

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JUNE 20, 2019**

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

Members Excused: Dean Snyder

Others Present: Dennis Scibetta, Blake Keller

Public Present: Carl Panzica, Glenn Thornton, Dayne Everett, Nancy Krewer, Tim Skrypnik, Juanita Hemmerick, Sue Varlan, Cheri Ozminkowski, Richard Ozminkowski, Kay Luksic, Elaine Weber, Richard Dawkins, Peter Riccardi, Angela Stevens, Susan King.

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 MAY 16, 2019

1. NANCY KREWER– 212 BURRITT ROAD

The application of Nancy Krewer, owner, for an area variance and a Special Permit for an accessory apartment at 212 Burritt Road. The applicant is proposing to construct an 860 sq. ft. accessory apartment at the rear of the existing home and is requesting relief from Town Zoning, Article 9, subsection 165-76.D which limits the apartment to no more than 35% of the existing home's floor area which, in this case, would be 641 square feet. An accessory apartment is allowed with a Special Permit. This property is currently zoned Rural Residential (RR).

Tim Skrypnik, Fenity Associates, explained that in response to last month's meeting and the input they received they have redesigned the plans for this application. They have made reductions in the proposed addition by over 100 sq. ft. bringing the request to 756 sq. ft. and have increased the habitable space of the existing home from 1883 sq. ft. to 2100 sq. ft. allowing for a 735 sq. feet accessory apartment. The deck would be removed, the sun room would be made into habitable space and the mechanical room will be pushed into the garage.

The Board felt the applicant took the Board's comments and did a good job revising the plans.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Tim Thomas to **approve** application of Nancy Krewer, owner, for an area variance and a Special Permit for an accessory apartment at 212 Burritt Road. The applicant is proposing to construct an 860 sq. ft. accessory apartment at the rear of the existing home and is requesting relief from Town Zoning, Article 9, subsection 165-76.D which limits the apartment to no more than 35% of the existing home's floor area which, in this case, would be 641 square feet. An accessory apartment is allowed with a Special Permit. This property is currently zoned Rural Residential (RR).

In making the motion to approve:

On the most recent plan, the square footage calculations have changed as a result of reducing the overall footprint of the accessory apartment, the sun room will now be considered habitable space including that in the sq. footage making the overall square footage of the house 2,100 sq. ft. Using the 35% allowance the allowed amount would be 735 sq. ft. The proposed unit is 756 sq. ft. a difference of 3% which is minimal. This will be subject to the conditions in the code as it relates to accessory apartments. Nancy Krewer will be occupying the accessory apartment. The Special Permit will become effective from the date the Certificate of Occupancy is issued. Relative to the Area Variance:

- The benefit cannot be achieved by other means feasible to the applicant. The difference between what is allowed and what is being proposed is 3% and is extremely negligible.
- There will be no undesirable change in neighborhood character or to nearby properties. The average people will not notice a 3% difference.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is slightly 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, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Dean Snyder).

NEW BUSINESS

2. PETER RICCARDI – 5107 WEST RIDGE ROAD

The application of Peter Riccardi, owner, for an area variance at 5107 West Ridge Road. The applicant is proposing to construct a 2,400 square foot commercial building with a 60 ft. front setback and a 10 ft. side setback and is requesting relief from Town Zoning Schedule I which states the required front setback from a state road is to be 100 feet and the required side setback to be 15 feet. The applicant is proposing 12 parking spaces and requesting relief from Town Zoning Schedule II which requires 16 parking spaces. The property is currently zoned General Commercial.

Glenn Thornton, Thornton Engineering, explained that this property is 3.75 acres. This property is L shape with the rear portion consisting of mostly wetlands which also run through the property. They would like to building a 2400 sq. ft. building. It is because of the wetlands that they cannot satisfy the required setbacks without a large expense to the applicant and permits from the Corps of Engineers. They are limited from moving the building to the west anymore

because they need to keep a 20' separation from the leachfield. He would like to operate a Deli on one side of the building and would be looking to lease the other half. Because of the leachfield they can only provide 12 parking spaces vs. the required 16. Tim Thomas is concerned with the limited parking because they want to add two businesses, he would be concerned if people were parking on Ridge Road. There was discussion about trying to share parking with the neighbor. The applicants have tried to reach out to the neighbor but have had difficulty making contact. Dennis Scibetta said there is an opportunity for a cross-easement access with the property next door and further east which would improve the access along that stretch of Ridge Road.

If they lease a portion of the building it would have to be to a similar business that would have the same parking needs; the Planning Board would be involved with this. This was referred to the Zoning Board from the Planning Board to obtain the required variances. Tim Thomas would like to figure out how to get more spaces. Mr. Riccardi said he would be willing to cut the size of the building to get the required parking if he is unable to work out the parking with the neighbor.

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. There were no letters in the file.

Public Comment:

Richard Ozminkowski has property across the street from this and is concerned with water and drainage issues on his property. Stephen Shelley noted that would be addressed at the Planning Board, which meetings would be advertised so the public could attend.

Public Hearing: Closed

Mr. Thornton asked if they could at least approve the setbacks at this meeting and table the request for the parking. Tim Thomas was not comfortable breaking up the application because what if they go to the Planning Board for the parking and something with the plan changes these would be approved and the applicant might need something different. Chairperson Robillard felt the same. Dan Melville felt you could vote on the setbacks but not the parking tonight. Chairperson Robillard said if they make the building smaller they may not need variances for both setbacks and the parking. Mr. Thornton stated that even if they make the building smaller they would ask for the same setbacks to have room for additional parking.

Chairperson Robillard polled the Board regarding how they feel about the setbacks. The consensus of the Board was that the requests for the setbacks are not unreasonable and that this is a good use for the property. There are other buildings on Ridge Road that sit as close as this would be.

A **Motion** was made by Tim Thomas to **table** the application, without prejudice, of Peter Riccardi, owner, for area variances at 5107 West Ridge Road to the July 2019 ZBA meeting. This would afford the applicant time to look at the site plan to see if they can achieve the four additional parking spaces that are called out by the code based on the building size and the district the building is located in. The discussion tonight amongst the Board relative to the two setback variances shows that the Board is very comfortable with the setback requests because of the unique nature of the property and the Federal Wetlands. This information to be shared with the Planning Board as they go through the process.

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

3. CARL PANZICA – 1769 MANITOU ROAD

The application of Carl Panzica, owner, for an area variance at 1769 Manitou Road. The applicant is proposing to construct a 30'x40' storage building in the side yard, currently there is a 330 sq. ft. storage building bringing the total sq. ft. to 1530 sq. ft. and is requesting relief from 1.) Town Zoning Article V, subsection 165-33.C (2) which limits the total area of accessory structures to 600 sq. ft. and 2.) Town Zoning Article X, subsection 165-82.C.3 which requires accessory buildings to be in the rear yard. The property is currently zoned Medium Density Residential (MD).

Carl Panzica, owner said they are asking for two variances, one for sq. footage and the other for placement of the requested storage building.

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. There were no letters in the file.

The applicant explained that the driveway is 562' off Manitou Road. There is a 120'x90' plateau and then behind the home the elevation increases again. The property is a rocky, hilly, wooded lot which he showed on an elevation map. They cannot do much with that part of the property. He also provided a layout of the current shed and new building. Chairperson Robillard asked where the belongings are currently stored. The applicant stated that some of them are in the driveway, and others sit outside on the property. He would remove the 12'x12' shed from the property. Chairperson Robillard asked if he had considered a smaller building. Mr. Panzica said he thought about it but then some of the trailers would have to remain outside. This structure is smaller than what his neighbors have. He stated that there are other belongings that would be in the structure that are not shown on the layout, including bikes, kayaks and canoes. The property is 5.02 acres and with its placement it would be difficult for the neighbors to see.

Chairperson Robillard is concerned with the size of the building. It is two and a half times the allowed amount. There was discussion about removing the other structure on the property also. The applicant is ok with that and he asked what the timeframe to remove it would be.

Tim Thomas felt the Board should consider that the allowed size of 600' was based on the code approved over 20 years ago. Stephen Shelley also felt that they the Board should consider the size of the property. After discussion the applicant agreed to eliminate the two sheds currently on the property bringing the request down to 1200 sq. ft.

There was discussion about the placement of the storage building. The applicant would not be able to move this back any further because of mature trees and the root system of those trees in that back area. Stephen Shelly felt that this sits far enough back from the road that people passing by will not notice a difference of whether it is sitting parallel or behind it. Tim Thomas felt the fact that the applicant is willing to eliminate two sheds is a good compromise. He is also not a fan of taking down trees to put in a structure if possible.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Tim Thomas to **approve** the application of Carl Panzica, owner, for an area variance at 1769 Manitou Road. The applicant is proposing to construct a 30'x40' storage building in the side yard, currently there is a 330 sq. ft. storage building bringing the total sq. ft. to 1530 sq. ft. and is requesting relief from 1.) Town Zoning Article V, subsection 165-33.C.2 which limits the total area of accessory structures to 600 sq. ft. and 2.) Town Zoning Article X, subsection 165-82.C.3 which requires accessory buildings to be in the rear yard. The property is currently zoned Medium Density Residential (MD). The applicant through discussion will eliminate the 12x12 shed in the SW corner of the property and the 11x32 shed in the front yard bringing the total sq. footage on the property to 1,200 sq. feet.

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. Relative to the rear yard requirement it has been demonstrated to the satisfaction of the Board that the topography of the property, with shale and high bedrock in the area along with a variety of mature trees that placing the structure in the side yard is the best location without having a negative impact on the environment.
- There will be no undesirable change in neighborhood character or to nearby properties. This property sits back 562' from Manitou Road and the view of this structure will be obstructed by vegetation to people passing by. The structure size is justified by the recreational equipment, the equipment required to maintain the property. Eliminating the other structures and combining into this one structure maximizes the floor space.
- The request is substantial as to the size of the structure because it is 100% more than the code allows; however the 600' allowance in the code is at least 20 years old and the

applicant has demonstrated that this size is needed to accommodate the belongings that need to be stored. Relative to the side yard placement this is somewhat substantial, heavily mitigated by the topography of the area, the bedrock and the mature trees.

- There will be no adverse physical or environmental effects. By placing this in the side yard the mature trees will be saved from removal.
- The alleged difficulty is absolutely self-created. The applicant will have 60 days to remove the two existing sheds from the property. 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 (5-0) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Tim Thomas, Corinne Zajac; **Excused:** Dean Snyder).

4. ANGELA STEVENS – 427 WILDER ROAD

The application of Angela Stevens, owner, for a Special Permit at 427 Wilder Road. The applicant is requesting a 616 sq. ft. accessory apartment under Town Zoning Article IX, subsection 165-76. The property is currently zoned High Density Residential (HD).

Dayne Everett, contractor for the applicant explained that this will be an in-law apartment in front of the garage coming closer to the road on the East side of the house for Angela Stevens' mom. The access to the apartment would be through the garage. The house is 2132 sq. feet.

There was discussion that when the need ceases there would have to be unfettered access to the house ex. building a hallway (would have to be fire rated) or they would have to remove the kitchen facilities. Joanne Leo would be the occupant of the accessory apartment.

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. There were no letters in the file. The Building Department recommends going over unfettered access when the need ceases.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Dan Melville to **approve** the application of Angela Stevens, owner, for a Special Permit at 427 Wilder Road. The applicant is requesting a 616 sq. ft. accessory apartment under Town Zoning Article IX, subsection 165-76. The property is currently zoned High Density Residential (HD). The occupant of the accessory apartment will be Joanne Leo. When the accessory apartment is no longer needed there will need to be unfettered access to the apartment or the kitchen needs to be removed. The Special Permit will be effective from the date the C of O is issued.

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

5. SUSAN KING – 56 BAILEY ROAD

The application of Susan King, owner, for an area variance at 56 Bailey Road. The applicant is proposing to construct 2 accessory structures in the front yard. 1.) A 30'x60' (1800 sq.) structure and 2.) a 30'x40' (1200 sq. ft.) structure for a total of 3000 sq. ft. The applicant is seeking relief from town Zoning Article V, subsection 165-32.C.2 which limits the total of the accessory structures to 1500 sq. ft.; Town Zoning Article X, subsection 165-82.C.3 which requires all accessory structures to be in the rear yard and Town Zoning Article I which states the front setback shall be 75 feet, the applicant is requesting a front setback of 20 ft. The property is currently zoned Rural Residential (RR).

Sue King, owner, explained that she would like to put these where proposed because the property is landlocked in the back. The NE corner contains a RGE transformer and her garage in its position is blocking her ability to access the back yard. Her septic system is on the West side of the property and she would have to drive over those lines to get to the back yard. She further explained that she has many pole barns to store her classic cars and other belongings. The locations of those are in Leroy, Wayne County, Lake Avenue, Webster Road, Oswego County and Florida.

She explained that she has four adults living in the household that all have vehicles. The other things she needs to store are: a backhoe, yard equipment, 4 boats, 5 jet skis, and 9 ATV's. She would like to relocate the pole barn on Webster Road over to the property on Bailey Road and then add an additional structure. Chairperson Robillard asked if all the boats and cars are for personal use or business. Ms. King said they are all titled to her and more than half are licensed. Tim Thomas asked why she doesn't build where the building would be allowed. The applicant said she is selling the house on Webster Road and it is too far to drive back and forth to Leroy all the time. Tim Thomas asked about the long narrow building and the smaller ones already on the property. Ms. King said that those are also storage barns; one is full of Christmas things, another one has belongings of her daughters apartment, the final one holds lawn equipment and odds and ends that would be normally stored in a basement. Tim Thomas asked if those were calculated into the overall square footage. Mr. Scibetta said no.

The property is a flag lot, a little over 5 acres with a 20' wide driveway. Tim Thomas asked if there were a way to get behind the house why the buildings couldn't go there. The applicant stated because she cannot get them back there because of her garage, septic system and the RGE box. The Board felt there were ways to get behind the house. Sue King said she would prefer to put it behind the house if possible.

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. There was a letter in the file.

Public Comment:

Dennis Scibetta read a letter from Alan and Julie Auble, owner of 68 Bailey Road. They stated they are strongly opposed to allowing the variances requested by the applicant. They felt that adding two more structures on this property was excessive for residential use since it will total twice her home size. They felt there was no reason to put these structures in the front yard so close to the property lines. They also have concerns that two buildings this size will impact the drainage in their yards where there is already an issue. They hoped if the Board was going to approve this application it would be required that they be located in the rear yard.

Elaine Webber, 64 Bailey Road, has concerns with drainage issues that already exist will get worse if the applicant is allowed to build these two buildings. The applicant purchased a flag lot between her home and the Brickler property and wanted to know if the road for that property could be used to access the back of her property.

Chairperson Robillard asked if she owned the property to the South. The applicant stated that she does currently but she said she could not use that for access and did not want to get into those details publicly. She said she was possibly going to sell that land in the next few months. Tim Thomas thought that keeping that for access would make sense and might make the difference between having access to the back of the property or not. Tim Thomas felt that large structures in the front yard will be hard to justify. Susan King stated that technically it is only in her front yard. Stephen Shelley stated that is what counts. Stephen Shelly felt that she can get a driveway around the house on the side the septic sits. Ms. King felt that it cannot be done. Dan Melville stated that he is not comfortable with the size of the structures even if she can get to the back of the property.

Robert Hemmerick, 58 Bailey Road, says that he has lived at his property for 17 years and he does not want to look at these buildings. He cannot even see Brickler's building because it sits far back.

Juanita Hemmnerick, 58 Bailey Road, has concerns with the application and with drainage. She does not want to see 3,000 sq. ft. of structures in her backyard when 1,500 sq. ft. is what is allowed and she would prefer that this be in the back of the property.

Public Hearing: Closed

Susan King stated that she understands the concerns for privacy; however, there is nothing stopping her from clearing the lot if she wanted and making an ATV circle. She felt that just because she has trees there today, does not mean they will be there tomorrow. Chairperson Robillard stated they have to listen to the request as it is not what if's of tomorrow.

Tim Thomas stated that these are 4 very significant variances being requested and his sense of the Board is that they are leaning to denying the application and there are other options to alleviate at least three of the variances. He would suggest the Board table this to give the

applicant a chance to look at another possible plan and maybe hire a professional engineer. He could not support this application as it stands today. Stephen Shelley felt the same. Susan King would be agreeable to that. Stephen Shelley said she could eliminate a building to bring the amount of sq. ft. down. Tim Thomas asked the applicant if she would be agreeable to tabling or if she would like the Board to move forward tonight. The applicant said she was agreeable to tabling this for further information.

A **Motion** was made by Tim Thomas to **table** the application of Susan King, owner, at her request for 4 area variances at 56 Bailey Road to the August 2019 ZBA meeting to afford the applicant time to review and locate the accessory structure to the rear of the property with the goal of potentially eliminating two of the variances requested, namely the front set back variance and the variance for the structures placement in the front yard. The applicant is to provide a more detailed to scale drawing of the items that are going to be in the structures with the dimensions of the garages. The Board would also like to see feasible alternatives, details of the need and other size considerations for the proposed buildings. The Board asked that the Building Department calculate the total sq. footage of all current structures and proposed structures on the property before the next meeting. Information should be to the Building Department by August 5, 2019.

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

MINUTES OF MAY 16, 2019

The ZBOA minutes of May 16, 2019 were reviewed. **Motion** was made by Dan Melville to approve the May 16, 2019 minutes as presented. Seconded by Tim Thomas.

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

OTHER INFORMATION

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Dan Melville to adjourn the meeting at 10:15 p.m. **Motion carried to approve (5-0) (Ayes:** Dan Melville, Veronica Robillard, Stephen Shelley, Dean Snyder, Tim Thomas).

Respectfully submitted,

Carrie Fracassi
Recording Secretary