

**TOWN OF PARMA
ZONING BOARD OF APPEALS
JULY 16, 2020**

Due to COVID-19 and the State of Emergency in both New York State and Monroe County this meeting was held via ZOOM.

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

Others Present: Dennis Scibetta, Councilperson Judd

Public Present: Ron Cottorone, Rev. David George, Dennis Spangenburg, Patrick Lloyd, Alex Casttello, Graham Sears, Emily Sears, Laurie Fillion, Steve Fillion, Marissa Douglas, Chad Gerould, Amanda Mnich, Johnathon Riley, Briana Maiola

The meeting was called to Order by Chairperson Robillard at 7:25 p.m.

Chairperson Robillard explained the function and decision-making process of the Zoning Board of Appeals and noted this is a five member board; a quorum of three is required to pass a motion.

TABLED FROM THE JUNE 18, 2020 MEETING

1. PATRICK & EVELYN LLOYD – 214 HAMLIN PARMA TOWN LINE ROAD

The application of Patrick and Evelyn Lloyd, owners, for 2 area variances at 214 Hamlin Parma Town Line Road. The applicants are proposing to erect a 4,800 sq. foot accessory structure in the property that has an existing 400 sq. foot accessory structure, which would bring the total square footage of accessory structures to 5,200 sq. feet. They are requesting relief from Town Zoning Article V, section 165-31.C.2 which limits the size of accessory structures to 2,000 sq. feet and Town Zoning which states by definition that accessory structures shall be subordinate in area to the principal building, which is 3,323 sq. feet. This property is currently zoned Agricultural/Conservation (AC).

Patrick Lloyd, owner, explained he would like to erect the building to store vehicles, yard equipment and have an indoor workshop. He owns 7 vehicles that would be stored inside that are currently stored in trailers and at an offsite location. This property is over 5 acres and between the two properties he owns almost 10 acres. It would sit 700' off the road and have electric, heat and a concrete floor. Dan

Melville asked if there is a business being run out of the property. The applicant stated there is not.

Tim Thomas stated he is very concerned with the size. This is the largest structure the Board has seen in recent history. The code specifically states that any structure "shall be subordinate to the primary structure" not "should be" and he is struggling with getting around that issue. The size of the house is 3,300 sq. feet and the request is for 4,800 sq. ft. He feels that this is very large, would be precedent setting and it is $2 \frac{1}{2}$ times the allowed size.

The applicant was asked if he had considered a smaller building. The applicant stated that he could if it will get this approved but he did not think about it. Chairperson Robillard would like the applicant to come back with an alternative plan regarding the size of the structure which would bring it closer to compliance. Corrine Zajac clarified that this would not be used for a business. The applicant stated no.

Board Discussion: Dennis Scibetta reported 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; no further review is required. There are no letters in the file.

Public Comment: None

Public Hearing: Closed

A Motion was made by Tim Thomas to **table** the application of Patrick and Evelyn Lloyd, owners, for 2 area variances at 214 Hamlin Parma Town Line Road to the August 2020 Zoning Board of Appeals meeting to afford the applicant the opportunity to reevaluate the size of the structure and in doing so eliminate the need for the variance regarding the subordinate building size to the principal building. The applicant stated he understood what the Board is looking for. The requested information shall be to the Building Department by August 10, 2020.

Seconded by Dan Melville

Motion carried to **table** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

2. PATRICK AND EVELYN LLOYD – 214 HAMLIN PARMA TOWN LINE ROAD

Application of Patrick and Evelyn Lloyd, owners, for renewal of a Special Permit at 214 Hamlin Parma Town Line Road for an accessory apartment used as an in-law residence in accordance with Town Zoning Article 9, subsection 165–76. This property is currently zoned Agricultural Conservation (AC) which allows this use with a Special Permit.

Art Fritz confirmed that the accessory apartment is being occupied by Walter and Helen Eisenhauer as of his inspection of the premises. This was supposed to be renewed in January 2020; the inspection was done in March 2020 and the Board thought it was best to take the renewal date back to January.

A Motion was made by Tim Thomas to **approve** the application of Patrick and Evelyn Lloyd, owners, for renewal of a Special Permit at 214 Hamlin Parma Town Line Road for an accessory apartment in accordance with Town Zoning Article 9, subsection 165–76. The accessory apartment will be occupied by Helen and Walter Eisenhauer, and this Special Permit will be renewable January 2022. The property is currently zoned Agricultural Conservation (AC) which allows this use with a Special Permit.

Seconded by Dan Melville.

Motion carried to **approve** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

3. CHAD AND NICOLE GEROULD – 1 NORTHSIDE DRIVE

The application of Chad and Nicole Gerould, owners, for two area variances at 1 Northside Drive. The applicants are proposing to erect an 800 sq. foot accessory structure in the front yard and are requesting relief from Town Zoning Article V, section 165–33.C.2 which limits the size of an accessory structure to 600 sq. feet and Town Zoning Article X, section 165–82.C.3 which states in part that accessory buildings shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Medium Density Residential (MD).

Chad Gerould, owner, noted that he is reducing the size of the structure to 20'x30' or 600 sq. ft. so it complies with the code and will not need a variance for size. He would like to locate it in the SW corner of the property as suggested by the Board

last month. Tim Thomas is very pleased and thinks the applicant did a great job coming into compliance and working with the Board. Dennis Scibetta stated that the applicant did a great job working with the Board and the Building Department.

Public Comment: None

Public Hearing: Closed

A Motion was made by Tim Thomas to **approve** the application of Chad and Nicole Gerould, owners, for an area variance at 1 Northside Drive. The applicants are proposing to erect a 600 sq. foot accessory structure in the front yard requesting relief from Town Zoning Article X, section 165-82.C.3 which states in part that accessory buildings shall be located in the rear yard. This is a corner lot and is defined by zoning as having 2 front yards, 2 side yards and no rear yard. This property is currently zoned Medium Density Residential (MD).

In making this motion to approve the application:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant is in the unfortunate position of having a corner lot with two front yards and two side yards. The Board sees many requests due to corner lots. The applicant did an outstanding job of coming into compliance relevant to the placement and size.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is not substantial because of the uniqueness of a corner lot.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because it is a corner lot which is unique in nature. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley.

Motion carried to **approve** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

NEW BUSINESS

4. AMANDA MNICH – 892 BURRITT ROAD

The application of Amanda Mnich, owner, for an area variance at 892 Burritt Road. The applicant is proposing to construct a 30'X50" pole barn in the front yard and is requesting relief from Town Zoning Article X, subsection 165–82.C.3 which states in part that accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR).

Robert Roth, spoke on behalf of the owner of the vacant lot. The property is a flag lot. The building placement will be approximately 300' off the road. They are requesting that location due to the grading and the pitch of the lot. It would be more preferable to have the house sitting back further on the lot than the barn for drainage and leach field purposes. When looking at the drawings presented the barn is actually in the side yard not the front yard and it will provide a barrier between their front yard and everyone else's backyards that are in front of the lot. Neither structure will be seen from the road. Letters were provided to the Board from the neighbors who border the property. The structure will be for personal use only. Dennis Scibetta noted that the Planning Board has approved the plans for the property.

Board Discussion: Dennis Scibetta reported 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.

Dennis Scibetta read a letter submitted by Frank Rock, owner of 910 Burritt Road, stating he does not have an issue with the proposed placement of the structure and it will not create a detriment to his property, nor will it change the character of the neighborhood.

Another letter submitted by Angela Williams, owner of 890 Burritt Road, stated that she does not have any issue with this structure or the proposed site plan.

Public Comment: None

Public Hearing: Closed

Stephen Shelley feels this is a good application as presented.

A Motion was made by Tim Thomas to approve the application of Amanda Mnich, owner, for an area variance at 892 Burritt Road. The applicant is proposing to construct a 30'X50" pole barn in the front yard requesting relief from Town Zoning

Article X, subsection 165–82.C.3 which states in part that accessory buildings shall be located in the rear yard. This property is currently zoned Rural Residential (RR). In making this motion to approve:

- The benefit cannot be achieved by other means feasible to the applicant. This is a flag lot property which is unique. Because of the location of the proposed house, the requested location for the accessory structure will allow optimum use to the applicant while avoiding future drainage issues around the house.
- There will be no undesirable change in neighborhood character or to nearby properties, in fact the applicant was able to provide letters of support from the neighbors. This will create a barrier to the other properties on Burritt Road.
- The request is somewhat substantial but mitigated by the orientation of the house which will have an effect on placement of all structures.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created. Whether located on the west or east side it would still be in front of the house and to the east there are drainage and wetland issues. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Corinne Zajac.

Motion carried to **approve** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

5. ALEXANDRIA CASTELLO– 178 BLUE MOUNTAIN DRIVE

The application of Alexandria Castello, owner, for an area variance at 178 Blue Mountain Drive. The applicant is proposing to erect a 4' fence in the front yard and is requesting relief from Town Zoning Article XVI, subsection 165–128.A.2 which limits the height of fences in the front yard to 3'. This property is currently zoned Medium Density Residential (MD).

Alex Castello, owner, stated they have erected a 4' fence on two sides of the property and this would complete the enclosure. They would like to make the backyard bigger which is why it extends in front of the house. This is a corner lot. The applicant stated the fence will be wood cap and trim style.

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Board Discussion: Dennis Scibetta reported 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 are no letters in the file.

There was confusion as to what property this was. Dan Melville asked why they needed to extend this to the front yard. The applicant stated they want to enclose more of the yard to allow for more space for the kids to play and for a shed. They don't want to lose more of their yard to side yard. They stated the fence is similar to their neighbors. The Board felt they needed more time to review the property again. There was some confusion as to what property this was and they did not receive the color coded map in their packets that depicted where the fence was supposed to go. The Board is not seeing a clear need or hardship for the application and they are concerned with setting a precedent. Stephen Shelley would like the dimension of the fence put on the map and the precise location.

Public Comment: None

Public Hearing: Closed

A Motion was made by Corrine Zajac to **table** the application of Alexandria Castello, owner, for an area variance at 178 Blue Mountain Drive to the August 2020 Zoning Board of Appeals meeting to afford the applicant time to provide an updated map showing the dimensions and the color coded map to the Board that was not in their packets while allowing the Board to further inspect the property. Information shall be to the Building Department by August 10, 2020.

Seconded by Dan Melville.

Motion carried to **table** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

The applicant was upset she was not aware that the Board would want additional information and that they had to already wait to get on the Agenda. Tim Thomas stated it is within the Board's jurisdiction to request additional information for any application in front of them. Chairperson Robillard noted that in terms of the timeline this has been only the second meeting since February due to COVID and the Board is doing the best they can to keep things moving along.

6. RAYMOND SPRAGUE – 64 PEASE ROAD

The application of Raymond Sprague, owner, for an area variance at 64 Pease Road. The applicant is proposing to erect a 6' privacy fence in the front yard and rear yard. The side setback of the fence from the south property line in both the front and rear yards will be 1.7'. The side setback from the north property line and in the rear yard will be 8.3'. He is requesting relief from Town Zoning Article XVI, section 165–128.A.2 which limits the height of fences in the front yard to 3' and subsection 165–128.B.2 which states in part that the side setback shall be 10'. This property is currently zoned Medium Density Residential (MD).

John Riley, applicant, noted they would like approval for their 6' fence in front of their house that is set back 90'. He explained that the house and backyard is small and there is no basement, attic or storage. They have three dogs and there have been several issues with their neighbors on both sides. Tim Thomas noted that upon his inspection the fence was in place without a variance or a permit and he asked what the timeline of that was. The applicant stated it was erected during COVID. Chairperson Robillard asked why they did not get a permit. The applicant stated that due to COVID nothing was open so they did not think the Town could issue a permit. Dennis Scibetta noted the Town was operating throughout COVID and were accessible by phone every day of the week. Permits were issued throughout quarantine. Chairperson Robillard noted a simple phone call to the Town could have helped this whole process and explained to the applicant that the Board has to regard this application as if the fence is not in place and if it is not approved they will have to remove it or comply with the code.

Board Discussion: Dennis Scibetta reported 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 from Mr. Herbert Benge, owner of 30, 38, 44 and 48 Pease Road. Mr. Benge strongly disagrees with a variance being approved at this location; the fence does nothing for the neighborhood and does not follow Town guidelines. Mr. Scibetta stated that there was no permit issued on this premises, no phone calls and they followed up as soon as it was brought to their attention.

Tim Thomas stated relevant to 6' fences the code states "they are for the express purpose of enclosing a swimming pool, patio area and subject to all side and rear setback requirements. The complete enclosure of a yard shall not be permitted". While he can appreciate the issues if the Town were to allow 6' fences to enclose yards then every neighbor would have issues and that is all we would see. There is a reason the Town is very stringent on fences. Stephen Shelley thinks there are some inconsistent dimensions on the map.

Public Comment: None

Public Hearing: Closed

A Motion was made by Tim Thomas to **deny** the application of Raymond Sprague, owner, for an area variance at 64 Pease Road to erect a 6' privacy fence in the front yard and rear yard. The side setback of the fence from the south property line in both the front and rear yards will be 1.7'. The side setback from the north property line and in the rear yard will be 8.3'. This does not grant relief from Town Zoning Article XVI, section 165-128.A.2 which limits the height of fences in the front yard to 3' and subsection 165-128.B.2 which states in part that the side setback shall be 10'. This property is currently zoned Medium Density Residential (MD).

In making this motion to deny the application:

- The benefit can be achieved by other means feasible to the applicant. While the Board is not suggesting any one thing in particular there are other avenues the applicant can pursue as far as window shading, security cameras, orders of protection or other options along those lines. Putting up a 6' fence without a permit or a phone call to the Town was a big mistake. Perhaps the applicant could have been advised of other options.
- There will be an undesirable change in the neighborhood character and to nearby properties. The fence put up in the front yard is extremely obtrusive and completely out of character. No other property on this street has a 6' fence in the front yard.
- The request is absolutely substantial. The Town Code is very specific to 6' fences and the available uses and prohibits the complete enclosure of the yard.
- There would be an adverse physical effect but not an environmental effect.
- The alleged difficulty is absolutely self-created and could have been mitigated if they contacted the Building Department for other options before erecting the fence. Using the balancing test, the benefit to the applicant does not outweigh the detriment to the health, safety and welfare of the community.

Seconded by Dan Melville.

Motion carried to **deny** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

Chairperson Robillard polled the Board:

Tim Thomas: stated his motion stands for his reason to deny.

Dan Melville: the motion as stated stands for his reason to deny.

Stephen Shelley: the code states “shall not” and that is his reason to deny.

Corinne Zajac: the motion as stated stands for her reason to deny.

Chairperson Robillard: this was done without a permit, the code specifies that this “shall not” be permitted. It is extremely substantial and the difficulty is self-created. There are other means of addressing their personal situation without impacting the neighborhood.

Chairperson Robillard stated that the applicant will be getting a letter from the Building Department and that they should start looking at ways to either comply with the code or remove the fence.

7. RON COTTORONE – 640 PECK ROAD

The application of Ron Cottorone, owner, for an area variance at 640 Peck Road. The applicant is proposing to construct a 12'x24' storage shed with a wall height of 13'-3", a side setback of 10' and a rear setback of 8' and is requesting relief from Town Zoning Article X, subsection 165-82.C.2, which limits the wall height to 12 feet and from Town Zoning Article V, subsection 165-31.E.1, Schedule 1 which states that the side and rear setbacks for an accessory structure shall be 10% of the lot width and depth, which in this case are 14' and 15.5' respectively. This property is currently zoned Agricultural/Conservation (AC).

Ron Cottorone, owner, explained that this is a very small lot, there is no closets or storage. The garage on the premises needs repairs but he does not have anywhere to store the belongings to make those repairs. This would help clean up the yard. Tim Thomas asked why this construction was started without a permit and the Building Department was made aware of it after the fact when they received a complaint. Mr. Cottorone came in and applied for a permit a week after the work was started and stopped all work completely after he was advised he would need a variance. Tim Thomas felt that in his profession he should have been aware that a permit was needed to build.

This is a two story structure the first floor being 12x24 and the second floor being 8x24. The need for the extra height is to accommodate a 7' door to allow him to store the lawnmower and log splitter inside.

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 are no letters

in the file. Dennis Scibetta noted that the applicant has worked with the Town and been complying since he was contacted by the Building Department.

Public Comment: None

Public Hearing: Closed

Tim Thomas asked what the primary purpose is. Mr. Cottorone said the lower level would store mopeds, ladders, lawn equipment, log splitter and the second floor will house his fire department memorabilia. It will help him clean up the yard. He matched the neighbor as far as the setbacks and he was not aware of the requirement. Tim Thomas noted that if they apply the 10% rule this structure would be pushed closer to the house and road.

A Motion was made by Tim Thomas to approve the application of Ron Cottorone, owner, for an area variance at 640 Peck Road. The applicant is proposing to construct a 12'x24' storage shed with a wall height of 13'-3", a side setback of 10' and a rear setback of 8' granting relief from Town Zoning Article X, subsection 165-82.C.2, which limits the wall height to 12 feet and from Town Zoning Article V, subsection 165-31.E.1, Schedule 1 which states that the side and rear setbacks for an accessory structure shall be 10% of the lot width and depth, which in this case are 14' and 15.5' respectively. This property is currently zoned Agricultural/Conservation (AC).

In making this motion to approve the application:

- The benefit cannot be achieved by other means feasible to the applicant. This is an unusually small lot in this district at approximately .50 acres. If the accessory structure were to be positioned at the proper setbacks it would be pushed closer to the house and road. This is the best place on the lot for the structure. People driving by would not notice it was not at the setback.
- There will be no undesirable change in neighborhood character or to nearby properties.
- The request is somewhat substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created because of the unique size of the lot. This particular house was an old school house and does not have storage or closets. This will afford the applicant much needed storage for his yard equipment and will free up the garage on the property for additional storage to enable the applicant to clean up the property. The existing garage is very close in setbacks to the proposed building. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley.

Motion carried to **approve** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

8. DENNIS SPANGENBURG – 1163 PECK ROAD

The application of Dennis Spangenburg, owner, for an area variance at 1163 Peck Road. The applicant is proposing to construct a 20'x20' addition to the existing garage which has a side setback of 14.05' from the east property line and is requesting relief from Town Zoning Article V, subsection 165–31.E.1, Schedule 1 which states that the side and setback shall be 10% of the lot width, which in this case are 22.3'. This property is currently zoned Agricultural/Conservation (AC).

Dennis Spangenburg, owner, explained that he is looking to attach a 20' addition directly behind his current two car garage. The addition will match the garage. Chairperson Robillard noted that this addition has been started also.

Board Discussion: Dennis Scibetta reported 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 are no letters in the file.

The existing garage did not need a variance because it conformed to the code when it was built. The back of the garage will have a six foot opening to the addition which will make this one building. The addition will be used to store a tractor, riding lawnmowers, ATV's and make it possible to continue the maintenance on his vehicles in an indoor space.

Public Comment: None

Public Hearing: Closed

A Motion was made by Dan Melville to **approve** the application of Dennis Spangenburg, owner, for an area variance at 1163 Peck Road. The applicant is proposing to construct a 20'x20' addition to the existing garage which has a side setback of 14.05' from the east property line and grants relief from Town Zoning Article V, subsection 165–31.E.1, Schedule 1 which states that the side and setback shall be 10% of the lot width, which in this case are 22.3'. This property is currently zoned Agricultural/Conservation (AC).

In making this motion to approve the area variance:

- The benefit cannot be achieved by other means feasible to the applicant. The applicant is adding onto the existing garage so there is no opportunity to accomplish this any other way.
- There will be no undesirable change in neighborhood character or to nearby properties. This is an addition to the existing garage so the roof line is the same as the existing structure.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created as the existing residence was built in the early 50's and predates the code. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Stephen Shelley.

Motion carried to **approve** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

9. GRAHAM SEARS – 1167 WEST AVENUE

The application of Graham Sears, owner, for an area variance at 1167 West Avenue. The applicant is proposing to construct a 10'x14' accessory structure in the front yard with a front setback of 39.4' and is requesting relief from Town Zoning Article X, subsection 165-82.C.3, which states on part that accessory buildings shall be located in the rear yard and from Town Zoning Article V, subsection 165-32.E.1, Schedule 1 which states that the front setback is to be 75'. This property is currently zoned Rural Residential (RR).

Graham Sears, owner, stated he started building the frame part of the structure without a permit because he thought he did not need a permit until the walls were up. He also thought that because his neighbors built a structure close to the road he could do the same. When he contacted the Town to obtain the permit he was told he needed a variance. The reason for the location is because it is the only place on the property that allows a view of the southern sky. He read a text from his neighbor, David Bishop, which stated the importance of the location. Mr. Bishop said that due to the size of the trees in the area which hides the southern sky, the core of the galaxy, he would need to locate it where he has planned. Putting it anywhere else on the property defeats the purpose of having it. He went on to say that Mr. Bishop said as his neighbor across the road he has no issue with

this being built this close to the road. Mr. Sears said this will be identical to the house in looks and landscaping. The dome portion will be 7' tall. He also explained this would only accommodate 1 or 2 people at a time.

Tim Thomas feels this is a wonderful concept with potential to be a great educational experience; however, the buildings cited by the applicant as having structures close to the road could have been built before the code change not under the current code and without going building by building lot by lot it is hard to address that issue. When looking at the criteria required to approve it fails on 4 of 5 criteria. The applicant asked why he thought it would be an undesirable change if it is an attractive building that matches the home. Tim Thomas stated it is the job of the Board to maintain the character of the neighborhood and if one person puts up an observatory then someone else thinks they can put something else up and then they point to your application as being a precedent. In his opinion this would be substantial because the setback requirement is 75' and the application is for 39.4 ft. The code expressly addresses accessory structures in the front yard and states that these are not allowed without a variance. There would be a physical obtrusiveness to this building being on the main road coming into the Town and Village. This is self-created. The only criterion he is on the fence about is whether this can be achieved by other means feasible; maybe some trees would need to be removed. He understands the lot is not that large and has many large trees but he is not convinced there is not another place to put this.

The applicant stated that some of the trees are the neighbors not theirs. Dan Melville stated that he would not be able to support this tonight. When he went to inspect he saw that it was partially up and to him he could put this back to the 75'.

Board Discussion: Dennis Scibetta reported notifications were in order. They are awaiting comment from Monroe County. This is on a state roadway so the County was required to be notified for review. It is a Type II action under SEQR and no further review is required. There are no letters in the file. Dennis Scibetta noted the Building Department received a complaint about the structure going up and a compliance letter was issued to the applicant.

Stephen Shelley stated this is a really small building they are talking about and asked if the applicant considered putting this on wheels and moving it when needed. The applicant stated that the telescope that will be housed in here is very high tech and will need to be anchored and secured from any vibrations making it unable to be move. Tim Thomas clarified that locating the structure in line with the house or behind it will preclude the applicant from getting the 23 angle needed to view the southern sky. Mr. Sears noted it would nullify the use of the observatory.

Tim Thomas asked if this could be anchored to the second story of the frame building in the rear yard. The applicant stated that would be too unstable to support the telescope on the second floor of the structure.

Public Comment:

Stephen Zajac asked if the purpose would be hobby, occupational or research related. The applicant stated that this is a hobby.

Linda Judd stated that with her background she knows this type of telescope needs to be in a certain position to get the view they desire and they would not be able to move this around for the safety of the equipment.

Public Hearing: Closed

Tim Thomas is struggling with the criteria for an area variance and is concerned with setting a precedent if approved. The applicant stated they really have no other options and are restricted in the placement. They would landscape the area to make it nice to look at; they want it to look attractive. Tim Thomas said he might feel better about this if they could get a letter from an independent professional with credentials in this field stating the importance of having the structure in this location and why. The applicant felt he could get that letter. Mr. Thomas would like an opinion from the Town Attorney about the criteria issue and whether the Board can put conditions on the variance to stating this can only be used for an observatory in the future not a shed or other building. This is a unique application with unique circumstances and more information would be helpful. There has to be definitive rationale stating why the Board approves this or not.

A Motion was made by Tim Thomas to **table** the application of Graham Sears, owner, for an area variance at 1167 West Avenue to the August 2020 Zoning Board of Appeals meeting to afford the applicant time to provide a letter from an independent third party with authority in the area of telescopes and observatories to certify that this would be the only location available on the premises for this structure and a description of the foundation requirements to house the telescope. This also affords the Building Department time to contact the Town Attorney for an opinion regarding the balancing test criteria when four of them are a clear no and one of them is a maybe and would that put the Town in any jeopardy down the road with subsequent applications that might reference back to this application. Also clarification from the Town Attorney on whether there can be a condition placed on the variance that would require the observatory to cease and desist and

be dismantled when the use is no longer needed. The Board is also waiting for comments from the County. All information should be provided to the Building Department by August 10, 2020 and further construction shall not commence. **Seconded** by Corinne Zajac.

Motion carried to **table** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

10. MARISSA DOUGLAS – 1042 CLARKSON PARMA TOWN LINE ROAD

The application of Marissa Douglas, owner, for an area variance at 1042 Clarkson Parma Town Line Road. The applicant is proposing to construct a 12'x24' accessory structure with side and rear setbacks of 5' and are requesting relief from Town Zoning Article V, subsection 165-32.E.1, Schedule 1 which states that the side setback shall be 10% of the lot width, which in this case is 10' and the rear setback is to be 20'. This property is currently zoned Rural Residential (RR).

Marissa Douglas, owner, stated they want to place a shed in the SE corner of the rear lot. Dan Melville asked why they cannot comply with the setback. Mr. Obrien, owner, stated that the leach field is located in the center of the rear yard.

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

The house was built in the 60's. There were questions regarding the location of the leach field and Mr. Scibetta was able to pull up a map showing the location. After reviewing the map provided it was determined this would be the best location for the shed. The septic system comes out of the NE corner of the house and extends back 80'. Moving it to the NE corner puts it closer to the leach field.

Public Comment: None

Jack Barton, 1040 Clarkson Parma Town Line Road, stated he has no issue with the placement of the accessory structure.

Public Hearing: Closed

A Motion was made by Tim Thomas to **approve** the application of Marissa Douglas, owner, for an area variance at 1042 Clarkson Parma Town Line Road. The applicant is proposing to construct a 12'x24' accessory structure with side and rear

setbacks of 5'. This grants relief from Town Zoning Article V, subsection 165–32.E.1, Schedule 1 which states that the side setback shall be 10% of the lot width, which in this case is 10' and the rear setback is to be 20'. This property is currently zoned Rural Residential (RR).

(RR). In making this motion to approve the application:

- The benefit cannot be achieved by other means feasible to the applicant. Upon reviewing the drawing the Building Department provided there would not be a better place in the yard for location of the shed. If located in the NE corner of the yard, it would actually be closer to the edge of the septic system than currently being proposed.
- There will be no undesirable change in the neighborhood character or to nearby properties.
- The request is not substantial because the change in the Code in 1998 kicked in the 10% guideline relative to this being a substandard lot size.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is not self-created and is predominately due to the physical placement of the leach bed system of the home. Using the balancing test, the benefit to the applicant far outweighs any detriment to the health, safety and welfare of the community.

Seconded by Corinne Zajac.

Motion carried to **approve** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

SPECIAL PERMIT RENEWALS

11. GOOD NEWS COMMUNITY CHURCH – 4797 RIDGE ROAD

Application was received from Good News Community Church, owner, for renewal of a Special Permit at 4797 Ridge Road West to operate a church. Article 5.3.D.2 requires a Special Permit to operate a church in a Medium Density Residential (MD) district.

Chairperson Robillard stated the information the Board was provided was from a Board meeting in March 2015. Art Fritz stated that this has been renewed since then. Chairperson Robillard stated that the information provided to them in their Board packets back in February was from 2015, nothing more recent. This was

supposed to be renewed in 2019 and it was noted in the minutes that it has been difficult to get inspections done.

There was a Fire and Safety Inspection completed on February 14, 2020 with no violations cited. The Board asked if there was an inspection in regard to the Special Permit as the letter provided does not state that. Art Fritz stated he might not have made it clear in the letter but there was a Special Permit inspection completed on February 14, 2020 and there were no violations cited in respect to the Special Permit.

Tim Thomas explained to the applicant that he has an obligation make sure they are keeping up with their renewals and inspections for their Special Permit. Pastor Dave stated when Jack Barton was on the Board he was led to believe that the permit was permanent and they did not need inspections or renewing. He also understands that other Board Members of the church have not been very attentive to these things but that he will be staying on top of it.

Following discussion, A **Motion** was made by Tim Thomas to **approve** the application of Good News Community Church, 4797 Ridge Road West, for renewal of a Special Permit to operate a Church with the following conditions:

1. Hours of service to be Sunday, 10am to Noon, Tuesday, 7pm to 9pm and Thursday, 6pm to 8pm. Vacation Bible Study to be in August.
2. Limited outside activity such as camping with a maximum number of campers to be 16, including adults. Camping would include only tents, and not exceed 2 or 3 nights in duration. Limited to an average of twice a month. Camping locations to be limited to the area indicated on the map provided.
3. Any other activities on the premises shall be within the normal zoning ordinance.
4. All necessary inspections to be made by the Building Department and the Fire Marshal to assure the health, safety and welfare of the community.
5. Renewable in February 2021.

Seconded by Corinne Zajac.

Motion carried to **approve** (5-0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

12. GREG STAHL PROPERTIES – 4621 RIDGE ROAD WEST

Application was received from Greg Stahl Properties, owner, for renewal of a Special Permit at 4621 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.

The Board felt the property looked good when they inspected it; however, there is confusion as to who the owners are because that seems to change names/owners pretty regularly. It was explained that John Love and Greg Stahl are the Joint Owners of the property. The Board would like the Special Permits to reflect the owner and business name. It is currently Spurr Used Cars.

Art Fritz reported that an Inspection of the property regarding the conditions of the Special permit was completed March 6, 2020 and there were no violations of the Special Permit. There are no complaints in the file.

Following discussion, A **Motion** was made by Tim Thomas to **approve** the application of Greg Stahl and John Love, joint owners, of Spurr Used Cars for renewal of a Special Permit at 4621 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:

1. No more than 140 display spaces total.
2. All display areas will be paved.
3. No repairs or storage of junk cars.
4. No outside speakers.
5. No on-street parking.
6. Lighting will be directed away from Ridge Road West and neighboring properties.
7. Hours of operation: Monday through Friday, 9am to 9pm; Saturday, 9am to 5pm; no Sunday hours.
8. Renewable February 2022.

Seconded by Corinne Zajac.

Motion carried to **approve** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

13. AUTO OUTLETS USA PROPERTIES INC. – 5497 RIDGE ROAD

The application of Auto Outlets USA Properties Inc., owner, for renewal of a Special Permit to sell automobiles at 5497 Ridge Road West. The applicant is proposing to display 88 vehicles for sale. This property is currently zoned Highway Commercial (HC) and the proposed use is allowed with a Special Permit.

Art Fritz explained this has not been developed at this time. The Board does not feel this should be renewed because the Special Permit has not been utilized. The Zoning Enforcement Officer stated he sent a letter to the applicant requesting that they attend the meeting tonight and there has been no communication from the applicant to the Building Department and they are not in attendance tonight.

A **Motion** was made by Dan Melville to **deny** the application of Auto Outlets USA Properties Inc., owner, for renewal of a Special Permit to sell automobiles at 5497 Ridge Road West to display 88 vehicles for sale. This denial is based on the fact that there has been no activity on the property and the owner was requested to show up at the July Zoning Board meeting and he has not shown up or communicated with the Building Department showing he is not interested in renewing the Special Permit.

Seconded by Stephen Shelley.

Motion carried to **deny** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

Chairperson Robillard polled the Board:

Dan Melville: his motion stands as his reason to deny.

Corinne Zajac: the motion stands as her reason.

Tim Thomas: his reason to deny is based on the fact there has been no action taken on the permit since it was approved. The Building Department communicated a letter to them asking them to attend tonight's meeting and they received no feedback.

Stephen Shelley: the motion stands as his reason.

Chairperson Robillard: her reason to deny is based on the lack of action on the Special Permit and the fact they did not show up tonight for the meeting to clarify what their needs might be.

Application of Jean and Jeffrey DeRuyter, owners, for renewal of a Special Permit at 676 Ogden Parma Town Line Road for an accessory apartment used as an in-law residence in accordance with Town Zoning Article 9, subsection 165–76. This property is currently zoned Medium Density Residential (MD) which allows this use with a Special Permit.

Chairperson Robillard stated this was tabled for no inspection. Art Fritz reported that he called and left a message to complete an inspection but still had no contact from the applicant. Tim Thomas asked if he mailed a certified letter to the applicant. Art Fritz stated he did not, only a phone call. Tim Thomas asked that Mr. Fritz do a certified letter to the applicant and if they do not respond at that point they will deny this.

A Motion was made by Tim Thomas to **table** the application of Jean and Jeffrey DeRuyter, owners, for renewal of a Special Permit at 676 Ogden Parma Town Line Road for an accessory apartment in accordance to Town Zoning Article 9, subsection 165–76 pending an inspection of the property by the Zoning Enforcement Officer until the August 2020 Zoning Board of Appeals meeting to afford the Zoning Enforcement Officer time to mail a certified letter to the applicant requesting a property inspection and to appear at the meeting. If there is no response from the applicant this permit will be denied.

Seconded by Corinne Zajac.

Motion carried to **table** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

OTHER DISCUSSION

1060 Hilton Parma Corners Road – Dennis Scibetta noted we are still waiting for information from the Town Attorney. He relayed that the applicant would like to separate the sign request from the rest of the application so that the Board can deal with that. Tim Thomas stated he would not be opposed to separating those out.

MINUTES OF JANUARY 16, 2020

The ZBOA minutes of June 18, 2020 were reviewed. **Motion** was made by Tim Thomas to approve the June 18, 2020 minutes as amended. **Seconded** by Corinne Zajac.

Motion carried to **approved** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

ADJOURNMENT

There being no further business, a **Motion** was made by Corinne Zajac, **seconded** by Tim Thomas to adjourn the meeting at 11:30 p.m.

Motion carried to **approved** (5–0):

Dan Melville: Aye

Stephen Shelley: Aye

Tim Thomas: Aye

Corinne Zajac: Aye

Chairperson Robillard: Aye

Respectfully submitted,

Carrie Fracassi
Recording Secretary