

**TOWN OF PARMA
ZONING BOARD OF APPEALS
AUGUST 15, 2019**

Members Present: Veronica Robillard, Stephen Shelley, Corinne Zajac

Members Excused: Dan Melville, Dean Snyder, Tim Thomas

Others Present: Dennis Scibetta, Blake Keller

Public Present: Ron Gousman, Donald Smith, Betty Smith, Robert Yohe, Kevin DeConinck, Jeff DeConinck, Peter Riccardi, Glenn Thornton, Caleb Schlabach

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. There are 3 members of the board present tonight and quorum of three is required to pass a motion. It was explained that if the applicants feel more comfortable and would like a full board present for their hearing a tabling could be entertained.

CONTINUING BUSINESS FROM JUNE 20, 2019

Dennis Scibetta noted that the applicant for 56 Bailey Road has asked to withdraw the application. She will be placing the structure to the rear of the property and will be complying with the code.

1. 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.

Dennis Scibetta noted that the Planning Board has heard the additional information and after the decision of the Zoning Board they can move forward at the Planning Board meeting next Monday.

Mr. Thornton explained that the applicant took the comments from the last meeting and they have made some adjustments to the application. They would like to decrease the size of the building from the original request of 2400 sq. ft. to 1800 sq. ft.; this will allow them to meet the requirement for parking. They would provide 13 spaces and 12 would be required. They still need the variances for the front setback and side setback. As far as the front setback they are looking to place the structure further back than the original request so the front setback would be 70 feet vs. the original requests of 60 ft.

Chairperson Robillard asked if there were any comments from the Building Department or letters in the file. Dennis Scibetta asked if there would be a need for the original front setback request of 60' in the future. The applicant stated they would not, there is no reason to expand the building and they have no reason to move it closer to the road. There are no letters in the file.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Stephen Shelley to **approve** application of Peter Riccardi, owner, for an area variance at 5107 West Ridge Road to construct an 1,800 square foot commercial building with a 69 ft. front setback and a 10 ft. side setback granting 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 variance for the parking spaces is no longer necessary since the applicant is proposing 13 parking spaces and 12 parking spaces are required. The property is currently zoned General Commercial.

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. The geography of this lot is very restrictive and it is reasonable there would be the need for variances. The applicant listened to the Boards comments at the last meeting and took those into account therefore lessening the need for variances.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is somewhat substantial but reasonable because of the geography.
- 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 Corinne Zajac. **Motion carried to approve (3-0) (Ayes:** Veronica Robillard, Stephen Shelley, Corinne Zajac; **Excused:** Dan Melville, Dean Snyder, Tim Thomas).

NEW BUSINESS

2. ROLAINE HOMES, INC. – 9 WHITE FACE CIRCLE

The application of Rolaine Homes, Inc., owner for an area variance at 9 White Face Circle. The applicant has constructed a single family dwelling with a front setback of 58.4 feet and is requesting relief from Town Zoning Article V, subsection 165-33.E.1, Schedule 1 which states that the front setback shall be 60 feet. The property is currently zoned Medium Density Residential (MD).

Ron Gousman, President of Rolaine Homes, stated that he staked the property line at 66 feet and went straight across but because of the bend in the cul-de-sac the front of the house sits at 58.4 feet.

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 SEQOR and no further review is required. There are no letters in the file.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Stephen Shelley to **approve** application of Rolaine Homes, Inc., owner for an area variance at 9 White Face Circle. The applicant has constructed a single family dwelling with a front setback of 58.4 feet granting relief from Town Zoning Article V, subsection 165-33.E.1, Schedule 1 which states that the front setback shall be 60 feet. The property is currently zoned Medium Density Residential (MD).

In making this determination:

- The benefit cannot be achieved by other means feasible to the applicant. The request is due to the fact this was measured on a circle and the curvature forced the distance to be less than what is allowed.
- There will be no undesirable change in neighborhood character or to nearby properties. This will not be noticeable to passerby's.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is 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 Corinne Zajac. **Motion carried to approve (3-0)** (Ayes: Veronica Robillard, Stephen Shelley, Corinne Zajac; **Excused:** Dan Melville, Dean Snyder, Tim Thomas).

3. ROBERT YOHE – 129 DUNBAR ROAD

The application of Robert Yohe, owner, for an area variance at 129 Dunbar Road. There is currently a single family dwelling and a 1,536 square feet accessory structure on the property. The applicant is proposing to demolish the dwelling and is requesting relief from Town Zoning Article V, subsection 165-33.C.2 which does not allow an accessory building without a single family dwelling. The property is currently zoned Medium Density Residential (MD).

Robert Yohe, owner explained that when he purchased the property four years ago it had a falling down barn and a small house built in 1903 and was in disrepair. He has since replaced the barn with a new structure. He would like to demolish the house on the property with the hopes to rebuild another house in the future. The house is 1100 sq. ft. with the single car garage being used as a bedroom. It has not been maintained for at least 15 years and is not cost effective to repair. There is a stone foundation which you cannot stand up in. The setbacks are not up to code. The roof/chimney leaks. It is located on the wettest part of the property and has flooded several times. The furnace has not been used in 15 years. The chimney at the front of the house has started separating from the house. None of the mechanics work. He's paying close to \$5,000 in taxes and he does not qualify for any exemptions because it is not his primary residence.

Chairperson Robillard clarified the intentions to build another home. Mr. Yohe said that his daughter is planning to move home in five years and she would live there. The property is 3 acres.

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.

Dennis Scibetta said that the properties cannot be merged and that Mr. Yohe is the direct neighbor to the property. Chairperson Robillard asked if the structure currently on the property holds commercial items. The applicant said that all of the items are personal. Stephen Shelley asked if the property was sold could the new owner use this building for a business. Dennis Scibetta said they could not; the Zoning would not cover that.

Public Comment: None

Public Hearing: Closed

A **Motion** was made by Corinne Zajac to **approve** the application of Robert Yohe, owner, for an area variance at 129 Dunbar Road to demolish the single family dwelling and retain the 1,536 square feet accessory structure on the property granting relief from Town Zoning Article V, subsection 165-33.C.2 which does not allow an accessory building without a single family dwelling. The property is currently zoned Medium Density Residential (MD).

In making the motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. The improvement to the lot justifies the variance.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is substantial.
- There will be no adverse physical or environmental effects and will in fact improve on the physical and 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 Stephen Shelley. **Motion carried to approve (3-0)** (Ayes: Veronica Robillard, Stephen Shelley, Corinne Zajac; **Excused:** Dan Melville, Dean Snyder, Tim Thomas).

4. DONALD & BETTY SMITH – 74 CLEARVIEW AVENUE

The application of Donald and Betty Smith, owners, for an area variance and a Special Permit at 74 Clearview Avenue. The applicants are proposing to construct a 528 square feet accessory apartment in an existing storage area that is above the garage are requesting relief from Town Zoning Article IX, subsection 165-76.D which limits the apartment area to no more than 35% of the existing home's floor area which, in this case would be 296.7 square feet. An accessory apartment is allowed with a Special Permit. This property is currently zoned Waterfront Residential (WF).

Don Smith clarified to the Board that the square footage for the existing home is 1,538, which means he can have a 538 sq. ft. accessory apartment; he is only requesting 528 sq. ft. When the application was brought in only the first floor was figured into the total sq. footage of the residence. The Special Permit is what is needed to be looked at tonight. The accessory apartment

is over the garage. His cousin's son, Joe Longford, is living in the Accessory Apartment currently. He has been helping with the maintenance of the property. In approximately 4 years his son would be moving into the main house to maintain the residence and Mr. and Mrs. Smith would move into the accessory apartment.

Stephen Shelley asked if this has been completed. The applicant stated it was. The members of the Board were comfortable with this application. There was discussion about the need to come back and renew the Special Permit. It was explained to the applicant that there would need to be unfettered access or the kitchen removed if the need ceases to exist.

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: None

Public Hearing: Closed

A **Motion** was made by Stephen Shelley to **approve** application of Donald and Betty Smith, owners, for a Special Permit at 74 Clearview Avenue to construct a 528 square feet accessory apartment in an existing storage area above the garage. An accessory apartment is allowed with a Special Permit. This property is currently zoned Waterfront Residential (WF).

This will be subject to the conditions in the code as it relates to accessory apartments. Joseph Langford will be the initial occupant of the accessory apartment. This Special Permit is to be renewed in two years. An area variance was initially asked for but it was determined that it was not required due to the actual square footage of the residence.

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

5. KEVIN DECONINCK – 5209 RIDGE ROAD WEST

The application of Kevin DeConinck, owner, for a use variance at 5209 Ridge Road West. The applicant is requesting a use variance to allow outside display of sheds for sale. Town Zoning Article 6, subsection 165-39 does not allow this use. This property is currently zoned General Commercial (GC).

Kevin DeConinck, said that they are looking for a Use Variance to allow them to have sheds for sale on their property. Caleb will be providing those sheds. The sheds would be along the front of the property and he felt there is plenty of parking on the main driveway or grass and Caleb would be maintaining the area. Chairperson Robillard stated she would like to consider this but there are a lot of questions unanswered regarding the application including the number of sheds, the size and location of them, the parking spaces and how many spaces and the size of the lot. She has concerns with the traffic flow and the information provided so far does not answer the questions she has. She reviewed the Use Variance requirements with the applicant that are needed for approval.

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. Dennis Scibetta felt that there was a way to multi-purpose the sheds instead of them only sitting for sale; he stated that this is in an AG District and is a working farm.

Caleb explained that the information provided shows the layout of the sheds on the property; which is laid out the same at each of their locations. The size of the sheds varies between 8x8, 10x16 or larger. There will be 10' between each shed. It is currently a grassy field and he would like it to be a manicured park like setting. The property is 125 acres; the frontage in this area would be 300'. They have been displaying sheds in the Town of Parma since 2004 and would like to continue. Physical presence is what sells their merchandise; they do not have a website.

Stephen Shelley stated in general he does not have a problem with it but felt by law more information would be required for each permitted use. He felt that maybe the plan could be modified to fit into an existing use. Corinne Zajac felt she would also need further information. There was discussion about whether the applicant would like to come back in September or October. They felt they could make the deadline and have the information to the Building Department in time for the September meeting. Dennis Scibetta thought the applicant should ask the state for another road cut to help with traffic flow and should think about signage to identify the business.

Stephen Shelly is concerned that it has not been emphasized that the applicant needs to provide financial evidence for every other permitted use. They need to prove they cannot realize a reasonable return for every use on the property.

Public Comment: None

Public Hearing: Closed

Blake Keller, Town Board Member, stated that every other permitted use would require a substantial change to the property causing a financial hardship, which could be used as one of the economic considerations. Dennis Scibetta felt this would be a less intense use and would keep it in character with the farming and agricultural use currently on the property.

A **Motion** was made by Stephen Shelley to **table** the application of Kevin DeConinck, owner, for a use variance at 5209 Ridge Road West to the September Zoning Board of Appeals meeting without prejudice to afford the applicant time to provide further information including a comprehensive site plan, showing parking, driveways, setbacks, signage, and all information should be provided and conditions met that are required by the Use Variance criteria. The information is to be provided to the Building Department by September 9, 2019.

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

SPECIAL PERMIT RENEWALS

6. BRIAN DUDLEY – 1173 PECK ROAD

The application of Brian Dudley, contract vendee, to renew the Special Permit at 1173 Peck Road to operate an in-home business in a proposed accessory structure, in accordance with Town

Zoning Article IX, subsection 165-79.1.E.2. This property is currently zoned Agricultural/Conservation (AC).

An inspection was completed on August 1, 2019. At the time of the inspection, there were no violations of the Special Permit conditions. There are no complaints in the file. This is a very low key business with no walk-in customers. The applicant has asked for a five year renewal.

Chairperson Robillard stated she would be hesitant to go out five years with the renewal based on the business and the fact that inspections are completed when the Special Permit expires.

After discussion, a **Motion** was made by Corinne Zajac to **approve** the renewal of the Special Permit at 1173 Peck Road to operate an in-home business in a proposed accessory structure, in accordance with Town Zoning Article IX, subsection 165-79.1.E.2. This property is currently zoned Agricultural/Conservation (AC).

In making the motion to approve the Special Permit it will be conditioned on the following:

1. The in-home business must meet and pass federal and state inspections.
2. There will be no signage.
3. There will be no annoying sounds, lights or odors that could disturb the neighbors.
4. There will be no employees.
5. There will be no on-street parking.
6. Visitors, if any, will only come to the residence by appointment so as not to disturb neighbors.
7. Deliveries will be limited to UPS, Fed Ex and other companies.
8. This Special Permit will be renewable in February 2021.

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

MINUTES OF JUNE 20, 2019

The ZBOA minutes of June 20, 2019 were reviewed. **Motion** was made by Corinne Zajac to approve the June 20, 2019 minutes as presented. Seconded by Stephen Shelley.

Motion carried to approve (3-0) (Ayes: Veronica Robillard, Stephen Shelley, Corinne Zajac; **Excused:** Dan Melville, Dean Snyder, Tim Thomas).

OTHER INFORMATION

ADJOURNMENT

There being no further business, a **Motion** was made by Stephen Shelley, seconded by Corinne Zajac to adjourn the meeting at 9:20 p.m. **Motion carried to approve (3-0)** (Ayes: Veronica Robillard, Stephen Shelley, Corinne Zajac; **Excused:** Dan Melville, Dean Snyder, Tim Thomas).

Respectfully submitted,

Carrie Fracassi
Recording Secretary

