision. Tim Thomas and Dan Melville are both comfortable with tabling this. Stephen Shelley feels that this situation is self-created and there are other means to store some of these items off-site.

Chairperson Robillard agrees with many of the concerns presented tonight and she would like to see a whole new concept brought to the Board and it advertised again. She would rather it be withdrawn or voted on tonight so that when they come back this would be advertised again if it is tabled the public will not know what the new plan is.

Dennis Scibetta addressed the placement of this, it is technically in the side yard, he advertised it as the front yard as a worst case scenario. He would like to see it tabled to allow the applicant time to bring in further information; he doesn't think a withdrawal is fair to the applicant as they will miss all the deadlines to get on the Agenda for the next meeting. This would still be advertised as an Agenda item.

Tim Thomas asked if the applicant would have the design ready for the April meeting. Sharon Quataert said they should be able to and she would like this tabled for the next meeting. Dr. Snyder stated that the Board does normally table applications in part out of respect for the public that has come and addressed their concerns; if they withdraw then the neighbors would have to come back and do exactly what they did tonight again. He suggested that after hearing the concerns the applicant might want to reconsider size, location, and design when they come back with different options. Dennis Scibetta thought the Town Attorney should be present at the next meeting. Dan Melville felt that the applicant should be given the opportunity to come back with different options and additional information.

Sharon Quataert noted that the applicants would comply with the look of the structure compared to their house; they do not want to jeopardize the value of their properties either.

A **Motion** was made by Dean Snyder to **table** the application of Kenneth & Renee Lalonde, contract vendees, for 3 area variances at 110 Crimson Woods Court as proposed in their current application to the April 2019 meeting without prejudice. This will allow the applicant the opportunity to reconsider the size, location and design based on the comments from the public present and from the Zoning Board members at this meeting.

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

Chairperson Robillard noted this will not be advertised in the newspaper, it will be on the Agenda for the meeting. Dennis Scibetta stated that anyone in the audience who would like to review the additional information can come in at any time after April 9th.

SPECIAL PERMIT RENEWALS

5. KENNETH SIKORSKI – 96 DUNBAR ROAD

The application of Ken Sikorski, owner, to renew a Special Permit at 96 Dunbar Road, for renewal of a Special Permit to operate an in home business in the rear storage building in accordance with Town Zoning Article IX, subsection 165-79.1. This property currently zoned Rural Residential (RR) which allows this use with a Special Permit.

On March 21, 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. There are no complaints on file.

After discussion, a **Motion** was made by Dean Snyder to **approve** the application of Ken Sikorski, owner, to renew a Special Permit at 96 Dunbar Road, for renewal of a Special Permit to operate an in home business in the rear storage building in accordance with Town Zoning Article IX, subsection 165-79.1. This property currently zoned Rural Residential (RR) which allows this use with a Special Permit. The following conditions apply:

1. The operation shall be located exclusively to the rear of the storage building.
2. Hours of operation, Monday through Friday, 6:00 p.m. to 9:00 p.m.; Saturday, 8:00 a.m. to 9:00 p.m. by appointment only.
3. For a period of five year, to be renewable February 2024.

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

6. MARK JANSEN – 675 MANITOU ROAD

Application was received from Mark Jansen, owner, for renewal of a Special Permit at 675 Manitou Road for an accessory apartment used as an in-law residence in accordance with Town Zoning Article 9, subsection 165-76. The property is currently zoned High Density Residential (HD) which allows this use with a Special Permit.

There was an inspection completed on March 21, 2019 by Arthur Fritz, Jr., ZEO. There were no violations of the Special Permit found during the time of the inspection and the same occupants are living in the apartment. There are no complaints on file.

After discussion, a **Motion** was made by Stephen Shelley to **approve** the application of Mark Jansen, owner, for renewal of a Special Permit at 675 Manitou Road for an accessory apartment used as an in-law residence in accordance with Town Zoning Article 9, subsection 165-76. The accessory apartment will be occupied by Mr. Jansen's in-laws, Nancy and Ted Bortosch and this Special Permit will be renewable in April 2021. This property is currently zoned High Density Residential (HD) which allows this use with a Special Permit.

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

MINUTES OF FEBRUARY 21, 2019

The ZBOA minutes of February 21, 2019 were reviewed. **Motion** was made by Stephen Shelley to approve the February 21, 2019 minutes as presented. Seconded by Dan Melville. **Motion carried to approve** (5-0) (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

OTHER INFORMATION

ADJOURNMENT

There being no further business, a **Motion** was made by Tim Thomas, seconded by Dan Melville to adjourn the meeting at 8:10 p.m. Seconded by Tim Thomas. **Motion carried to approve** (5-0) (Ayes: Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Respectfully submitted,

Carrie Fracassi
Recording Secretary